NC COASTAL RESOURCES COMMISSION
July 16, 2015
NOAA/NCNERR Administration Building
Beaufort, NC

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

Thursday, July 16th

9:30 Coastal Resources Advisory Council Meeting – Sandbag Rules and Policies (Coastal Reserves Classroom)

10:30 Commission Call to Order* (NOAA Auditorium) — Frank Gorham, Chair
- Roll Call
- Chair's Comments
- Approval of April 29-30, 2015 Meeting Minutes — Frank Gorham, Chair
- Executive Secretary's Report — Braxton Davis

11:00 Variances
- Carteret County *(CRC-VR-15-04)*, pile supported sign in coastal wetlands — Ryan Davenport, Christine Goebel
- North Topsail Beach, *(CRC-VR-15-05)*, geotextile tube — Jason Dail, Christine Goebel

12:00 Lunch

1:15 Public Input and Comment

1:30 CRAC Report – Sandbag Rules and Policies — Debbie Smith, CRAC Chair

2:30 CRC Rule Development
- State Ports Inlet Management AEC – Beneficial Use, Sandbag Use & Boundary — Heather Coats
- Commission Discussion

4:00 Action Items
- Adopt 15A NCAC 7H.0304 AECs Within Ocean Hazard Areas – Repeal of High Hazard Flood AEC *(CRC-15-13)* — Mike Lopazanski
- Town of Carolina Beach LUP Amendment *(CRC-15-14)* — Mike Christenbury

4:15 Old/New Business — Frank Gorham, Chair
- Update on Development Line Rulemaking
- Update on NC NERR Management Plan

4:30 Adjourn

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

** Times indicated are only for guidance and will change. The Commission will proceed through the agenda until completed.*

NC COASTAL RESOURCES COMMISSION (CRC)

April 29-30, 2015
Dare County Government Complex
Manteo, NC

Present CRC Members

Frank Gorham, Chair
Renee Cahoon, Vice-Chair

Neal Andrew
Gwen Baker
Larry Baldwin
Renee Cahoon
Suzanne Dorsey
Greg Lewis
Janet Rose
Harry Simmons
Jamin Simmons (present at 1:15 4/30)
John Snipes
Bill White

Present CRAC Members

Spencer Rogers, co-vice chair
Rudi Rudolph, co-vice chair
John Brodman
Jett Ferebee
Kris Noble
Bobby Outten
Frank Rush
Ray Sturza
Dave Weaver
Lee Wynns

Present Attorney General's Office Members

Mary Lucasse
Christine Goebel

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding the Commissioners of the need to state any conflicts due to Executive Order Number One and the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Gwen Baker read her 2014 Evaluation of Statement of Economic Interest which indicated that there were no actual conflicts and any potential conflicts would not preclude service. Marc Hairston was absent. No actual conflicts were reported. Based upon this roll call Chairman Gorham declared a quorum.

CHAIRMAN COMMENTS

Chairman Gorham reminded Commissioners to review the schedule for upcoming public hearings for 15A NCAC 7H .0304. Mike Lopazanski has been appointed hearing officer for each of the eight public hearings, but if there is a hearing in your area and you would like to attend please do so. The order of the items on the agenda may be moved up in order to finish earlier and allow those attending the meeting to get home earlier.

MINUTES

Renee Cahoon made a motion to approve the minutes of the February 18-19, 2015 Coastal Resources Commission meeting. Harry Simmons seconded the motion. The motion passed unanimously (Gorham, Andrew, Baker, Baldwin, Cahoon, Dorsey, Lewis, Rose, H. Simmons, Snipes, White)(J. Simmons absent for vote).

EXECUTIVE SECRETARY'S REPORT

Braxton Davis, DCM Director, gave the following report:

First of all, welcome back to Commissioner Baker, who joined us briefly last year, and has now been reappointed to the Engineering slot on the Commission.

I will first provide a brief summary of DCM's work since the last meeting, followed by a brief legislative update. Permit activity has increased slightly this year compared with 2014, especially over the past few weeks. Several notable Major Permits were issued since your last meeting, including one to the City of Havelock authorizing construction of a public access facility that includes a kayak launch, a pedestrian bridge, picnic shelters, a community center, amphitheater, restrooms, walking trails, parking lot, and driveway. A Major Permit was also issued to the North Carolina Department of Cultural Resources authorizing significant repairs and improvements to the USS North Carolina Battleship facility in Wilmington. Also of note, DCM issued federal consistency determinations for two seismic surveying companies, Spectrum Geo, Inc. and GX Technology, who are proposing to conduct separate Marine Geophysical Surveys via 2D seismic surveying off the North Carolina coast. These survey activities will gather geological and geophysical data intended to provide information on offshore oil and gas resources. As a part of the review of these two projects, a public hearing was held by the Department in Morehead City on April 9th. Approximately 85 individuals attended the hearing, with 24 individuals either speaking or providing written comment. In addition to these two consistency determinations, the Division is also currently reviewing and receiving public comments on consistency submissions from two other seismic surveying companies, CGG Services Inc., and TGS.

On the policy and planning side of DCM, staff are proceeding with the rulemaking process and preparing fiscal analyses for several rules, including OSBM approval of the 7B Land Use Planning Guidelines and 7L Planning and Management Grant rules fiscal analysis, scheduling eight public hearings for the repeal of the High Hazard Flood AEC, and getting approval from the Rules Review Commission of changes to the 7K .0208 Single Family Exemption. The Science Panel's Sea Level Rise draft report is currently available on our website for public comment, and we have time on the agenda this afternoon to accept public input. Also, Prof. Margery Overton will be here this afternoon to present a summary of the report and science panel and CRAC members Spencer Rogers and Rudi Rudolph are also here today. Planning Staff have advertised the 2015 solicitation for Public Beach and Coastal Waterfront Access grants. Pre-applications are due to DCM June 19, 2015. We expect to award approximately $600,000 for access projects by December of this year.

The Coastal Reserve program completed a draft outline for the N.C. National Estuarine Research Reserve management plan update, and held four Local Advisory Committee meetings for the Zeke's Island, Masonboro Island, Currituck Banks, and Rachel Carson Reserves in late March and early April to gather input on the draft outline. A follow-up meeting for the Masonboro Island committee is scheduled for May 6 to continue discussions regarding public access, including recreation and traditional use. The next steps are to write the full draft management plan and solicit

input from DENR, Local Advisory Committees, and NOAA this summer. A 30-day public comment period and public meetings on the final draft will be held prior to final publication. The spring season kicks off K-12 and general public programming and a variety of activities are scheduled. K-12 student field trips, species lectures, paddling trips, free public field trips, and the Summer Science School programs are coming up. Details are available on the Reserve's website on the event calendar.

There are five commission appointments set to expire on June 30 of this year. We often do not have final appointments and reappointments by the date of expiration, and the law says that appointments remain in place until any new appointments are announced. We are planning for the next Commission meeting to be held in Beaufort on July 15-16.

Braxton then provided an update on the ongoing legislative session and several proposed bills related to coastal issues.

CRAC REPORT

Spencer Rogers stated the CRAC discussed a number of issues on the CRC agenda and do not have any strong recommendations or motions. Specifically, we discussed the state port inlet AECs and the language in the sandbag rules that seem to have a conflict between removal and whether bags can remain buried. There was a consensus to clean up the language in the port rule as well as in the sandbag recommendations. We discussed issues on sandbag removal versus maintenance, but there was not a consensus on this issue. We were asked to address the geographic distribution of CRAC members and the consensus was that we are more concerned about the talents we have versus the balance geographically. We tabled this discussion and asked the members of the CRAC to think about useful additions to the skills of the current CRAC members.

PRESENTATIONS

DCM Year in Review

Braxton Davis

Braxton Davis stated CAMA created the Coastal Resources Commission and Advisory Council with the idea that there is a balancing act we are facing all the time. This is not a rules commission that deals entirely with environmental issues, but also riparian property rights and navigation as well as many other issues. CAMA also talks about partnering with local governments through delegated permitting and the land use plan program. CAMA sets up the coastal reserve program and also focuses on the public access part of the program to enhance the public's access to the beaches and coastal waters. The mission statement of the Division is to protect, conserve and manage North Carolina's coastal resources through an integrated program of planning, permitting, education and research. North Carolina has a great coastal management program. The Division is set up in three sections. The regulatory program is the primary element of our program. We have four district offices and out of our 51 full time employees about two-thirds of them are related to permitting. There are over 100 local permitting officers through the delegated minor permitting program that work with us very closely throughout the coast. We have offices in Elizabeth City, Washington, Wilmington and our headquarters in Morehead City. Our policy and planning section work closely with the Commission on rulemaking and is headed up by Mike Lopazanski. This section handles all of the non-regulatory parts of our program. The Coastal Reserve program has ten staff that manage over 40,000 acres along the coast. In 2014, we implemented a significant reduction in force which removed five positions from the Division. We were facing a significant budget shortfall and the Division was reorganized. Eleven other staff left DCM or transitioned to other duties. We implemented a number of procedural changes as a result. Now the District Managers report directly

to the Director. We have focused on consistency among all of the offices. Rulemaking last year ranged from removing Mad Inlet from the inlet hazard area, further regulatory streamlining and removing regulatory burdens, and review of coastal wetlands and CAMA land use planning rules. During 2013-14, DCM was heavily involved in responding to S.L 2012-202 (HB819) which required a review of the Commission's sea level policy and also included two other studies of the Cape Fear River and Inlet Hazard Areas which the Commission rolled into a larger Inlet Management Study. Through the Inlet Management Study we had an expert panel discussion, four regional workshops, and a final report on inlet management as well as the inlet hazard study report to the Governor and General Assembly. The sea level rise update is on this meeting's agenda and it was a major effort for staff. Staff headed up seven Science Panel meetings which led us to a very good outcome. We also had to deal with proposed critical habitat designations. This was a major controversial issue for the Endangered Species Act in terms of what the regulatory implications of critical habitat designations do, especially to beach projects. We worked with the Department extensively in responding through public comments asking for the designations to be reviewed and reevaluated. The critical habitat designations were published in the summer of 2014. The Division has funded a study to develop a programmatic biological assessment that is underway. We hope that by the end of this year, or early next year, we will be able to move quickly into a programmatic biological assessment issued by the US Fish and Wildlife Service so that any routine beach sand placement project in North Carolina will not require an individual consultation with USFWS and will cover all endangered and threatened species as well as critical habitat. The USFWS is working very closely with us on this. We also had the regional workshops for improvements to the land use planning program that will reduce burdens on local governments, shift more emphasis to local government policy, institute shorter timelines, and get statutory changes to delegate certification authority so these will no longer come to the CRC. We also led the Department in establishing a living shorelines strategy. In addition, there were numerous emergency or expedited permits and variances. The coastal wetlands subcommittee met several times this year. There was significant ongoing litigation (Bonner Bridge) and an internal audit by DENR. DCM also reviewed the first terminal groin permit application, the Corps' DMMP for Beaufort Inlet, the very first offshore seismic survey last year, and led a number of national efforts regarding offshore energy as well as beach and inlet management policy in cooperation with Commissioner H. Simmons, president of ASBPA. The Division awarded close to a million dollars of beach and waterfront access grants for 16 projects.

Doug Huggett, Major Permits and Federal Consistency section coordinator, stated the first step to determining whether you need a permit is to determine if your activity is considered development as defined by CAMA. Then a determination needs to be made whether your development is within one of the CRC's permit jurisdiction areas (AECs). The common AECs are the Estuarine and Ocean system AECs, the Ocean Hazard Areas, Public Water Supplies, and Natural and Cultural Resource Areas. If it is determined that you are doing development in one of the areas under the CRC's jurisdiction, then you are required to obtain a permit for the development. There are three permit types. Minor permits are projects where development is taking place, but there is no other state or federal permit or authorization required for the development. A lot of times these projects are single family homes that do not need a stormwater permit or impact any wetlands. General permits are expedited forms of either Major Permits or Minor Permits that are for relatively repetitive types of projects that fall within some narrow environmental limits. The most common types of projects for which general permits are used are bulkheads and docking facilities for single family residences. We have 15 or 16 general permits for various things. These projects, over time, have shown that they are minor in nature if they can meet the environmental criteria required by the CRC rules. A general permit requires minimal work by the applicant. Field staff often issue a General Permit to

the applicant on site. This is the most common type of permit we issue. For things that do not fall within the limits of the minor or general permit, an applicant is required to get a Major Permit. This type of permit is used for more complicated projects such as terminal groins, beach nourishment, subdivisions, and major dredging. These projects require more environmental review. The review process for major permits is coordinated with up to 14 state and federal permit and review agencies that provide comments based on their subject matter expertise to help us make permit decisions. The number of minor permits issued reflects the economic downturn. These numbers are starting to go back up. The number of General Permits issued also reflects the economic downturn. In 2006, the Division issued 2,776 GPs and over time these numbers have gone down, other than post-hurricane applications for permits. These numbers are also beginning to pick back up. In the major permit process, an applicant coordinates the project with a field rep from one of the four DCM offices. The field staff do a great job walking the applicant through the process and guiding the applicant to avoid pitfalls by identifying them early. The applicant then submits an application to DCM. The field rep then drafts a field investigation report which is an executive summary of the proposed development. This report is sent out with a copy of the permit application to all the permit review agencies and they use it to look at the project and decide if they need to look at it in greater detail. We look at all the comments received and use them to decide whether to issue or deny the request for a permit. When a comment or concern comes in, our staff works with the applicant to find a balance to satisfy the concerns of a reviewer and give the applicant the majority of what they want. It is our goal to never deny a permit. A permit denial can be appealed. The major permit section generally takes between 150-200 permit actions per year. We issue between 95-98% of all major permits requested. The average processing times for major permit applications has dropped, based in large part on the regionalization of the major permit staff and other internal processing changes. We also have requested that comments come back more quickly from the resource agencies reviewing the applications. The CAMA major permit application works well and serves as an application for multiple other permits. The coordination we do with the Corps keeps most of these projects out of the Corps' Individual Permit process.

Roy Brownlow stated back in 2012, the Regulatory Reform Act mandated that DENR adopt a tiered enforcement policy. For DCM, Tier 1 enforcement consists of a cease and desist letter. If we catch someone doing development without a permit and a permit can be issued for the project then they come in and apply for the permit and there is no civil penalty involved. A Tier 2 violation is the most common type of violation that we encounter. In that case, the work is already completed. If a permit could have been obtained for the development, then we assess the minimum amount of civil penalty. A Tier 3 enforcement action is more severe and is used when there is a significant degree of adverse impacts to the environment and is often based on dredge and fill activities and willful and intentional acts. In 2014, we completed over 3,000 monitoring and compliance inspections. There was a 98% compliance rate for permitted facilities and projects. We initiated 54 enforcement cases and the average time it took to close an enforcement case was 34 days. A tiered enforcement policy gives staff the discretion to take an enforcement action and is effective in protecting the resources and the integrity of the CRC's rules.

Christy Goebel stated historically the CRC has had six types of quasi-judicial cases (permit appeals, third-party hearing requests, variances, declaratory rulings, petitions for rulemaking, and static line exceptions). Due to the change in the Administrative Procedures Act the Commission no longer hears permit appeals. Today I will focus on third party hearing requests and variances. In 2014, there were a total of 16 variance petitions filed. There were many more variance requests pre-recession, but that number has stabilized to on average about nine per year. The issues addressed during variances last year dealt with oceanfront setback rules, sandbags, 30-foot buffer, and docks

and piers. The Wilmington district had the most variance requests in 2014. There were eight third party hearing requests filed last year. When a permit decision is made and a third party (usually a neighbor) wants to challenge the issuance of the permit, they have 20 days to file a petition. The Division then works with its attorney to prepare a staff response to the concerns raised by the third party. The Chairman has 15 days to make a decision whether to grant or deny the request. In many cases third parties are raising issues that are not CAMA jurisdiction issues. The number of third party hearing requests filed seems to be stabilized at about 12 per year. The Wilmington district receives the most requests for third party appeals. Past Chairman Hackney granted nearly 50% of the hearing requests filed which led to a lot of contested cases. The Chairmen since Hackney have granted a much smaller percentage of the requests for third party hearings. This process does a good job of resolving cases which deal with property owner disputes or that address challenges to other authorities (such as local zoning ordinances).

Chairman Gorham stated that the 15-day turn-around to make a final decision is not enough time.

VARIANCES

Wineducks, LLC (CRC VR 15-01) Duck, 30' buffer
Ron Renaldi, Christine Goebel

Christy Goebel of the Attorney General's Office represented staff and stated Wyatt Booth is the attorney for Petitioner Wineducks, LLC and is present to make oral argument. Ron Renaldi, field representative, gave an overview of the property. Petitioner proposed additions to an existing elevated wooden deck and requested permission to reposition an existing stairway leading to the deck on its property in Duck. The Town of Duck LPO denied the Petitioner's minor permit application because the proposed development was inconsistent with 15A NCAC 7H .0209(d)(10). This rule requires that new development within the Coastal Shoreline AEC must be located a distance of 30-feet landward of the normal high water level or normal water level, unless the proposed development meets an exception listed in 15A NCAC 7H .0209(d)(10). Ms. Goebel reviewed the stipulated facts of this variance request. Ms. Goebel stated that staff and petitioner agree on three of the four factors that must be met in order to grant the variance request. Staff and Petitioner disagree that peculiarity of the property causes any hardships. Ms. Goebel stated that DCM's position is that having development located within the 30-foot buffer is typical of many properties along the coast.

Wyatt Booth of Vandeventer Black LLP represented petitioner and reviewed the stipulated facts that petitioners contend support the granting of the variances. Petitioner claims that in this case peculiarity of the property does cause a hardship. The peculiarity is created by the construction issues that predated the buffer rule and predated the petitioner's ownership of the property. There is a narrow choke point coming down the stairs coming down from an oddly constructed decking that would require someone to traverse a narrow opening.

Renee Cahoon made a motion to support staff's position that strict application of the applicable development rules, standards or orders issued by the Commission cause the petitioner an unnecessary hardship. Neal Andrew seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support petitioner's position that hardships result from conditions peculiar to the petitioner's property. Harry Simmons seconded the motion. The

motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support staff's position that hardships do not result from actions taken by the petitioner. Harry Simmons seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support staff's position that the variance request will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Harry Simmons seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

This variance request was granted.

Parker/US Life Saving Service, LLC (CRC VR 15-02) Wrightsville Beach, 30' buffer
Robb Mairs, Christine Goebel

Christine Goebel of the Attorney General's Office represented staff and stated Bill Raney is present and will represent petitioners. Robb Mairs, field representative, gave an overview of the property. Petitioners own property adjacent to Banks Channel in Wrightsville Beach in New Hanover County. In February 2014, petitioners applied for a CAMA minor permit with the Town of Wrightsville Beach LPO to construct a single family residence. On February 7, 2014, the LPO denied petitioners' permit application as part of the proposed development was located within the Commission's 30-foot setback. Petitioners seek a variance from the 30-foot buffer rule to allow the impervious surfaces within the buffer area as proposed in its site plan. Ms. Goebel reviewed the stipulated facts of this variance request and stated that staff and petitioners agree on all four statutory criteria which must be met in order to grant the variance.

Bill Raney of Wessell & Raney, LLP represented petitioners and stated petitioners agree with the staff that the four criteria for this request have been met.

Renee Cahoon made a motion to support staff's position that strict application of the applicable development rules, standards or order issued by the Commission cause the petitioner an unnecessary hardship. Larry Baldwin seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support staff's position that hardships result from conditions peculiar to the property. Harry Simmons seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support staff's position that hardships do not result from actions taken by the petitioner. Harry Simmons seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Renee Cahoon made a motion to support staff's position that the variance requested will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and will preserve substantial justice. Approval of the variance request is conditioned on the inclusion of the standard stormwater management related buffer conditions. Janet Rose seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

This variance request was granted with conditions.

PRESENTATIONS

Overview of Public Trust Doctrine

Dr. Dave Owens

Dr. Dave Owens stated the Public Trust Doctrine is a piece of Roman law. The Roman Empire was the first institution to establish legal rights that were applicable throughout Western Europe. Under Roman law private parties could not own the ocean or the fish within the ocean as these were considered common resources that belonged to everyone and not subject to private ownership or appropriation. Associated with that was the shoreline. The shoreline was a key component as folks brought their boats up on the beach to dry their nets and used the shoreline as part of their use of the ocean and the common resources. That is important to us because England was a Roman colony and that concept was incorporated very early in English common law. It waned a little bit during the Middle Ages, but when the King started taking some of these public resources and appropriating them for the crown's personal interest and selling rights to use the public resources, the people rebelled. The public trust doctrine was included as part of the Magna Carta to memorialize the people's right to the free and common use of the navigable waters of the country. It belonged to the King as trustee for the benefit of all of the citizens. The ownership was conditioned on it being ownership as a trustee and the responsibilities to protect the public rights in the resource. That in turn is important to us because during the American Revolution the state of North Carolina assumed the position of the King of England and we took ownership of the navigable waters and the seashore in the same capacity as the King of England previously. This doctrine is critically important because it defines for us as a State what we own and how we own it. That has been a part of our state law from the time we have been a state. How is this applied today and what implications does it have as we use and manage these resources? The first question is; where does this apply? Clearly all of the navigable waters of the state, submerged lands and waters are owned by the State as trustee for the use and benefit of all of the citizens of North Carolina. We own the navigable waters, the beach, the sounds, and the rivers. One of the critical questions is what about on the oceanfront? Where do you draw the line between what the State owns and what private property owners own with the upland property? The general dividing line is the mean high water line. Everything below mean high water is owned by the State. Things above mean high water are owned by the adjacent private property owner. What about the dry sand beach between mean high water and the vegetation line? Is that part of the beach and subject to the public trust doctrine or is that part of the adjacent private property and owned by the upland owner? There is not an absolutely certain answer to that question. The tradition in North Carolina has been to treat the dry sand beach seaward of the vegetation line as subject to public trust rights. People have used it to walk along, to fish along, haul nets, recreation, and emergency vehicle use. The State's position has generally been that that is part of the public trust rights of the adjacent oceanfront. While that land is in private ownership, it is subject to a property right in the nature of an easement by the public for unobstructed use of the area between the vegetation line and the mean high water line. Who is responsible for protecting the public's rights in public trust areas? The answer is straight forward; it is the state of North Carolina. The

State owns the public trust waters and to the extent the public trust doctrine applies to the dry sand beach it is the state of North Carolina that is responsible for protecting the public rights that are protected. The state can delegate those responsibilities to the local government. Once you define the public trust area then the next question is what rights do the public have in that area? Traditionally it has been hunting, fishing, navigation, transport and recreation. These are the kinds of traditional activities that are protected. What rights does the adjacent private owner retain? These include the rights to access the water. On the oceanfront, if I own the adjacent property one of the property rights I have to the dry sand beach is a right of access to the water. That is a right that can be regulated, but I have some right because I have purchased the property adjacent to the public trust area to get to and use the resource. This would include the right to pier out if I am in an estuarine context or the right to walk over to the beach if I am in an oceanfront context. I also have some rights down to the mean high water line. The public would not have the right to pitch a tent and camp out for 20 days on the dry sand beach that I own the property under. I don't have exclusive rights to that property. How does a change in the shoreline affect public and private rights and their boundaries? The general rule is that this boundary is ambulatory. As nature changes the shoreline, the property line moves along with it. If the beach accretes in front of it then your property line is growing with it. If the shoreline is eroding then you are losing property with it. When you get to human changes and filling the property then you have an entirely different situation. The State statutes define very clearly what happens in those cases. If you have artificial fill then the State statutes clearly state that the property line is not going to move. If you fill land that is publically funded then the state is going to own that property and that is a condition of the Corps of Engineers participation in funding. For publicly funded fill the answer is clear that the property line is set and the fill belongs to the public. The raised land does not go to the adjacent, private upland owner. If it is a rapid change that is caused by natural forces then you potentially have a different answer. We have less than absolutely clear cases that deal with some odd ball situations like inlets which are not permanent geologic features. Most everything I have described to you over time has been gradually incorporated into our state statutes. A lot of this was originally common law provisions that are now part of the state statutory and constitutional provisions. Some recognition of the public trust doctrine is incorporated into the state's Constitution. Part of the state statute defining mean high water as the property line resulted from the CRC's initial actions to set oceanfront setback regulations. When the regulatory program for CAMA was passed in 1974 and the rules went into effect in 1978, the initial setback was a very general temporary provision of being behind the dune. In 1979, the CRC adopted the erosion rate based setback that we have used since. Some thinking about the public trust doctrine was built into the initial set of CAMA regulations. The notion that there should be no building seaward of the first line of stable, natural vegetation and that between this line and the setback line then some limited use, such as swimming pools, gazebos, and decks could be allowed. The first line of stable and natural vegetation was chosen by the CRC for two reasons. The first was the legal reason that was what the Commission felt was the boundary between where the public has some rights of access and use and the private owners' rights to exclude the public. There was also the practical matter that it was easy and stable as a reference line. The legislature came back and questioned whether the CRC was changing the property line. The statute was enacted to say that the property line is fixed at mean high water and not the vegetation line on the oceanfront. The CRC's response was they agreed that the property line was mean high water, but there are public trust rights in the area between mean high water and vegetation line, plus it is the appropriate line to use for regulatory purposed to define where the setbacks start. The legislature agreed.

Relevant Case Law in NC
Christine Goebel
Christy Goebel stated that her presentation will be focused on seven cases regarding the public trust doctrine, most from North Carolina. There is no certain answer from the North Carolina courts yet as to exactly where the public trust doctrine extends.

Ms. Goebel summarized the following cases: Giampa/Fabrikant decided in 2005 by the North Carolina Court of Appeals regarding the ownership of the dry sand beach in Currituck County, The Florida cases which culminated in a 2010 US Supreme Court decision regarding the ownership of the beach in Destin, Florida following a state nourishment project, Severence v. Patterson which is a 2012 5th Circuit case from Texas regarding rolling easements, the Town of Nags Head v. Cherry, Inc., which was decided by the NC Court of Appeals and held that the Town did not have the ability to enforce against nuisances in the public trust area, Town of Nags Head v. Tolozcko and Sansotta v. Nags Head which also involved houses on the beach in Nags Head and whether the Town can enforce against nuisances on the public trust area, and Nies v. Town of Emerald Isle which is pending before the NC Court of Appeals and whether the Town's ordinances constituted taking of their beachfront property on Emerald Isle.

ACTION ITEMS
Adopt 15A NCAC 7H .1500 GP for Excavation of Upland Basins
Tancred Miller
Tancred Miller stated this is an amendment to General Permit .1500 to do upland excavation for boat basins. This rule has been amended to allow applicants to do shoreline stabilization in addition to the excavation under a single General Permit instead of requiring two permits. There were no public comments received during the comment period. This rule will be effective July 1, 2015.

Harry Simmons made a motion to adopt the amendments to 15A NCAC 7H .1500. Renee Cahoon seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Approval of Fiscal Analysis for 15A NCAC 7B CAMA Land Use Planning Guidelines and 7L Local Planning and Management Grants (CRC 15-09)
Mike Lopazanski
Mike Lopazanski stated the CRC has approved the amendments to 7B and 7L. For the fiscal analysis we looked at the cost savings to local governments. These cost savings will be realized when a land use plan is initially developed as well as when it is updated and amended. A big factor that led to the cost savings was that we removed from the existing guidelines a request for a land suitability analysis, composite map, and other time consuming analysis that doesn't have as much value in terms of policy development in the land use plans. Staff's assessment is that this comprised about 40% of the costs associated with land use plans. We based this on hourly rates by a review of past land use plan contracts with local governments and consultants. We looked at 10-years of land use plan development contracts. We found that the average costs ranged from $60,000 for a county, $35,000 for a small municipality and up to $85,000 in cases where there were joint land use plans. We looked at how many land use planning actions are taken in a given year and found in the past five years there were 19 amendments and 18 updates. We expect this trend to continue now that most everyone that has a land use plan will be doing minor updates or amendments. There will be a cost savings to local governments ranging from $14,000-$34,000 per year with an average of four land use plan actions per year for a total savings of $56,000-$136,000 per year. We found that there are no direct impacts on property owners as the amendments are more process oriented and property

owners are more interested in the substance of the land use plan. We found that there was no effect on NCDOT. There are no direct impacts on the Division as we have not had funds available for land use plans in quite some time; however we do think there will be a benefit to the Division in terms of increased staff time that is available to work with local governments in the development of policies within the land use plans.

Neal Andrew made a motion to approve the fiscal analysis for 15 A NCAC Subchapters 7B and 7L. John Snipes seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Periodic Review of 15A NCAC 7B CAMA Land Use Planning – Public Comments and Final Report (CRC 15-06)
Mike Lopazanski
Mike Lopazanski stated the periodic review and expiration of existing rules was required by legislation. The CRC was required to review its existing rules and classify them as necessary with substantive public interest, necessary without substantive public interest, or unnecessary. The draft report with the initial classifications was presented to the Commission at the February meeting. This report was posted for public comment for 60 days. We did not receive any comments on the report during the comment period. This report is considered final and can be sent to the Rules Review Commission (RRC) for their review and approval. RRC will review this report at their June 2015 meeting. Once this report is reviewed by the Legislative Committee then we can send the amendments to 7B and 7L through the rulemaking process.

John Snipes made a motion to approve the Periodic Review of Subchapter 7B Final Report and classifications to the Rules Review Commission. Renee Cahoon seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Static Line Exception Reauthorization – Towns of Atlantic Beach, Pine Knoll Shores, Indian Beach and Emerald Isle (CRC 15-07)
Ken Richardson/Christine Goebel
Ken Richardson stated the static line exception reauthorizations for Bogue Banks includes the Towns of Emerald Isle, Indian Beach, Pine Knoll Shores, Atlantic Beach and Salter Path. The last time the Commission authorized a static line exception for Bogue Banks was March 2010. There are four criteria which must be met. These include a summary of fill projects, project design and performance, compatible sediment identification and financial resource demonstration. Bogue Banks is approximately 25 miles long with an east-west orientation. Emerald Isle's static vegetation line is approximately 5.9 miles long covering about 54% of the oceanfront of Emerald Isle. Pine Knoll Shores' static vegetation line covers their entire oceanfront. Atlantic Beach's static vegetation line covers almost their entire oceanfront minus a segment of about 2,000 feet at the border of Pine Knoll Shores and Atlantic Beach. When Atlantic Beach got their static vegetation line they were pumping sand onto Atlantic Beach, but they didn't have the equipment and the cost was prohibitive to pump sand beyond that point. The Bogue Banks Restoration Plan covers approximately 16.8 miles of the 25 mile long island. Since 2003, Emerald Isle has received three maintenance projects. Following Hurricanes Isabel, Ophelia and Irene, Emerald Isle applied for FEMA funds to restore the material lost. Because of monitoring the Town of Emerald Isle was able to substantiate the loss of approximately 120,000 cubic yards of material in two sections. The materials used came from the northern section of the Morehead City Harbor ODMDS outside of Beaufort Inlet. The Bogue Banks

and nearshore mapping program started in 2004 and monitors the entire island on an annual basis. Among the items analyzed is the amount of material on the beach in comparison to what was in place after the initial restoration project. The Town of Emerald Isle dictates when nourishment will be performed once one half of the initial fill volume is lost due to erosion. Indian Beach and Salter Path have been renourished on two occasions. The first renourishment occurred for Indian Beach, Salter Path and Pine Knoll Shores between February and March of 2004 as part of Phase I of the Section 933 projects. Phase I also included a relatively short segment of the west end of Pine Knoll Shores. Phase I placed approximately 630,000 cubic yards of material along the entire shoreline of Indian Beach, Salter Path and Pine Knoll Shores. The second renourishment for Pine Knoll Shores occurred between January and March of 2007 as part of Phase II of the Section 933 project associated with the maintenance of the Morehead City Harbor. The second project for Indian Beach and Salter Path occurred between January and March of 2007 and was carried out to replace material lost during Hurricane Ophelia. Through the efforts of the Section 933 and post-storm nourishment projects there is currently more sand in the Indian Beach and Salter Path area than was there after the initial project. Current beachfill maintenance triggers for Indian Beach and Salter Path has averaged out to 225 cubic yards per linear foot and the expected trigger is 224 cubic yards per linear foot. The eastern portion of the Phase I project in Pine Knoll Shores contains less material than was originally placed, but is well above the nourishment trigger of 50% remaining. The static vegetation line in Atlantic Beach was established as a result of two beach disposal operations in 1994 and 1996. Historically during the formulation of projects to deepen the Morehead City channel from 35 to 40 feet in the early 1970's using the least costly disposal, most of the material was put on Brandt Island and some was put on the ODMDS. The Atlantic Beach project differs from a traditional project on Bogue Banks in that all the fill is pumped out of Beaufort Inlet. A lot of detail was provided on the multiple sediment sources that are used on Atlantic Beach. The County Shore Protection Office is 100% funded by the county occupancy tax. The remaining funds go to their beach fund.

Christy Goebel stated the staff recommends the renewal of the Towns of Emerald Isle, Indian Beach, Pine Knoll Shores, Atlantic Beach and Salter Path's static line exceptions for a period of five years.

Greg Lewis made a motion to reauthorize the static line exception for the Town of Atlantic Beach. Harry Simmons seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Larry Baldwin made a motion to reauthorize the static line exception for the Town of Pine Knoll Shores. Greg Lewis seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

John Snipes made a motion to reauthorize the static line exceptions for Indian Beach and Salter Path. Larry Baldwin seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Greg Lewis made a motion to reauthorize the static line exception for the Town of Emerald Isle. Larry Baldwin seconded the motion. The motion passed unanimously (J. Simmons,

White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Sea-Level Rise Report 2015 Update
Draft Report, Process and Findings (CRC 15-04)
Margery Overton

Margery Overton, Chair of the CRC Science Panel, stated today's presentation will be on the report that you received on March 31. Dr. Overton acknowledged and thanked the dedicated group for their contribution to the final report. Since I was before you in December, the report came in and it went out to the external reviewers, we received their comments back in late January, the Science Panel had a meeting to discuss those comments in late January, in mid-February the Panel sent the response comments, then received a second set of comments from the reviewers on February 20. There was another Science Panel meeting on March 13 and those comments were sent out on March 18. A positive response was received from the external reviewer and the final document was sent out to the Commission. In the Executive Summary we made it known to the reader that we were trying to be transparent, that all the relevant values are in the report, and the mathematical calculations were described in the report in a fashion that someone could replicate the calculations. We used the recent IPCC report scenarios. We paid particular attention to spatial variation and the things we've learned from our State's tide gauges. We had expanded discussion on the reasons for some of the spatial variation, particularly the geologic factors and the ocean dynamics. We have comments about the impacts of sea level rise on frequency of minor flooding. We paid attention to some of the issues that have come up with respect to the Wilmington tide gauge because of the dredging activity that has happened there. We stuck to the 30-year time frame as requested by the CRC and we developed a range of projections as request. The tide gauge data is very important and is used throughout the report.

Suzanne Dorsey made a motion to send a Resolution from the CRC to each member of the Science Panel, Dr. Houston, and the wife of Dr. Dean thanking them for their work. Renee Cahoon seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Harry Simmons made a motion to send the Sea Level Rise-2015 Update process report to the N.C. Legislature. An economic analysis should not be included with the report since no policies or rules have been initiated as a result of the Report and there is nothing to analyze. Suzanne Dorsey seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

Public Comment on Sea-Level Rise Report 2015 Update

Heather Jarman, Regulatory Affairs Director with BASE, commented that BASE has provided feedback throughout the process and believes this report is a much better, thorough report that encompasses not only a scientific approach, but plain common sense that is applicable in today's development world. We will continue to be supportive of the process that this Board put forth.

Jim Early, retired engineer from Kitty Hawk, stated this is very well written report and I would like to add my appreciation for the excellent effort. I only take exception with one parameter used in the report and that is the current rate of sea level rise, not the future projections, just the current rate. The value used in the report was taken from the IPCC report and the value is higher than can be justified. The IPCC value is much higher than the measures by NOAA.

Dave Burton stated this report is much better than the 2010 report and pointed out the differences in the two. Mr. Burton was concerned that this report relied too heavily on sources from one end of the scientific opinion spectrum and questioned its credibility.

Mattie Lawson, retired engineer from Kill Devil Hills, requested that the CRC not come up with a one-size fits all regulation for the entire state of NC, but please allow the localities to manage this problem.

Wally Overman, Vice-Chairman Dare County Board of Commissioners, agreed that a 30-year plan or assessment of sea level rise was a better option than 100-years. Mr. Overman expressed his support for the position of Chairman Gorham that any decisions regarding regulations should be made at the local level.

Sandbags and Beach Fill Projects (CRC 15-11)
Frank Jennings

Frank Jennings stated Mike Lopazanski gave a presentation to the Commission at the last meeting about the history of sandbags in the State and how the program has been administered as far as the installation of sandbags, their viability and their removal. After that meeting there were some questions posed to the Division about sandbags. The first question was whether the removal of sandbag structures is always required during a renourishment project. The second question was if they are not required to be removed, can project sand purchased with private funding be used to cover the bags. The last question was whether the rule should be changed to allow sandbags to remain during and after renourishment. The rules that are applicable to these questions are in Section .0300 of the Ocean Hazard rules and specifically .0308(a)(2)(h) which says that once an erosion control structure is determined by the Division to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the US Army Corps of Engineers, a large scale beach nourishment project, an inlet relocation or stabilization project then it shall be removed by the property owner within 30 days of official notification from the Division regardless of the time limit placed on the temporary erosion control structure. The second rule that is applicable is the removal of temporary erosion control structures is not required if they are covered by dunes with stable and natural vegetation. (Relevant photos were shown to illustrate use and existing conditions of sandbags). The government of Nags Head solicited from every oceanfront property owner an easement to allow the contractor to go across the land. They were able to put sand forward of the dune on private property. When easements have not been signed and sandbags are scheduled for removal then the contractor cannot deposit sand around these properties. By rule, the removal of sandbag structures is always required during a renourishment project unless they are covered and vegetated. This is an enforcement issue. Sand from a public project cannot be used to cover sandbags even with private funding. The Division's position is that sandbag structures were intended to be temporary under CAMA and the CRC's rules.

Use of Geo-Textile Sandbags for Temporary Erosion Control Structures (CRC 15-10)
Tancred Miller

Tancred Miller stated these tubes are not really meant to be temporary. These are meant to be put in and left in for as long as they last. Typically there is excavation involved to install the bag. Then the bag is covered and vegetated. Unlike sandbags if there is damage to a tube then it can result in a catastrophic failure. The current CRC rules prohibit some of the things that would be involved with tubes. Anchoring is not allowed under the current rules, the tubes do not meet the individual bag size limits in the existing rules or the overall structure size limits. Also, it isn't clear if these can be

used at a lot scale, and the CRC would have to consider how to authorize these structures. Would a variance be required or would the CRC want to go through the rulemaking process to allow these tubes? The Division supports any alternatives that give applicants the option to have lower costs, simpler installation, and less potential for debris on the beach. Therefore, the staff is not opposed to the concept of a tube. These tubes are not prohibited under CAMA, but the CRC's current rules do not allow them. If the CRC wants to allow the tubes to be used through a permit process then the anchoring issue and size limits would have to be addressed. Staff recommends considering these on a case-by-case basis through the variance process.

Braxton Davis stated when the Division has looked at enforcement priorities in the past the highest priority structures are those that are over their time lime, out of alignment, and impacting the public's use and enjoyment of the beach. The idea of treating exposed bags differently than buried bags has been discussed. In terms of covering bags during renourishment, there is one issue you could run into in some instances of changing the mean high water position. The other part would be the use of public funds to cover sandbags, but the Division doesn't have any role in that. That would be a contractual agreement with the project sponsor. If a private individual wanted to pay to cover their own bags then it is a local issue. Chairman Gorham asked the CRAC to look at the policy issue of sandbags.

CRC RULE DEVELOPMENT

Development Line – Subcommittee Report (CRC 15-05)

Rudi Rudolph

Rudi Rudolph stated the subcommittee was charged with hammering out the development line rule language. The concept with the development line is that local governments will be able to develop a line to determine setbacks. If you don't have a nourishment project then you are subject to the graduated setbacks from the natural vegetation line. You can have an existing static line or get one in the future if you have a nourishment project. If you think it is worth the effort then you can go through the five year review process required to reauthorize a static line exception. A new option will be for a local government to establish a development line whether or not there was a nourishment project. The subcommittee also looked at the trigger for a large-scale nourishment project which is currently 300,000 cubic yards. There was a proposal to use a measure of 100 cubic yards per linear foot. After discussion, the subcommittee determined that it was best to stick with the 300,000 cubic yard. Once the development line is established and approved then it will not change unless the community wanted it changed. Any change would need to be reapproved by the CRC. Communities would continue to be subject to the more landward of either the development line or the existing graduated setback. The question was considered if there is a nourishment project and the community wants to do a development line, is it just the area that received the large-scale nourishment project or would the development line be for the entire community? After discussion, we determined that a development line would apply to the area that was nourished. At a minimum it must cover the nourishment area although a nourishment plan is not required in order to establish a development line. The subcommittee also talked about communities that have a line of oceanfront development and one or two houses out in front of the line. If a home is out in front of the development line, the line can be drawn landward of the home, but if the home were to be replaced, it would be required to be positioned behind the development line. Using adjacent properties to determine a development line would prevent seaward movement of homes. No development line can be created on a state beach. We also talked about using a development line survey. We plan to require what is currently used for the static line, on the ground observation or aerial imagery. Rule language was presented to the CRC setting forth procedures for establishing a development line.

Ken Richardson stated within this proposed language we also proposed changes to the DCM static line exception eliminating the 2,500 square foot maximum cap on structures and the five-year waiting period. Adjustments will be made to the development line procedures based on the Commission's comments.

Gwen Baker asked at this point in time have we heard Staff's concerns with this language and any points of divergence. Ken Richardson replied that at previous meetings we have discussed them. Commissioner Baker asked at this point is staff in concurrence with the language as it is currently written.

Director Davis stated we are always in a spot where we are directed to come up with language and folks will often say that it is DCM's proposal. When we are directed to write something it doesn't automatically mean that we support it. We have talked in past meetings about the Staff's position. Our concerns are that the vegetation line after renourishment can be artificial. The staff's position is the requirement that communities, like Bogue Banks, come before the Commission every five years to show that they have a good plan. We think Bogue Banks is a fantastic model and we hope other communities develop similar models looking at sand sources and financial resources into the future. As a result the Commission could grant the exception to the static line. Our proposal as an alternative was to fix the static line exception process by getting rid of the limitation on 2500 square feet, getting rid of the five-year waiting period, and by allowing the static line exception to be done for a number of communities on a regional basis. Those have been blended in here. The fundamental difference is the staff still believes in the static line exception process. We would like to see the commitment demonstrated to the Commission over time.

Frank Gorham stated we discussed this at the last meeting and we voted unanimously to go to the development line alternative. We spent a lot of time on this and staff has been very good about pointing out that we like the old version, but we will make changes based on the CRC's position. It is unfair to ask the staff if they support this. Renee Cahoon stated this is a way to offer flexibility and encourage communities to do more large-scale projects because they won't have to adopt the static line. The development line is under local control and the goal has been to allow the local expertise and tools at local disposal. Janet Rose stated all coastal communities are different and their needs are different. Neal Andrew stated some communities may not want to pursue this, but are they any communities or associations in the audience that would like to make any comments, either for or against the development line concept?

David Hewitt, Town Manager of Holden Beach, stated the Town is extremely interested in the application of the development line. Shane Johnson, Wilmington Regional Association of Wilmington; Robert Broom, NC Association of Realtors; John Brodman, Pine Knoll Shores Commissioner; and Heather Jarman, BASE, all spoke in support of the development line.

Gwen Baker stated I am interested in collecting public comment on this concept.

Neal Andrew made a motion to send the proposed amendments to 7H .0305, 7H .0306, 7J .1201 and proposed language for 7J .1301, 7J .1302, and 7J .1303 to public hearing. Renee Cahoon seconded the motion. The motion passed unanimously (J. Simmons, White, Baldwin, Andrew, Snipes, Lewis, H. Simmons, Cahoon, Gorham, Rose, Dorsey, Baker).

State Ports Inlet Management AEC – Beneficial Use, Sandbag Use & Boundary (CRC 15-08) Heather Coats

Heather Coats stated, in 2012 the General Assembly passed legislation that directed the CRC to study the feasibility of creating a new AEC for the lands adjacent to the mouth of the Cape Fear River. As part of this study, the Commission was required to collaborate with the Town of Caswell Beach and the Village of Bald Head Island to identify regulatory concerns and develop strategies for creating a more efficient regulatory framework. If the Commission deemed action was necessary, the General Assembly required it to eliminate overlapping areas and incorporate appropriate development standards into a single AEC. DCM met with the Village and the Town and the stakeholders in the area. A final recommendation of the Cape Fear study identified some issues, but noted that these issues may apply to other inlets as well. The CRC recommended rolling this study into a more inclusive study of all the inlets. This led to the inlet management study last year. DCM held four public meetings along the coast last April to gather input for the inlet management study and solicited public comments. The CRC then established short and long-term goals and priorities and recommended development of a new AEC for the State's two deep draft inlets, Beaufort and Cape Fear Inlets. The CRC took into account the priority placed on maintaining the federal channels for access to the State's ports, looking at erosion control measures, beneficial use of dredged materials, beach management and protection of coastal resources. Senate Bill 734 was passed into Session Law last year and removed these two inlets from the Inlet Hazard AEC. This led to the development of this AEC, the State Ports Inlet Management AEC. We met with the local governments last September and drafted proposed rules based on the CRC directive and local government comments. We sent the draft rules to the local governments, the Army Corps of Engineers, the State Ports, National Parks Service, and Fort Macon. We received comments back from the Army Corps of Engineers and State Ports. The CRC discussed these comments and related issues at its October and December meetings. Staff met with the Army Corps and State Ports in early February about their concerns. There has been a lot of discussion about beneficial use, but there is a lot more to creating this new AEC than dredging and sand placement. The CRC's goal in creating this new AEC is also to address erosion control measures and the protection of coastal resources. Setbacks would remain the same. There are changes to sandbag rules and a modification to the definition of imminently threatened. These rules would allow local governments to protect frontal and primary dunes, eliminate individual sandbag size restrictions and allow sandbags to remain in place for eight years regardless of whether the community is pursuing a large-scale beach renourishment or inlet relocation project. These rules will also allow for the use of geotextile tubes. These rules will require that sandbags be removed within 30 days if they are no longer warranted or their time has expired. The Village of Bald Head Island requested that this time frame be increased to 60 days. These changes for the sandbags rules would not fall under the conditions of a General Permit. A Major Permit would be required for any of these standards to apply. All other ocean hazard rules would apply. Boundaries also need to be discussed. One option is to use the Science Panel's proposed Inlet Hazard Area boundaries for these communities. During our meetings Carteret County envisioned the Science Panel's proposed Inlet Hazard Areas as the AEC boundary with a waterward extent out to the limit of state waters. Caswell Beach thought the boundaries should include all of Caswell Beach and Fort Caswell and Jaybird Shoals. The Village of Bald Head Island proposed the AEC to include all of South Beach. After discussion, the Commission supported the use of the proposed special sandbag provisions in these areas and directed the staff to come back with maps that depict the management area for these AECs.

There are a couple of alternatives for how to handle the beneficial use portion of the rules. The initial draft used language from the State's Dredge and Fill Law. The alternate proposal came from the Town of Caswell Beach and Carteret County which made a few changes and eliminated language relating to disposal in the shallow active nearshore area. There has been a lot of discussion about this and the Corps is opposed to both options. DCM has received a letter from the Secretary

of the Department on this issue. The Secretary's letter commended the Commission on its efforts to develop tailored management policies for these inlets and supported the goal of ensuring beneficial use of beach quality sand from the shipping channels. However, the Department stated that it has determined that there is adequate flexibility built into the current rule language for beneficial use in regards to these inlets and efforts should be directed at working with the Corps to update the DMMPs for these two ports in order to clarify language and procedures which could include cost sharing agreements. DCM also received a letter from the Department of Transportation which reiterated the State Ports' concerns and supported DENR in their opposition to the development of a rule that may reduce project flexibility and negatively impact future maintenance operations or emergency dredging operations that are critical to ensure safe navigation and commerce. DOT also supports development of cost sharing agreements between the Corps and stakeholders. The Corps concerns revolve around the removal of the nearshore disposal area and the requirement that all sand would be placed on the beach. The Corps has stated that this requirement will increase costs and fears that it would risk the funding for the port in Morehead City.

Director Davis acknowledged that the letter from DENR expresses concerns with the rule language which may put in jeopardy ongoing port dredging. The letter also discusses the 20-year Dredged Materials Management Plan which comes before the Division of Coastal Management for a federal consistency determination. Under the federal consistency rules, the Division can either agree that the plan is consistent with our coastal policies or find it inconsistent with our coastal program and object to it. If the Division objects, the issue would be addressed through a federal mediation process. I have been actively involved in the current draft DMMP for the Port of Morehead City and it should be completed this fall. The Division can condition a decision on our federal consistency concurrence on some key things. The letter from the Secretary also states that DENR and DOT will advocate to the Corps in its ongoing update to the DMMP for cost share arrangements that are more programmatic as well as that would include the possibility of placing sand in a larger beach template than has been considered before.

Chairman Gorham asked Commissioner Baker to hand deliver an invitation to the Corps to get a commitment for a meeting.

PUBLIC INPUT AND COMMENT

No public comments were received.

PUBLIC HEARING

15A NCAC 7H .0304 AECs Within Ocean Hazard Areas – Amendment
15A NCAC 7K .0213 – Repeal
Mike Lopazanski served as hearing officer. No comments were received.

With no further business, the CRC adjourned.

Respectfully submitted,

Braxton Davis, Executive Secretary

Angela Willis, Recording Secretary

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

ROY COOPER
ATTORNEY GENERAL

P.O. BOX 629
RALEIGH, NC 27602

REPLY TO: CHRISTINE A. GOEBEL
ENVIRONMENTAL DIVISION
cgoebel@ncdoj.gov

TO: The Coastal Resources Commission

FROM: Christine A. Goebel, Assistant Attorney General CAG

DATE: June 30, 2015 (for the July 16, 2015 CRC Meeting)

RE: **Variance Request by Carteret County & Down East Council (15-04)**

Petitioner is Carteret County ("County" or "Petitioner"), with the Down East Council ("Council") acting as its agent in order to install a welcome sign on County property near the North River Bridge on US Highway 70, welcoming visitors to the Down East area of Carteret County. The proposed site for the sign is within a Coastal Wetland Area of Environmental Concern ("AEC"). On May 18, 2015, the County, through the Council, applied for a CAMA minor permit to install the sign on the proposed site. On May 28, 2015 DCM denied the County's CAMA permit application due to the Commission's rules which limit development in Coastal Wetlands AECs to water-dependent uses, and because a sign is not water-dependent, the proposed development was inconsistent with 15A NCAC 7H.0205(d). The County, through the Council, now seeks a variance to allow development of the welcome sign as proposed in their permit application.

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.): C.R. Wheatley, Carteret County Attorney, electronically
Richard Lowdermilk, Down East Council's representative, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Gene Foxworth, Carteret County CAMA LPO, electronically

RELEVANT STATUTES OR RULES **ATTACHMENT A**

15A NCAC 07H .0205 COASTAL WETLANDS

(a) Description. Coastal wetlands are defined as any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tide waters reach the marshland areas through natural or artificial watercourses), provided this does not include hurricane or tropical storm tides. Coastal wetlands may contain the following marsh plant species:

(1) Cord Grass (Spartina alterniflora),
(2) Black Needlerush (Juncus roemerianus),
(3) Glasswort (Salicornia spp.),
(4) Salt Grass (Distichlis spicata),
(5) Sea Lavender (Limonium spp.),
(6) Bulrush (Scirpus spp.),
(7) Saw Grass (Cladium jamaicense),
(8) Cat-tail (Typha spp.),
(9) Salt Meadow Grass (Spartina patens),
(10) Salt Reed Grass (Spartina cynosuroides).

The coastal wetlands AEC includes any contiguous lands designated by the Secretary of DENR pursuant to G.S. 113-230 (a).

(b) Significance. The unique productivity of the estuarine and ocean system is supported by detritus (decayed plant material) and nutrients that are exported from the coastal marshlands. The amount of exportation and degree of importance appears to be variable from marsh to marsh, depending primarily upon its frequency of inundation and inherent characteristics of the various plant species. Without the marsh, the high productivity levels and complex food chains typically found in the estuaries could not be maintained. Man harvests various aspects of this productivity when he fishes, hunts, and gathers shellfish from the estuary. Estuarine dependent species of fish and shellfish such as menhaden, shrimp, flounder, oysters, and crabs make up over 90 percent of the total value of North Carolina's commercial catch. The marshlands, therefore, support an enormous amount of commercial and recreational businesses along the seacoast. The roots, rhizomes, stems, and seeds of coastal wetlands act as good quality waterfowl and wildlife feeding and nesting materials. In addition, coastal wetlands serve as the first line of defense in retarding estuarine shoreline erosion. The plant stems and leaves tend to dissipate wave action, while the vast network of roots and rhizomes resists soil erosion. In this way, the coastal wetlands serve as barriers against flood damage and control erosion between the estuary and the uplands. Marshlands also act as nutrient and sediment traps by slowing the water which flows over them and causing suspended organic and inorganic particles to settle out. In this manner, the nutrient storehouse is maintained, and sediment harmful to marine organisms is removed. Also, pollutants and excessive nutrients are absorbed by the marsh plants, thus providing an inexpensive water treatment service.

(c) Management Objective. It is the objective of the Coastal Resources Commission to conserve and manage coastal wetlands so as to safeguard and perpetuate their biological, social, economic and aesthetic values, and to coordinate and establish a management system capable of conserving and utilizing coastal wetlands as a natural resource essential to the functioning of the entire estuarine system.

(d) Use Standards. Suitable land uses are those consistent with the management objective in this Rule. **Highest priority of use is allocated to the conservation of existing coastal wetlands. Second priority of coastal wetland use is given to those types of development activities that require water access and cannot function elsewhere.** Examples of unacceptable land uses include restaurants, businesses, residences, apartments, motels, hotels, trailer parks, parking lots, private roads, highways and factories. Examples of acceptable land uses include utility easements, fishing piers, docks, wildlife habitat management activities, and agricultural uses such as farming and forestry drainage as permitted under North Carolina's Dredge and Fill Law or other applicable laws. In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.

(e) Alteration of Coastal Wetlands. Alteration of coastal wetlands includes mowing or cutting of coastal wetlands vegetation whether by mechanized equipment or manual means. Alteration of coastal wetlands by federal or state resource management agencies as a part of planned resource management activities is exempt from the requirements of this paragraph. Mowing or cutting of coastal wetlands by academic institutions associated with research efforts is allowed subject to approval from the Division of Coastal Management. Alteration of coastal wetlands is governed according to the following provisions:

(1) Alteration of coastal wetlands is exempt from the permit requirements of the Coastal Area Management Act (CAMA) when conducted in accordance with the following criteria:

(A) Coastal wetlands may be mowed or cut to a height of no less than two fee as measured from the coastal wetland substrate, at any time and at any frequency throughout the year;
(B) Coastal wetlands may be mowed or cut to a height of no less than six inches, as measured from the coastal wetland substrate, once between each December 1 and March 31;
(C) Alteration of the substrate is not allowed;
(D) All cuttings/clippings shall remain in place as they fall;
(E) Coastal wetlands may be mowed or cut to a height of no less than six inches, ‘
as measured from the coastal wetland substrate, to create an access path four feet wide or less on waterfront lots without a pier access; and
(F) Coastal wetlands may be mowed or cut by utility companies as necessary
to maintain utility easements.

(2) Coastal wetland alteration not meeting the exemption criteria of this Rule requires a CAMA permit. CAMA permit applications for coastal wetland alterations are subject to review by the North Carolina Wildlife Commission, North Carolina Division of Marine Fisheries, U.S. Fish and Wildlife Service, and National Marine Fisheries Service in order to determine whether or not the proposed activity will have an adverse impact on the habitat or fisheries resources.

STIPULATED FACTS **ATTACHMENT B**

1. The Petitioner in this case is Carteret County.

2. Carteret County (or "County") is a Body Politic. The property subject to this variance is owned by Carteret County, a Body Politic and is located in Carteret County, North Carolina. The County is represented by County Attorney, C. R. Wheatly, III, who has agreed to the stipulated facts in this case.

3. The Down East Council (the "Council") acted as the County's agent in seeking the CAMA permit and in filing this variance request. The Council is a registered, non-incorporated non-profit organization, whose stated purpose on its website is that it "is a representative group of all thirteen communities in the area with the goal of serving as a unifying voice to promote our livelihood in a growing economy, celebrate and honor the heritage of the people as well as protect our fragile coastal environment. Down East is also unique in that our communities do not have the benefits afforded by being structured like towns or municipalities, and therefore has lacked a means to voice its needs, concerns, and desires for the future. The Framework of the council is to have two representatives from each community. Meetings are held monthly and are open to the public." According to the NC Secretary of State's filing information, Lillie Chadwick Miller is the Council's Registered Agent. Council Member Richard Lowdermilk has been handling this welcome sign project on behalf of the Council.

4. Carteret County owns a piece of property located at 201 North Point Drive in Beaufort, just west of the bridge over the North River ("Site"). The County was deeded this land in 2012 from the Duke-Sea Level Partnership, LLC through a deed recorded at Book 1411, Page 149 of the Carteret County Registry, a copy of which is attached.

5. As seen in site photographs attached, much of the Site is covered in coastal wetlands species, including Black Needlerush (Juncus romerianus) predominantly.

6. The area of "Down East" is defined in the Carteret County Ordinances at Appendix E. There are two highways in Down East, being US Highway 70 at North River Bridge where you enter the community of Bettie, and NC Highway 12 from Sea Level to the ferry at Cedar Island.

7. On October 16, 2009, the Outer Banks National Scenic Byway was designated, including US Highway 70 and North Carolina Highway 12 from Beaufort to Cedar Island. This designation by the Federal Highway Association is part of the National Scenic Byways Program, which is "a grass-roots collaborative effort established to help recognize, preserve and enhance selected roads throughout the United States. The U.S. Secretary of Transportation recognizes certain roads as All-American Roads or National Scenic Byways based on one or more archeological, cultural, historic, natural, recreational and scenic qualities."

8. On October 1, 2014, Richard Lowdermilk of the Down East Council contacted Roy Grasse, an Outdoor Advertising Coordinator at the North Carolina Department of Transportation ("DOT"), seeking permission to install welcome signs as people enter "Down East" Carteret County. Mr. Grasse of DOT responded that only municipal or county governments could request directional or informational signs along the Outer Banks National Scenic Byway.

9. On January 12, 2015, the Down East Council, through a letter from Lillie Miller, Chairperson of the Council, asked the Carteret County Board of Commissioners (1) to allow the Down East Council to install two Down East welcome signs on county property near the North River Bridge and near the Cedar Island Ferry, (2) to ask DOT, on the Down East Council's behalf, for permission to install a Down East welcome sign at the preferred location on county property near North River Bridge, and (3) to waive the county's permit fee. The Down East Council agreed to pay all costs for the sign. A copy of this letter is attached.

10. On February 16, 2015, at their regularly scheduled meeting, the Carteret County Board of Commissioners approved all three of the Down East Council's requests. A copy of the meeting agenda and a relevant excerpt of the meeting minutes are attached.

11. Through an email chain dated February 18, 2015, Roy Grasse, the Outdoor Advertising Coordinator for the State Maintenance Operations department of DOT, confirmed to Eugene Foxworth, Carteret County's Planning and Development Director, that the sign was approved, and that they just needed the final location which has to be outside of the state's right-of-way and that it not contain advertising. Later in this same email chain, Mr. Foxworth confirms that the Board of County Commissioners supports this project. A copy of this email chain is attached as a stipulated exhibit.

12. On March 2, 2015, Richard Lowdermilk of the Down East Council, Gene Foxworth, the Carteret County Planning and Development Director, J.D. O'Neal, the Carteret County Building Inspector, Stephen Gardner of DOT (and another DOT employee) met on Site and the DOT representatives verbally approved the sign's proposed location.

13. By application to the Division of Coastal Management (DCM) dated May 18, 2015, Carteret County, through Down East Council's Richard Lowdermilk acting as its agent, requested a CAMA minor permit in order to install a Down East welcome sign at the Site. A copy of the CAMA minor permit application is attached as a stipulated exhibit.

14. The proposed welcome sign includes the installation of an 8' by 6' pile-supported sign. The six pilings total are proposed to be tied with rope in two groups of three 8" diameter pilings on each side of the sign. The pilings are proposed to be driven 10' below grade and the top of the sign is proposed to be 11' above grade. Drawings of the sign's dimensions and a mock-up of the sign are included in the permit application materials, attached as stipulated exhibits.

15. The proposed location of the sign on the Site, is within the Coastal Wetlands Area of Environmental Concern. The proposed location of the sign is more than 75' landward of normal high water level, and so is outside the Coastal Shorelines AEC. The driving of pilings is specifically included in the definition of "development" found in the CAMA at NCGS § 113A-103(5)a., and so pursuant to NCGS § 113A-118, the "development" of the sign installation within a designated AEC requires a CAMA permit.

16. As part of the CAMA minor permit review process, notice of the proposed development was advertised in the Carteret News Times on May 22, 2015. No comments were received by DCM, though Staff fielded one phone call asking where the site for the proposed sign was going to be. Notice of the proposed development was also posted on site on June 17, 2015 after the permit denial and during the variance process. If any comments come in before the Commission's July 15, 2015 hearing, the parties agree to provide them as a supplement to the stipulated facts/exhibits.

17. As part of the CAMA minor permit process, notice was sent to the two riparian owners adjacent to the Site. No comments were received by DCM from these owners.

18. Through a letter dated May 28, 2015, DCM denied Carteret County CAMA permit application, a copy of which is attached as a stipulated exhibit. The Commission's rules for the Coastal Wetlands AEC generally prohibit development within the Coastal Wetlands AEC, except for the development of water-dependent structures such as docks and piers. See 15A NCAC 7H .0205(d). As a pile-supported sign is not a water-dependent structure (which does not require water access to function), the rules required denial of the CAMA permit application.

19. On June 3, 3015, DCM received Carteret County petition though Down East Council, for a variance in order to construct the welcome sign as proposed in its application. As part of their petition, Carteret County stipulated that the sign is inconsistent with 15A NCAC 7H .0205(d).

20. In order to save resources, Carteret County and Down East Council have decided not to pay counsel to argue their petition to the Commission, but have agreed to the stipulated facts and written arguments made herein.

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.

-If our sign is placed anywhere on this lot other than in the low growing marsh area it will not be seen by travelers on Hwy 70 because of trees and bushes that will block the view. Our sign has to be a minimum of 60 ft. from the centerline of Hwy 70 to meet DOE and county set back requirements. To be seen by travelers along this section of Hwy 70 requires a clear line of sight of 200 to 300 ft. with natural vegetation no more than 5 ft. high.

-This lot was chosen because of its North River bridge gateway location to "Down East". There are two much smaller privately owned lots near the North River bridge, however, the effects of the soon to start construction of a new North River bridge on these lots is unknown.

-What we are trying to portray with our sign is the unique natural scenic areas of "Down East" that includes marsh, water, and undeveloped shoreline along Core Sound. Being able to place our "Down East" welcome sign in the marsh helps to reinforce what we want travelers to experience as they travel our section of the Scenic Byway.

-Landscaping and the potential for vandalism are also significantly less with a marsh location.

Staffs' Position: Yes.

Staff agrees that Petitioner has unnecessary hardships due to the strict application of the rules limiting development within the Coastal Wetlands AEC. While the use of this Down East welcome sign is not water-dependent, the combination of factors, including DOT right-of-way and county setbacks, public ownership of the land, sight lines, and the location near the western entrance to "Down East" at the North River bridge, make this the best site for this project. Combined with the de minimis nature of the impacts and the public and cultural nature of the project, Staff agrees that the strict application of the Commission's limitations on development in Coastal Wetlands causes Petitioner unnecessary hardships.

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

Petitioner's Position: Yes.

-The County lot we are proposing for our sign has a 2,425 ft. road frontage length along Hwy 70. The average width of the lot is 250 ft. the first 350. ft. of length is high ground with tall pine trees. The next 250 ft. is a transition area with fewer smaller trees and more bushes. The remaining 1,835 ft. is marsh grass. If the marsh was located at the front of the lot instead of the back, if the high ground was longer in length, if the bushes and vegetation along the DOT right of way was much less, or if the road curved to provide a line of sight, then our sign could be located in an area other than the marsh.

Staffs' Position: Yes.

Staff agrees that conditions peculiar to the large County-owned lot near the North River bridge and its location as the "gateway" to "Down East" cause Petitioner's hardships. These include the locations of the different types of vegetation on the lot, and the long area needed for visitors and drivers to be able to see the sign with a sufficient sight line for the welcome sign.

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

Petitioner's Position: No.

-No actions have been taken by Down East Council or Carteret Count on this property.

Staff's Position: No.

Petitioner has evaluated various alternatives, and Staff agrees with Petitioner that in order to place a welcome sign on this lot where visitors and drivers can see it and be welcomed to "Down East", they were limited by several factors in choosing a location for the sign, and would have a difficult time avoiding Coastal Wetlands.

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.

-Our sign also seeks to emphasize the scenic beauty and promote conservation of our unique coastal landscape.

Staffs' Position: Yes.

The variance would be consistent with the spirit, purpose, and intent of the rules, standards or orders of the Commission, because on balance, the benefits to the public outweigh the minimal impacts to the resources. While the limitations on building in Coastal Wetlands is an important rule of the Commission, and generally limits such development to water-dependent structures, the de minimis nature of the proposed disturbance here, combined with the public and cultural nature of the welcome sign help justify the de minimis impacts. Once any construction-related impacts are over, the only impacts would be the 6' 8" diameter posts. Contrast this with the pride that Carteret County and Down East will have in welcoming visitors to their part of the County, sharing "Down East's" boat-building culture, and highlighting US Highway 70's inclusion in the Scenic Byways program. Public Safety and welfare is helped by keeping the sign a safe distance from the road and minimizing the impacts to the wetland, while supporting the cultural identity of "Down East" and welcoming visitors to this special part of our coast.

Attachment D:
Petitioners' Variance Request Materials

CAMA VARIANCE REQUEST FORM

DCM FORM 11
DCM FILE No.: 15-04

PETITIONER'S NAME Down East Council c/o Richard Lowdermilk

COUNTY WHERE THE DEVELOPMENT IS PROPOSED Carteret

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

VARIANCE HEARING PROCEDURES

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

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

VARIANCE CRITERIA

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

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

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

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

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

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.

The Commission notes that there aresome 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 advie of counsel before having a non-lawyer represent your intereststhrough preparation of this Petition

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

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

✓ A copy of the permit decision for the development in question;

✓ A copy of the deed to the property on which the proposed development would be located;

✓ A complete description of the proposed development including a site plan;

✓ A stipulation that the proposed development is inconsistent with the rule at issue;

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

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

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

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

✓ This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

**Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

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

Richard Lowdermilk — Signature of Petitioner or Attorney

6/3/15 — Date

Richard Lowdermilk — Printed Name of Petitioner or Attorney

rklowdermilk@gmail.com — Email address of Petitioner or Attorney

P.O. Box 39 — Mailing Address

(252) 656-4035 — Telephone Number of Petitioner or Attorney

Atlantic NC 28511 — 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

June 2, 2015

Project: Down East Welcome Sign

Location: Carteret County owned lot

201 North Point Dr.

Beaufort, NC 28516

Action: Variance Request on Denial of CAMA Minor Permit to install sign in coastal wetland

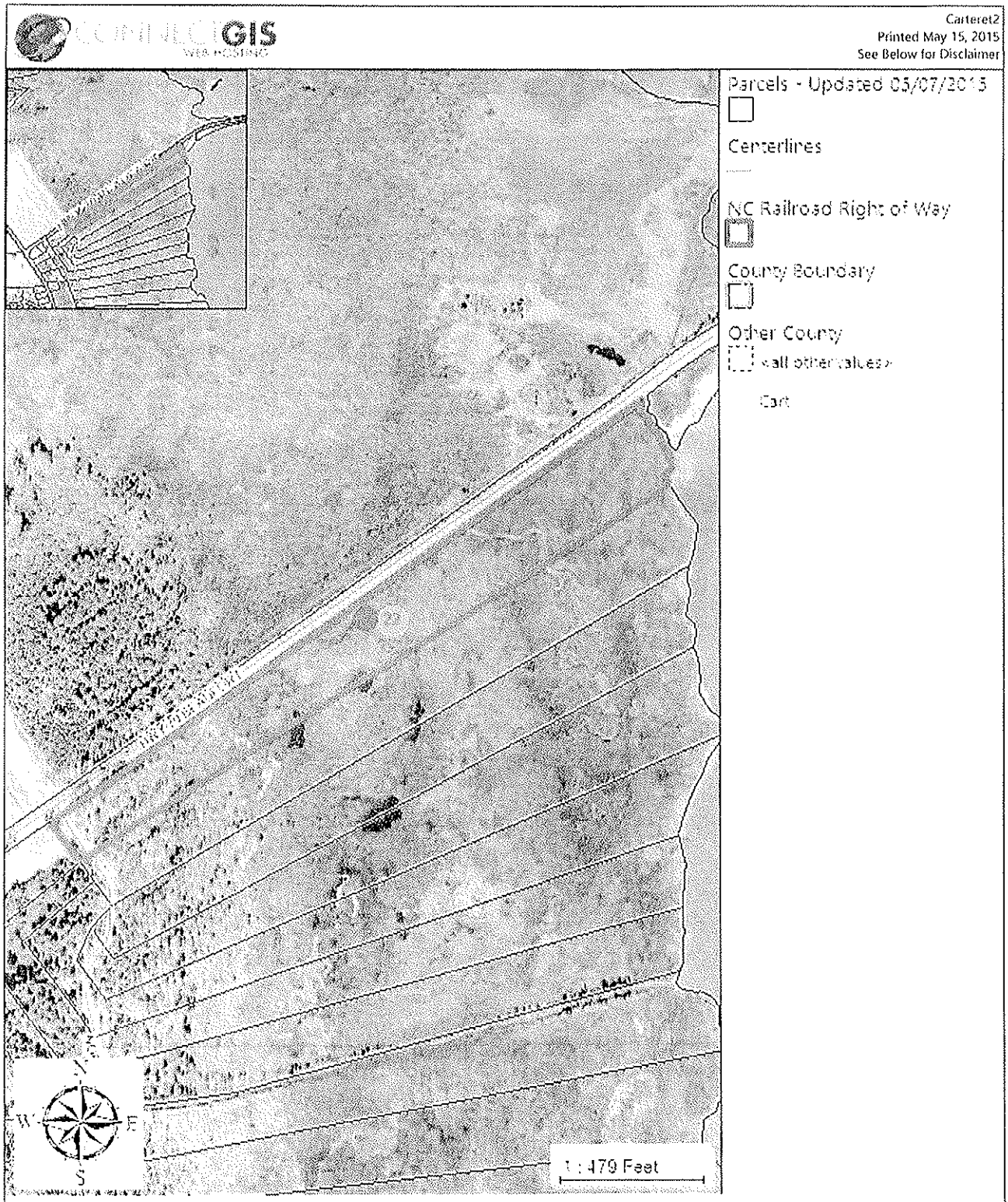
We agree that our sign project does not meet the current requirement that requires water access and cannot function elsewhere.

Sincerely,

Richard Lowdermilk

Richard Lowdermilk

Down East Council


GIS
Carteret2
Printed May 15, 2015
See Below for Disclaimer
Parcels - Updated 05/07/2015
Centerlines
NC Railroad Right of Way
County Boundary
Other County
<all other values>
Cart
N
W
E
S
1 : 479 Feet

June 2, 2015

Variance Criteria

Unnecessary Hardships

- If our sign is placed anywhere on this lot other than in the low growing marsh area it will not be seen by travelers on Hwy 70 because of trees and bushes that will block the view. Our sign has to be a minimum of 60 ft. from the centerline of Hwy 70 to meet DOT and county set back requirements. To be seen by travelers along this section of Hwy 70 requires a clear line of sight of 200 to 300 ft. with natural vegetation no more than 5 ft. high.
- This lot was chosen because of its North River bridge gateway location to "Down East". There are two much smaller privately owned lots near the North River bridge, however, the effects of the soon to start construction of a new North River bridge on these lots is unknown.
- What we are trying to portray with our sign is the unique natural scenic areas of "Down East" that includes marsh, water, and undeveloped shoreline along Core Sound. Being able to place our "Down East welcome sign in the marsh helps to reinforce what we want travelers to experience as they travel our section of the Scenic Byway.
- Landscaping and the potential for vandalism are also significantly less with a marsh location.

Conditions Peculiar to Property

- The County lot we are proposing for our sign has a 2,425 ft. road frontage length along Hwy 70. The average width of the lot is 250 ft. The first 350 ft. of length is high ground with tall pine trees. The next 250 ft. is a transition area with fewer smaller trees and more bushes. The remaining 1,825 ft. is marsh grass. If the marsh was located at the front of the lot instead of the back, if the high ground was longer in length, if the bushes and vegetation along the DOT right of way was much less, or if the road curved to provide a line of sight, then our sign could be located in an area other than the marsh.

Hardships Result of Actions Taken

- No actions have been taken by Down East Council or Carteret County on this property.

Consistent with Spirit, Purpose, and Intent of Standards of the Commission

- Our sign also seeks to emphasize the scenic beauty and promote conservation of our unique coastal landscape.

June 2, 2015

Duke – Sea Level Partnership, LLC

PO Box 1172

Beaufort, NC 28516

Dear Adjacent Property Owner:

This letter is to inform you the CAMA Minor Permit application submitted by the Down East Council c/o Richard Lowdermilk to install a "Down East Welcome Sign" on County owned lot #1 located at 201 North Point Dr., Beaufort, NC has been denied. The Down East Council c/o Richard Lowdermilk has filed a Variance Request with the Coastal Resources Commission. Enclosed is a copy of the Denial of CAMA Minor Permit and our Variance Request

If you have questions or comments about our Variance Request, please contact me at (252) 656-4035, or by mail at the address listed below. If you wish to file written comments or objections with Carteret County CAMA Minor Permit Program, you may submit them to:

Angela Willis, CAMA

400 Commerce St.

Morehead City, 28557

Sincerely,

Richard Lowdermilk

PO Box 39

Atlantic, NC 28511

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- Return Receipt (electronic) $
- Certified Mail Restricted Delivery $
- Adult Signature Required $
- Adult Signature Restricted Delivery $

Postage $ 1.61

Total Postage and Fees $ 7.86

Postmark Here
JUN - 3 2015

Sent To Duke - Sealevel Partnership

Street and Apt. No., or PO Box No. PO Box 170

City, State, ZIP+4® Beaufort NC 28516

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

7015 0640 0000 2362 8017

June 2, 2015

David Livingston

NC DOT

139 Masontown Rd.

Newport, NC 28570

Dear Adjacent Property Owner:

This letter is to inform you the CAMA Minor Permit application submitted by the Down East Council c/o Richard Lowdermilk to install a "Down East Welcome Sign" on County owned lot #1 located at 201 North Point Dr., Beaufort, NC has been denied. The Down East Council c/o Richard Lowdermilk has filed a Variance Request with the Coastal Resources Commission. Enclosed is a copy of the Denial of CAMA Minor Permit and our Variance Request

If you have questions or comments about our Variance Request, please contact me at (252) 656-4035, or by mail at the address listed below. If you wish to file written comments or objections with Carteret County CAMA Minor Permit Program, you may submit them to:

Angela Willis, CAMA

400 Commerce St.

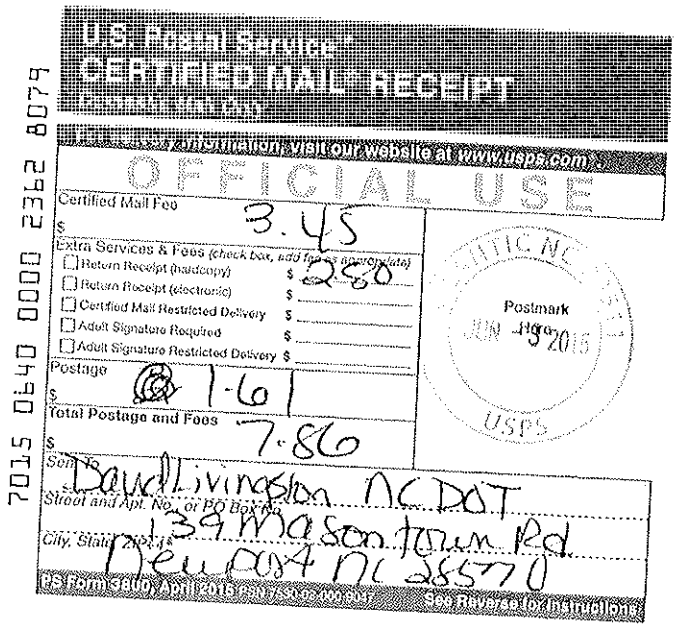
Morehead City, 28557

Sincerely,

Richard Lowdermilk

PO Box 39

Atlantic, NC 28511



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Certified Mail Fee $ 3.45

Extra Services & Fees (check box, add fee as appropriate)
- ☐ Return Receipt (hardcopy) $ 2.80
- ☐ Return Receipt (electronic) $
- ☐ Certified Mail Restricted Delivery $
- ☐ Adult Signature Required $
- ☐ Adult Signature Restricted Delivery $

Postage $ 1.61

Total Postage and Fees $ 7.86

Postmark
JUN 19 2015
USPS

Sent To: David Ivinson NCDOT

Street and Apt. No., or PO Box No.: 139 Mason Town Rd

City, State, ZIP+4®: Deuce NC 28570

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

Attachment E:
Stipulated Exhibits including Powerpoint

-Deed to the Site (Book 1411, Page 149)
-January 12, 2015 letter from Miller of DEC to Carteret County
-February 16, 2015 Carteret County Board of Commissioners meeting minutes
-February 18, 2015 email chain between DOT and Carteret County officials
-May 18, 2015 CAMA minor permit application from Carteret County
-May 28, 2015 CAMA permit denial letter
-Site Photographs in powerpoint presentation

Rt. Wheatly

FILE # 1411149

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at the date and time and in the Book and Page shown on the first page hereof.

Joy Lawrence, Register of Deeds
By: _____ Asst. Deputy Register of Deeds

FOR REGISTRATION REGISTER OF DEEDS
Joy Lawrence
Carteret County, NC
June 06, 2012 03:17:34 PM
COUNTER DEED 3 P
FEE: $0.00
NC REVENUE STAMP: $270.00
FILE # 1411149

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: 270.00

Parcel Identifier No. 7318014522340000 Verified by _____ County on the ____ day of _____, 20__
By: _____

Mail/Box to: CR Wheatly, III

This instrument was prepared by: Richard L. Stanley, 601-6 Cedar Street, Beaufort, NC 28516

Brief description for the Index: LOT 1, North Point Subdivision

THIS DEED made this 15th day of May, 2012 by and between

GRANTOR	GRANTEE
Duke-Sea Level Partnership, LLC 314 Joan Court Beaufort, NC 28516	County of Carteret, A Body Politic Courthouse Square Beaufort, NC 28516

Enter in appropriate block for each Grantor and Grantee: name, mailing 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 _____, Beaufort Township, CARTERET County, North Carolina and more particularly described as follows:

EXHIBIT A

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

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

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

BOOK 1411 PAGE 149

(3)

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, other than the following exceptions: Easements and restrictions of record.

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

Duke-Sea Level Partnership, LLC (Entity Name)

By: Warren T. Davis

Print/Type Name & Title: Manager Partner

By: _____

Print/Type Name & Title: _____

By: _____

Print/Type Name & Title: _____

_____ (SEAL)

Print/Type Name: _____

_____ (SEAL)

Print/Type Name: _____

_____ (SEAL)

Print/Type Name: _____

_____ (SEAL)

Print/Type Name: _____

State of _____ - County or City of _____

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this _____ day of _____, 20___.

My Commission Expires: _____
(Affix Seal)

_____ Notary Public

Notary's Printed or Typed Name

State of North Carolina - County or City of CARTERET

I, the undersigned Notary Public of the County or City of CARTERET and State aforesaid, certify that Warren T. Davis personally came before me this day and acknowledged that he is the Manager, Partner of Duke-Sea Level Partnership, LLC, a North Carolina ~~corporation~~/limited liability company/~~general partnership/limited partnership~~ (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this ~~16th~~ 1st day of ~~May~~ June, 2012.

My Commission Expires: July 25, 2015
(Affix Seal)

Elizabeth P. Lindow

Elizabeth P. Lindow Notary Public

Notary's Printed or Typed Name

State of _____ - County or City of _____

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____

My Commission Expires: _____
(Affix Seal)

_____ Notary Public

Notary's Printed or Typed Name

ELIZABETH P. LINDOW NOTARY PUBLIC CARTERET COUNTY, NC

ATTACHMENT

Being all of Tract or Lot 1 of North Point Subdivision as the same is shown on the plat of North Point recorded in Map Book 31, pages 573 and 595, Carteret County Registry, reference to said plat being made for greater certainty of description.
This conveyance is subject to the easements, rights of way, wetlands and other matters shown on the recorded plats. There is further included a permanent easement appurtenant to Tract or Lot 1 for Septic Easement purposes, which easement grants to Carteret County and its successors and assigns, the right to run a supply line and to place within the Septic Easement Area shown on the maps nitirification lines, tanks, pumps and other equipment to serve a welcome center and scenic byway facility. The costs to maintain the supply line, pump and tank shall be the responsibility of Grantee and its successors but the maintenance of the Easement Area shall belong to the North Point Owners Association.

This conveyance is subject to the applicable provisions of the North Point Covenants recorded in Book 1312, page 319, and particularly those reserved unto Grantor by subparagraph (b) of Section 2, Section VI, and subparagraphs b through e of Section VI (1), pages 13 and 14 of the recorded covenants.

12 RLS 8955

1121 Seashore Dr.
PO Box 39
Atlantic, NC 28511
January 12, 2015

Mr. Robin Comer – Chairman
Carteret County Board of Commissioners
County Administration Building
302 Courthouse Square
Beaufort, NC 28516

Dear Mr. Comer:

The Down East Council would like to install two "Down East" welcome signs. One would be in the vicinity of the North River Bridge and the other one at Cedar Island (Hwy 12). Due to the fact both locations are along the Outer Banks National Scenic Byway, DOT permission is required for any new signs. The Down East Council has been informed by Mr. Roy Grasse the DOT Outdoor Advertising Coordinator that only official municipal or county government authorities can request permission of directional or informational signs along the Scenic Byway. No DOT permit is required.

The Down East Council is asking the Board of Commissioners to approve a request to the DOT for permission to install these two Down East welcome signs.

The Down East Council is also requesting permission to install the North River sign on the County owned lot parcel # 731801452234000 and to waiver the County permit fees of $642 for our two welcome signs.

The Cedar Island sign would be installed on private property. Enclosed is copy of property owner's written permission.

Enclosed is a copy of the sign graphics. We are proposing 6 ft. X 8 ft. routed and sandblasted high density urethane signs, mounted on pilings off the highway right of way.

Also enclosed are GIS aerial photos of proposed lots and sign locations.

All costs for the design, purchase, and installation of the signs will be the responsibility of the Down East Council. The Down East Council also assumes responsibility for all sign and landscape maintenance costs in the future.

We appreciate your consideration and support of our Down East area of Carteret County.

Sincerely,

Lillie Miller

Lillie Miller - Chairman
Down East Council

CARTERET COUNTY
BOARD OF COMMISSIONERS
REGULAR SESSION
COMMISSIONER'S BOARD ROOM
FEBRUARY 16, 2015 - 6:00 P.M.

I.	Call to Order/Pledge of Allegiance/Invocation	Chairman Comer
II.	Conflict of Interest Statement	Chairman Comer
III.	Adoption of the Agenda	Board
IV.	Consent Items	Board

1. Approval of the 1/12/2015 Minutes
2. Tax Releases and Refunds
   a. Tax Releases Under $100
   b. Tax Releases Over $100
   c. Tax Refunds Under $100
   d. Tax Refunds Over $100
   e. Tax Collector's Monthly Report
   f. NCVTS Motor Vehicle Refund Report
3. Resolution Authorizing Advertisement for Tax Liens
4. Resolution Designating Review Officers
5. Approval of Budget Amendment – State Funding for Immunization Action Plan
6. Accept Grant Award from Blue Cross/Blue Shield NC Foundation/Approval of Budget Amendment
7. Approval of the Budget Calendar Fiscal Year 2015-2016
8. Award Contract for Tabletop Hurricane Exercise
9. Resolution Providing for, Among Other Things, The Issuance of Not to Exceed $15,730,000 General Obligation Refunding Bond of the Carteret County, NC
10. Resolution Appointing Tax Assessor/Collector

V.	Public Comment	
VI.	Presentation – Allies for Cherry Point Tomorrow (ACT)	Greg Lewis Fred Fulcher
VII.	Public Hearing to Consider F&S Properties Rezoning Request 102 Bogue Sound Drive, Newport NC (PIN 6346.03.24.5915000) from R-20 (Single Family Residential District) to B-1 (General Business District)	Gene Foxworth
VIII.	Sheriff's Department and Detention Center Chiller Replacement	Steve Edwards
IX.	Down East Welcome Signage	Lillie Miller

CARTERET COUNTY

Board of Commissioners

Agenda Item
IX.

Meeting Date:
February 16, 2015

Presenter:

ITEM TO BE CONSIDERED

Title: Down East Welcome Signage

Brief Summary: Down East Council is requesting to install two welcome signs along the Outer Banks National Scenic Byway in the vicinty of the North River Bridge on County properly and on Cedar Island (Hwy 12) on private property. The private property owner has granted permission.

Carteret County must request permission from NCDOT on behalf of Down East Council for any directional or informational signage along the Scenic Byway.

Down East Council also seeks a waiver from the County permit fees of $642 for the signs.

No NCDOT permit required.

If the Board of Commissioners approves of the agenda item as presented, the following motion(s) is (are) suggested:

Motion to:
1) Approve location as presented in the vicinty of the North River Bridge on County properly;
2) Authorize staff to seek permission from NCDOT for directional/informational signage along the Scenic Byway;
3) Allow waiver of permit fees ($642).

BACKGROUND

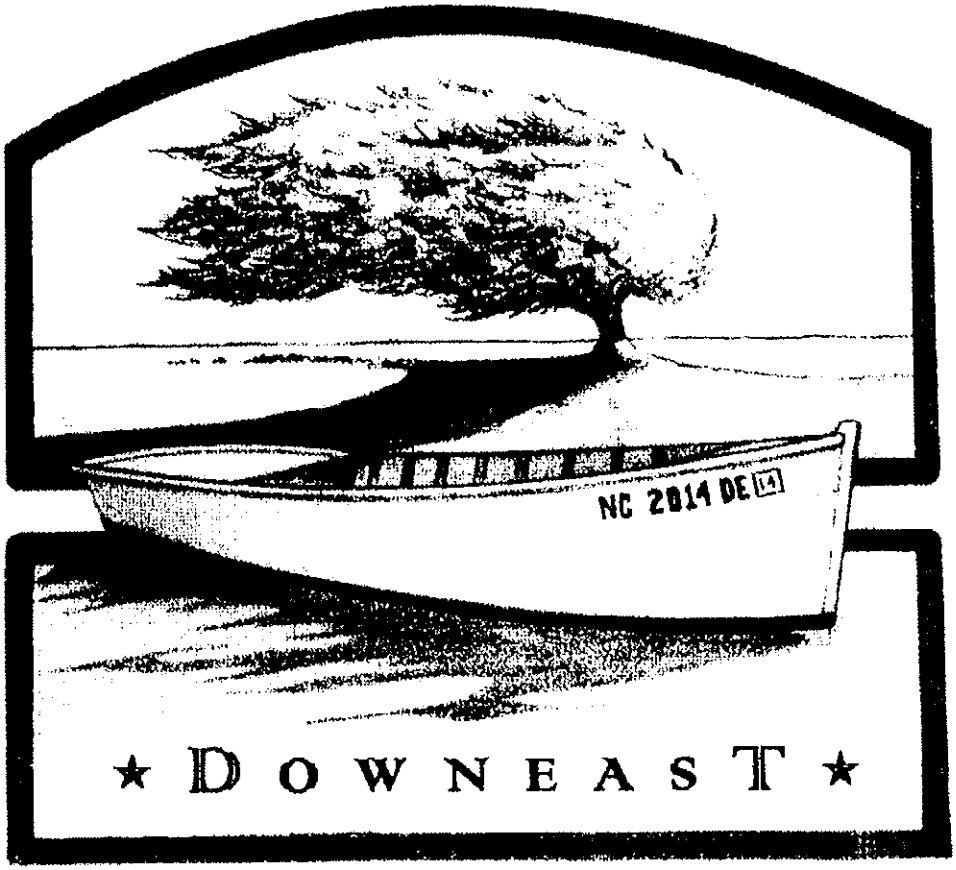
Originating Department

Staff Contact:
Russell Overman

Attachments:
1 Memo/Down East Council
2 Aerial Maps
3 Property Owner's Permission
4 Sign Graphic
5

REVIEWED BY

County Manager	X	County Attorney	
Clerk to the Board		ACM/Finance Director	


NC 2014 DE
★ DOWNEAST ★

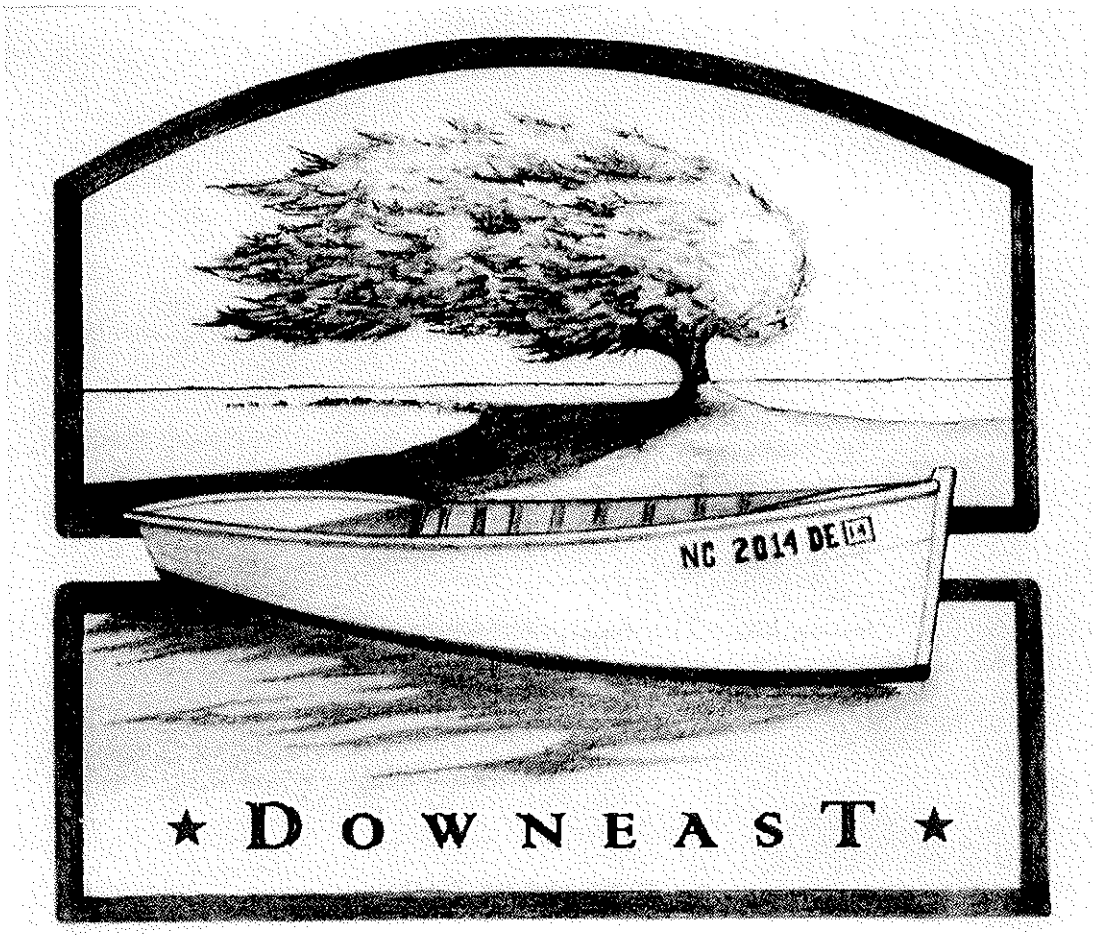
Excerpt from Board of County Commissioners minutes dated February 16, 2015

Down East Welcome Sign

Chairman Lillie Miller of the Down East Council introduced Richard Lowdermilk who informed that Down East Council would like to install two welcome signs along the Outer Banks National Scenic Byway in the vicinity of the North River Bridge on County property and on Cedar Island (Hwy 12) on private property. The private property owner had granted permission for the sign to be placed on his property.

Carteret County must request permission from NCDOT on behalf of Down East Council for any directional or informational signage along the Scenic Byway.

Down East Council was also requesting a waiver from the County permit fees of $642 for the signs. No permits were required by NCDOT.



Motion- On a motion by Commissioner Robinson, seconded by Commissioner Crittenton approval was granted for the signage to be located on County property in the vicinity of North River Bridge, to authorize staff to seek permission from NCDOT for directional/informational signage along the Scenic Byway. **Motion carried unanimously.**

Commissioner Robinson stated that it had been Board policy not to waive fees because of required inspections but he felt the fees could be waived by 50% without creating a president.

Motion– Commissioner Robinson moved to waive the permit fees by 50%, seconded by Commissioner Farrington.

Amended Motion- Commissioner Crittenton moved to amend the motion to waive all fees as the signs helped attract visitors to the Crystal Coast. The community did benefit directly from the sales and use taxes and informational signage would benefit the entire County. Commissioner Farrington seconded the amended motion.

Ayes: Smith, Robinson, Mansfield, Crittenton, Farrington
Nays: Comer and Frank. **Motion carried**

Gmail

Richard Lowdermilk <rklowdermilk@gmail.com>

FW: Welcome to Downeast Signs

1 message

Eugene Foxworth <Eugene.Foxworth@carteretcountync.gov> Thu, May 14, 2015 at 3:38 PM

To: Richard Lowdermilk <rklowdermilk@gmail.com>

Mr. Lowdermilk,

Please see the chain of email below. I met with Stephen Gardner who went to the site with me to look at the sign location. They had no issue with the content nor the location of the sign.

Also, I wanted to reaffirm the County Commissioners support for the Downeast Council and this project. The response you received from them after your presentation at their monthly meeting obviously spoke to this effect.

Let me know if I can do anything else to help!

Thanks,

Gene

Eugene Foxworth

Planning and Development Director

Carteret County

From: Grasse, Roy T [mailto:rgrasse@ncdot.gov]
Sent: Wednesday, February 18, 2015 2:24 PM
To: Eugene Foxworth
Cc: Stephen Gardner (stephen.gardner@volkert.com)
Subject: RE: Welcome to Downeast Signs

Mr. Foxworth,

I do believe we have approved the proposed signage and the plan for it, we just need to know

The actual location (they cannot be on the state's ROW), no advertising. My suggestions would

Be to call Stephen Gardner our Regional Coordinator for this area at 919-218-6851 and show him

The location, just in the event they are not legal areas.

These are going up as official signs, and so as long

As they are the same as what was sent to me in December (a boat, tree and the words Downeast)

You should be able to proceed. Who is physically put up the sign? Because all parties when accessing the Right of way

To put the sign up, or to maintain it, it is always a good idea to notify the district (Reed Smith) just in case

There would be damage to the ROW. This notice (email) is sufficient to me for this sign.

And because this is an "official sign" any building permits would come from you, and for you

To keep track of. We will put it on our inventory because it is Scenic Byway. And inspect the

Site from time to time.

If you have any other questions please let me know. Good Luck

Thank you,

Roy T. Grasse

Roy T. Grasse

Outdoor Advertising Coordinator

State Maintenance Operations

4809 Beryl Road

Raleigh, NC 27699-1567

919-835-8435

rgrasse@ncdot.gov

North Carolina Department of Transportation

From: Eugene Foxworth [mailto:Eugene.Foxworth@carteretcountync.gov]
Sent: Tuesday, February 17, 2015 3:57 PM
To: Grasse, Roy T
Subject: Welcome to Downeast Signs

Mr. Grasse,

I hope you are well and staying warm during this frigid winter weather we are having. Last night at the Carteret County Commissioners meeting the renderings along with the placement of the above referred signs were approved by the Commissioners. With that being said I know the County is who has to request the signage. What specifically do you need from us for this project to proceed? Thank you for all of your assistance I know this has been a drawn out process.

Thanks,

Gene

Eugene Foxworth

Planning and Development Director

Carteret County

SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

_____ Draw and label normal high water line (contact LPO for assistance)
_____ Draw location of on-site wastewater system

If you will be working in the ocean hazard area:
_____ Draw and label dune ridges (include spot elevations)
_____ Draw and label toe of dunes
_____ Identify and locate first line of stable vegetation (contact LPO for assistance)
_____ Draw and label erosion setback line (contact LPO for assistance)
_____ Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:
_____ Show the roof overhang as a dotted line around the structure
_____ Draw and label landward limit of AEC
_____ Draw and label all wetland lines (contact LPO for assistance)
_____ Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted _____ Final Inspection _____ Fee Received _____

Site Inspections

_____ _____
_____ _____
_____ _____

Date of Action: Issued _____ Exempted _____ Denied _____ Appeal Deadline (20 days from permit action) _____

APPLICATION FOR

CAMA MINOR DEVELOPMENT PERMIT

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

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

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

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

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

Coastal Resources Commission
Division of Coastal Management

APPLICATION: _____ LOCALITY: _____

PERMIT ISSUED USING STATIC LINE EXCEPTION?
YES ☐ NO ☐

chk # 7524 07-15

Locality Carteret County Permit Number 07-15

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

(For official use only)

GENERAL INFORMATION

LAND OWNER

Name Carteret County

Address 302 Courthouse Square

City Beaufort State NC Zip 28516 Phone (252) 728-8545

Email eugene.foxworth@carteretcountync.gov

AUTHORIZED AGENT

Name ~~Richard Lowdermilk~~ Down East Council c/o Richard Lowdermilk

Address 1121 Seashore Dr., PO Box 39

City Atlantic State NC Zip 28511 Phone (252) 656-4035

Email rklowdermilk@gmail.com

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 201 North Point Dr., Beaufort, NC - North River

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Down East Welcome Sign

SIZE OF LOT/PARCEL: _____ square feet 13.2 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: _____ 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: 7 square feet (includes the area of the roof/drip line of all buildings, driveways, covered decks, concrete or masonry patios, etc. that are within the applicable AEC. Attach your calculations with the project drawing.)

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

YES ☐ NO ☑

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

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

STATEMENT OF OWNERSHIP:

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

☑ an owner or record title, Title is vested in Carteret County, see Deed Book 1411 page 149 in the Carteret County Registry of Deeds.

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

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

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

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

	(Name)	(Address)
(1)	NC DOT	139 Masontown Rd., Newport, NC 28570
(2)	Duke - Sea Level Partnership, LLC	PO Box 1172, Beaufort, NC 28516
(3)		
(4)		

ACKNOWLEDGEMENTS:

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

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

Richard K. Lowdermilk This the 18 day of May, 20 15

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.*

May 18, 2015

David Livingston

NC DOT

139 Masontown Rd

Newport, NC 28570

Dear Adjacent Property Owner:

This letter is to inform you that I Richard Lowdermilk have applied for a CAMA Minor Permit after receiving permission from Carteret County (see attached emails) to install a "Down East Welcome Sign" on County owned lot located at 201 North Point Dr., Beaufort, NC in Carteret County. Attached is copy of county GIS aerial photo showing lot and location of sign. This lot is adjacent to US 70 East near the North River Bridge.

As required by CAMA regulations, I have enclosed a copy of my permit application and project drawing as notification of our proposed project. No action is required from you. If you have questions or comments about our proposed project, please contact me at (252) 656-4035, or by mail at the address listed below. If you wish to file written comments or objections with Carteret County CAMA Minor Permit Program, you may submit them to:

Ryan Davenport, CAMA

400 Commerce St.

Morehead City, 28557

Sincerely,

Richard K Lowdermilk

Richard Lowdermilk

PO Box 39

Atlantic, NC 28511

USPS TRACKING #

9114-901-8926-6797-9682-70

May 18, 2015

Duke – Sea Level Partnership, LLC

PO Box 1172

Beaufort, NC 28516

Dear Adjacent Property Owner:

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Ryan Davenport, CAMA

400 Commerce St.

Morehead City, 28557

Sincerely,

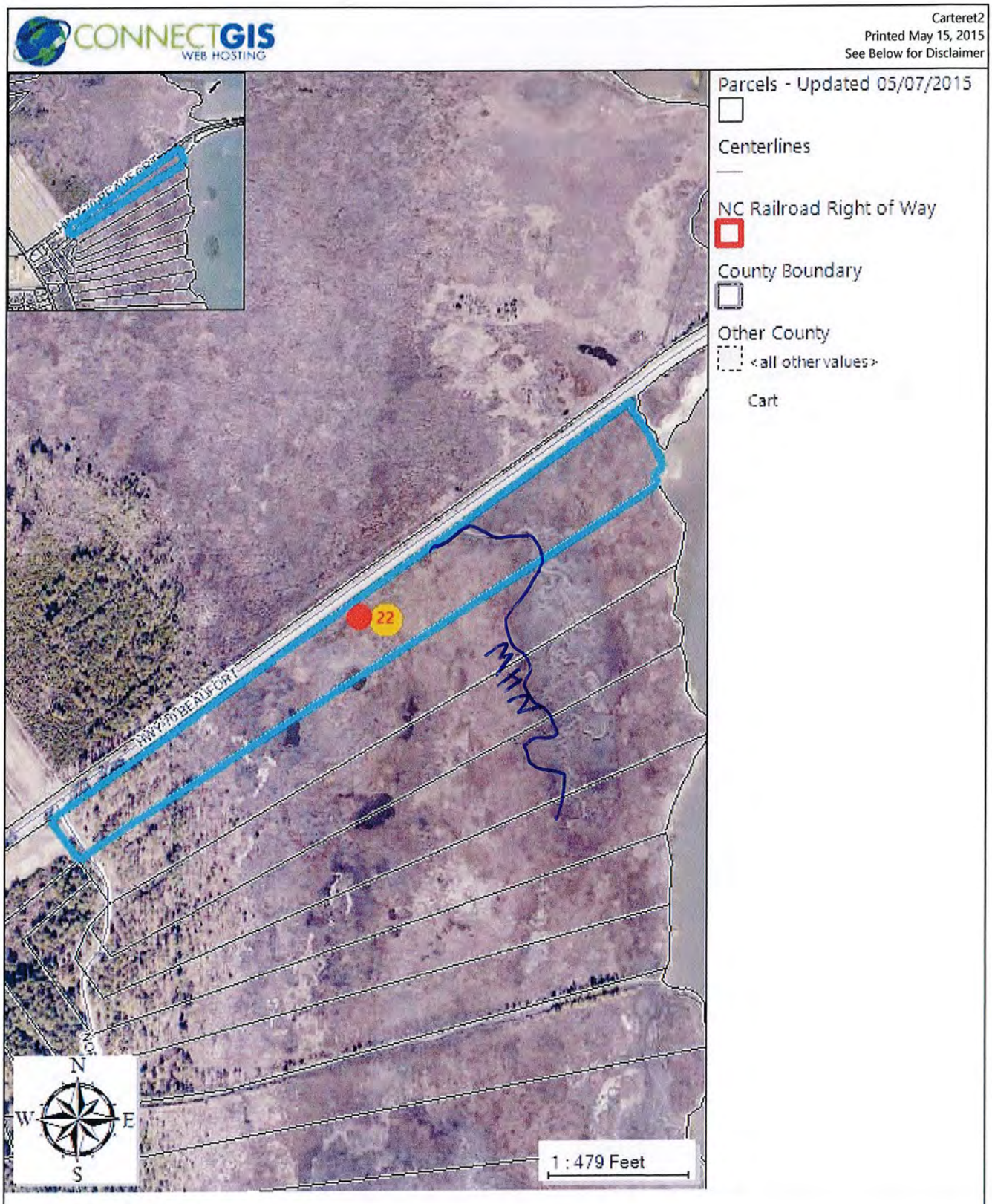
Richard R. Lowdermilk

Richard Lowdermilk

PO Box 39

Atlantic, NC 28511

USPO TRACKING # 9114-9011-8[illegible]


CONNECTGIS
WEB HOSTING
Carteret2
Printed May 15, 2015
See Below for Disclaimer
Parcels - Updated 05/07/2015
Centerlines
NC Railroad Right of Way
County Boundary
Other County
<all other values>
Cart
22
MHW
HWY 70 BEAUFORT
N
W
E
S
1 : 479 Feet

TOWNSHIP 0011	**FIRE DISTRICT** NORTH RIVER FIRE	**OBJECTID_1** 34297
OBJECTID 9260	**PDOT** 2234	**CONDO NUMBER**
MOTHER 0	**PRID**	**PIN15** 731801452234000
OWNER COUNTY OF CARTERET	**DEED BOOK** 1411	**DEED PAGE** 149
CURRENT DEED DATE 20120606	**SALE PRICE** 135000	**LAND VALUE** 107960
STRUCTURE VALUE 0	**OTHER VALUE** 0	**YEAR CONDO BUILT** 0
MAILING ADDRESS HOUSE NUMBER 302	**MAILING ADDRESS DIRECTION**	**MAILING ADDRESS STREET** COURTHOUSE SQUARE
	MAILING ADDRESS CITY BEAUFORT	**MAILING ADDRESS STATE** NC
MAILING ADDRESS ZIP 28516	**MAILING ADDRESS PO BOX** SUITE 200	**CITY LIMIT**
NEIGHBORHOOD CODE 110005	**RESCUE DISTRICT** BEAUFORT RESCUE	**LEGAL DESCRIPTION** TRACT 1 NORTH POINT
TOTAL ACRES 13.2	**YEAR BUILT** 0	**TOTAL SQUARE FEET** 0
ROLL TYPE E	**BATHROOMS** 0	**BEDROOMS** 0
HOUSE NUMBER (7 Digits) 0000201	**STREET NAME** NORTH POINT	**STREET TYPE** DR
CITY BEAUFORT	**TOTAL VALUE** 107960	**aicuz**
RISK LEVEL	**NOISE LEVEL**	

North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

Legal Advertisement Section

5/21/15

Re: Public Notice – Carteret County-Beaufort

To Whom It May Concern:

Please publish the attached Notice in the 5/22/15, issue of the Carteret News Times.

The State Office of Budget and Management requires an original Affidavit of Publication prior to payment for newspaper advertising. Please send the affidavit, an original copy of the published notice, and an original invoice to Arthur Stadiem, NC Division of Coastal Management, 400 Commerce Avenue, Morehead City, North Carolina 28557, Telephone (252) 808-2808.

Thank you for your assistance in this matter. If you should have any questions, please contact me at our Morehead City office.

Sincerely,

J. Ryan Davenport
Coastal Management Representative

NOTICE OF FILING OF
A PPLICATION FOR CAMA

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

MAJOR DEVELOPMENT PERMIT

The Department of Environment and Natural Resources hereby gives public notice as required by NCGS 113A-119(b) that application for a development permit in an Area of Environmental Concern as designated under the CAMA was received on 5/18/15. According to the application, Carteret County applied for a permit for the construction of a "Down East Welcome Sign" adjacent to the North River, Beaufort, Carteret County. 6 ~~Mile~~ Post-Supported Sign

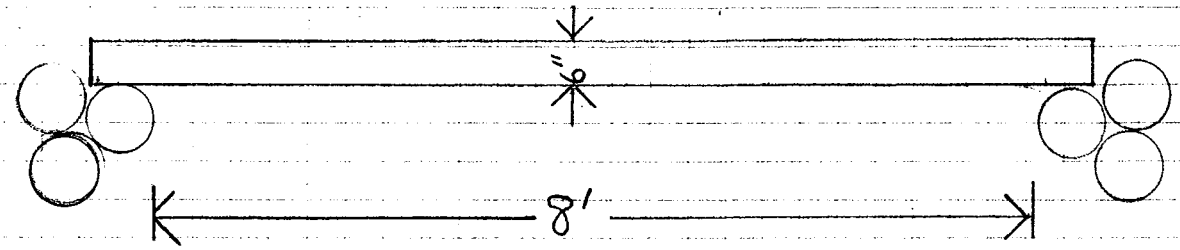
A copy of the entire application may be examined or copied at the office of J Ryan Davenport, NC Division of Coastal Management, located at 400 Commerce Avenue, Morehead City, NC, (252) 808 2808 during normal business hours.

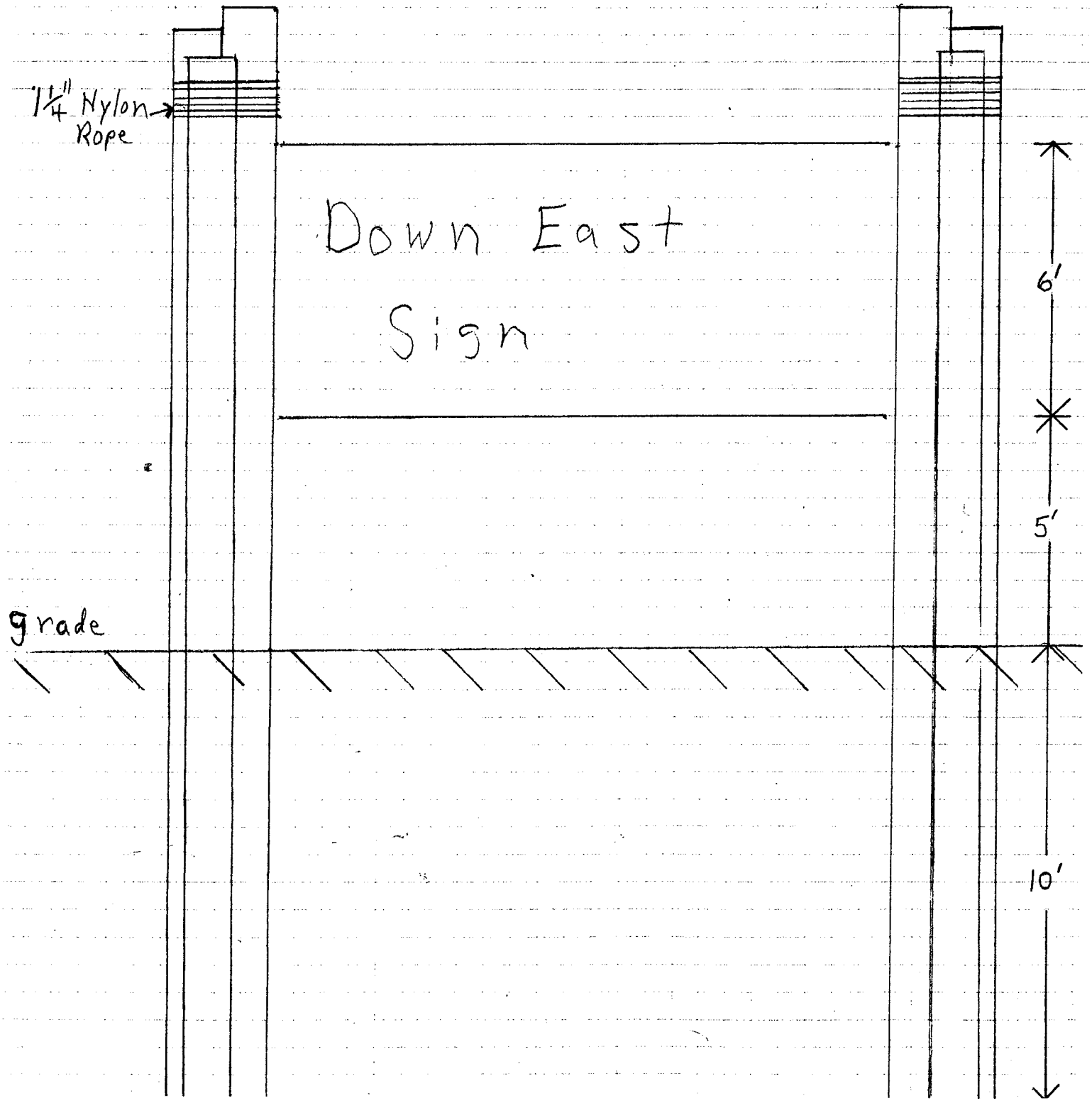
Comments mailed to Braxton Davis, Director, Division of Coastal Management, 400 Commerce Avenue, Morehead City, N.C. 28557, prior to 6/10/15, will be considered in making the permit decision. Later comments will be accepted and considered up to the time of permit decision. Project modification may occur based on review and comment by the public and state and federal agencies. Notice of the permit decision in this matter will be provided upon written request.

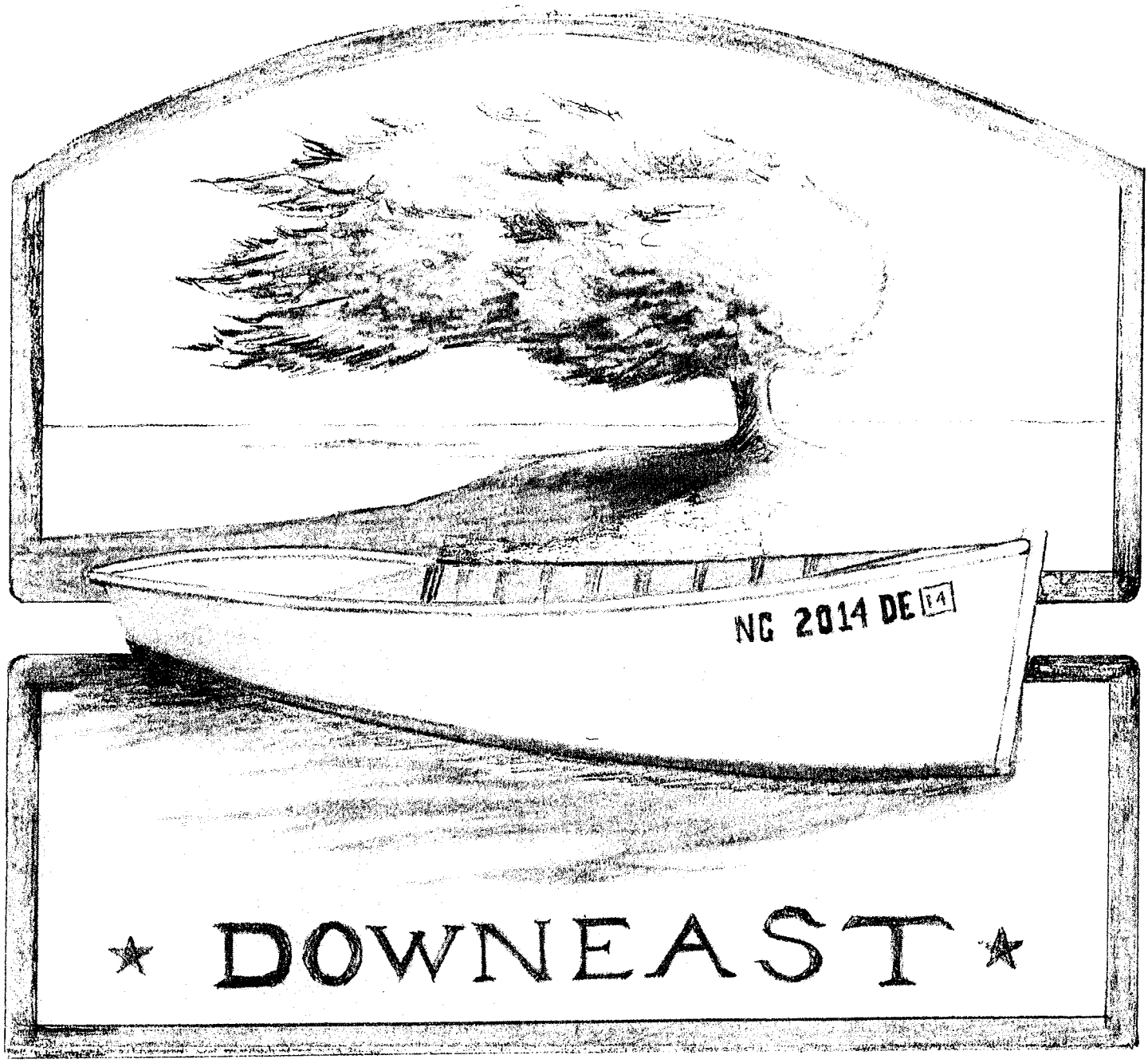
PUBLISHED ON: 5/22/15

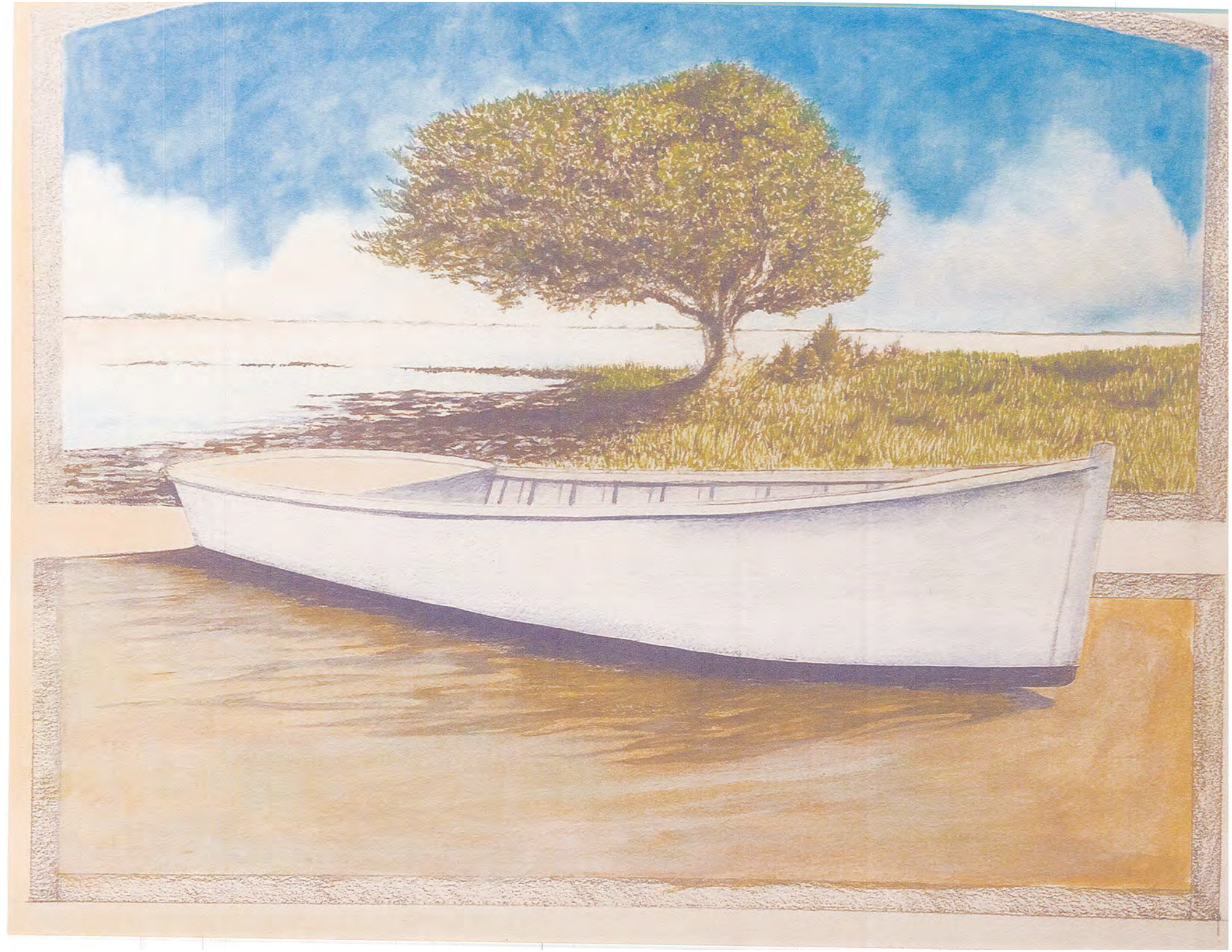
5/18/15

Posts are 8" Dia. Treated pilings 24' Length






NC 2014 DE 14
★ DOWNEAST ★



NCDENR
North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

FILE

May 28, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carteret County
c/o Eugene Foxworth
302 Courthouse Square
Beaufort, NC 28557

RE: **DENIAL OF CAMA MINOR DEVELOPMENT PERMIT**
APPLICATION NUMBER- 07-15

Dear Mr. Foxworth:

This letter is in response to your request for a minor permit under the Coastal Area Management Act (CAMA), in which authorization was requested to construct a 6' x 8' pile supported sign adjacent to North River at 201 North Point Drive, Beaufort, Carteret County. Processing of the minor permit request is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

1) The project will be located within the coastal wetlands area of environmental concern and as a result is subject to NCAC 07H .0205(d), the use standards for coastal wetlands as defined by the N.C. Division of Coastal Management.

2) NCAC 07H .0205(d) states in part, "Suitable land uses are those consistent with the management objective in this Rule. Highest priority of use is allocated to the conservation of existing coastal wetlands. Second priority of coastal wetland use is given to those types of development activities that require water access and cannot function elsewhere."

3) A pile supported sign has been determined to be development that does not require water access and can function elsewhere.

4) Based upon the above referenced findings, the project is inconsistent with 07H.0205 (d), use standards for coastal wetlands.

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

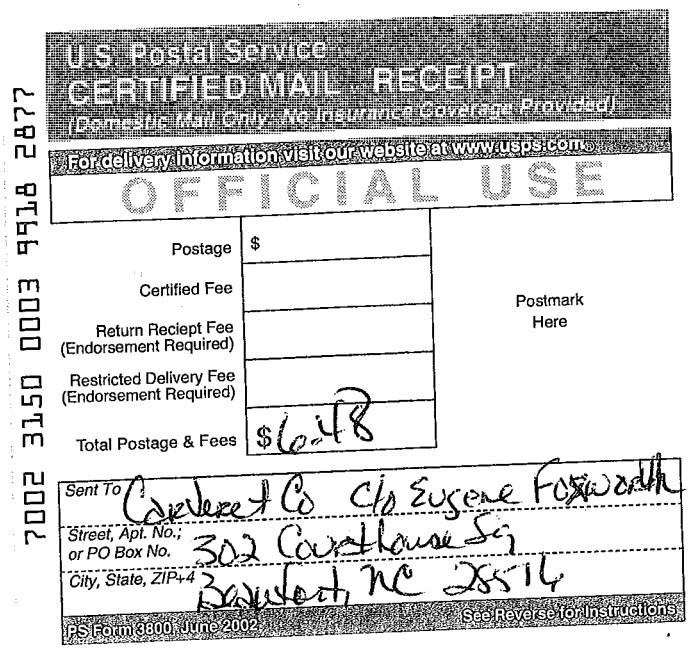
If you wish to appeal this denial, you are entitled to a hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties and then makes a recommendation to the Coastal Resources Commission. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this letter. A copy of this petition should be filed with this office.

Members of my staff are available to assist you should you desire to modify your proposal in the future. If you have any questions concerning this matter, please contact Mr. Ryan Davenport at (252) 808-2808, extension 210.

Sincerely,

J. Ryan Davenport
Field Representative

Cc Richard Lowdermilk



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Sent To: Carteret Co c/o Eugene Foxworth
Street, Apt. No.; or PO Box No.: 302 Courthouse Sq
City, State, ZIP+4: Beaufort NC 28516

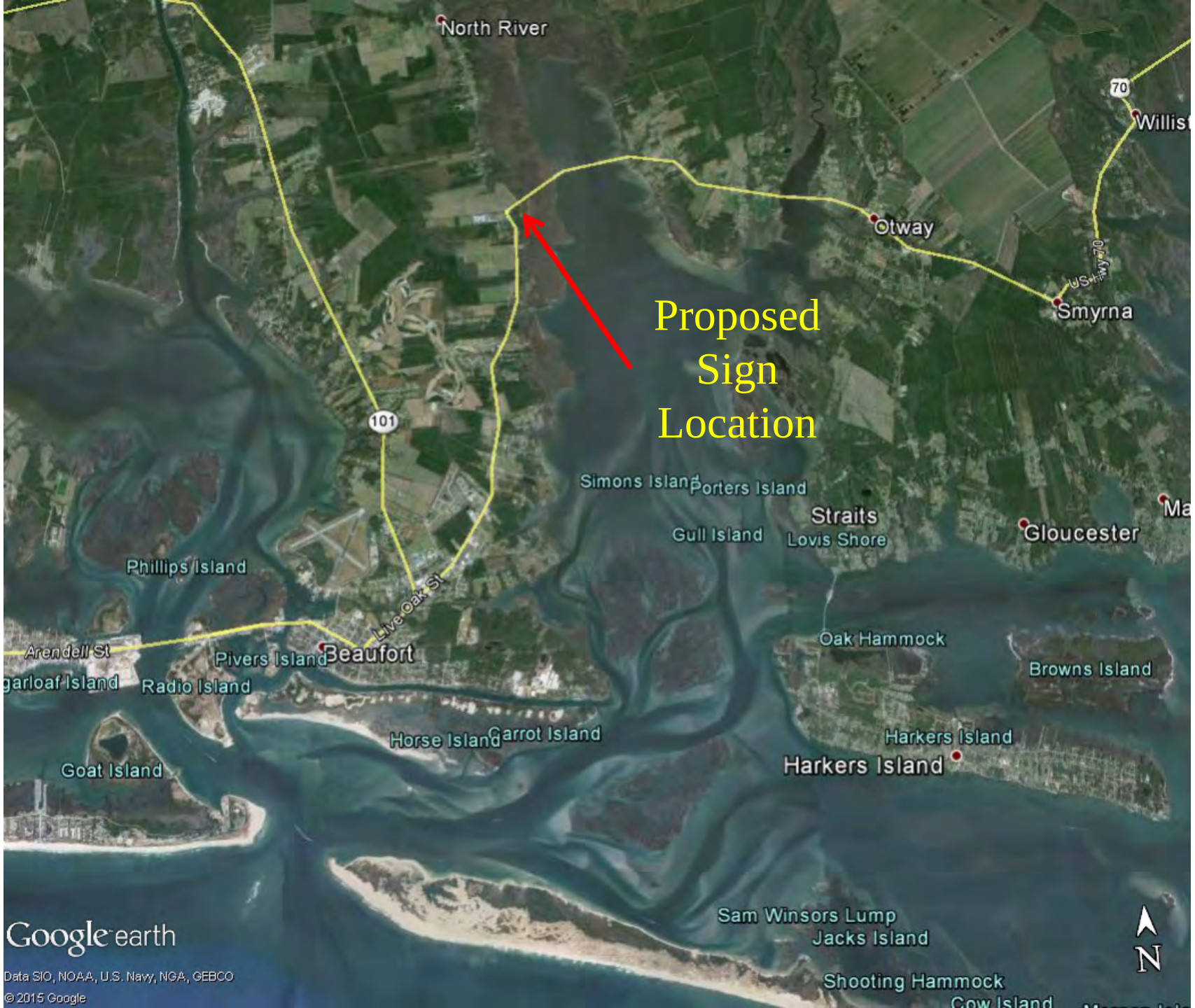
PS Form 3800, June 2002 — See Reverse for Instructions

Down East Council, Agent for Carteret County *(CRC-VR-15-04)* Non Water-Dependent Use in Coastal Wetlands Variance Request

Bettie Township

Carteret County

July 15, 2015


North River
70
Otway
US Hwy 70
Smyrna
Proposed
Sign
Location
101
Simons Island
Porters Island
Straits
Gull Island
Lovis Shore
Gloucester
Phillips Island
Live Oak St
Arendell St
Pivers Island
Beaufort
garloaf Island
Radio Island
Oak Hammock
Browns Island
Horse Island
Carrot Island
Harkers Island
Harkers Island
Goat Island
Sam Winsors Lump
Jacks Island
Shooting Hammock
Cow Island
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N

Vicinity of County Property and Proposed Location for Down East Council Sign

Parcels - Updated 06/18/2015

Centerlines

County Boundary

PIN

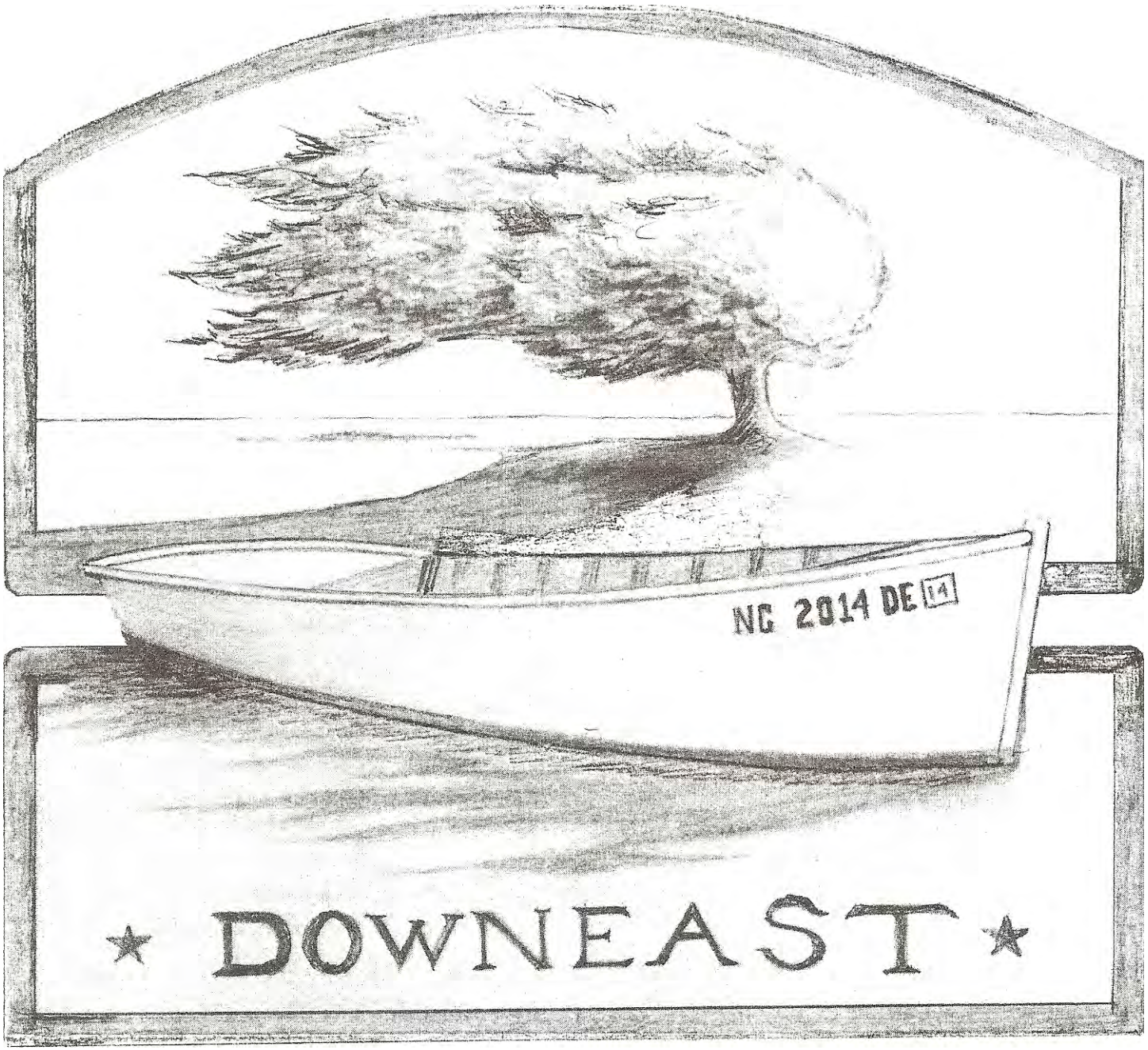
Acreage

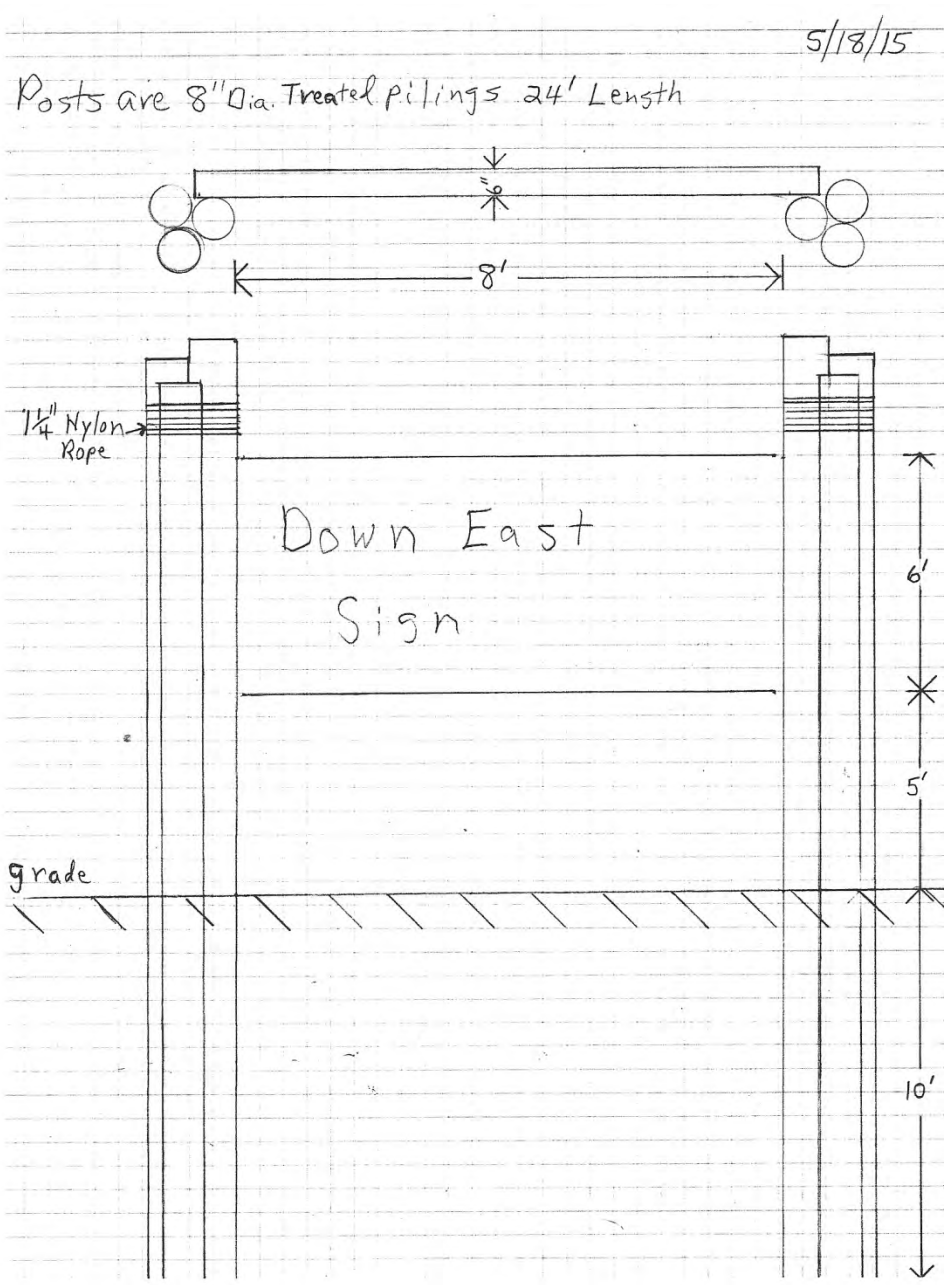
Parcel Dimensions

Lot Number

Approximate Proposed Sign Location

Approximate proposed sign location (looking south)


NC 2014 DE 14
★ DOWNEAST ★



Proposed Down East Sign Dimensions from Permit Application

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

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

CRC-15-13

June 30, 2015

MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Repeal of 15A NCAC 7H .0304(2) High Hazard Flood AEC and 15A 7K .0213 Single Family Exemption

The High Hazard Flood (HHF) AEC is identified as the V-Zones on Flood Insurance Rate Maps (FIRM). The Commission has required all residential and commercial structures within the Ocean Hazard AEC (which includes the HHF AEC) to comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards and local flood damage prevention ordinances required by the NFIP, and to be supported by pilings.

The NC Building Code sets standards for piling-supported buildings within Coastal High Hazard Flood Areas (NFIP V-Zones), Ocean Hazard Areas (CRC AEC) and Flood Plain Areas (US Army Corps of Engineers). Typical single family structures must comply with the NC Building Code and local flood damage prevention ordinances in these areas as required by the NFIP.

Single-family residences located in the HHF AEC are currently exempted from CAMA permit requirements (15A NCAC 7K .0213) provided that they are not within the Ocean Erodible or Inlet Hazard AECs, are constructed on pilings and comply with the NC Building Code and local flood damage prevention ordinances as required by the NFIP.

Since the CRC rules defer to the NC Building Code and require adherence to NFIP and local flood prevention standards, the rules associated with the HHF AEC are redundant and unnecessary. These proposed amendments will repeal the High Hazard Flood AEC as well as the 7K Single Family Exemption, removing approximately 10,000 properties from CRC permitting jurisdiction under the AEC.

Public hearings were held in the eight oceanfront counties and no public comments have been received. Staff recommends adoption of the amendments with a proposed effective date of September 1, 2015. I look forward to answering any questions you may have regarding this action at our upcoming meeting in Beaufort.

Public Hearing Record
15A NCAC 07H .0304 AECs Within Ocean Hazard Areas (amendment)
15A NCAC 07K .0213 Single Family Residences Exempted from the CAMA Permit Requirements Within the High Hazard Flood Area of Environmental Concern (repeal)

4/28/15 Currituck County (Corolla Public Library)
CRC in Attendance: Janet Rose
DCM Staff in Attendance: Mike Lopazanski, Frank Jennings, Daniel Govoni, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

4/30/15 Dare County (Dare County Government Complex)
CRC in Attendance: Harry Simmons, Bill White, Larry Baldwin, Renee Cahoon
DCM Staff in Attendance: Mike Lopazanski, Frank Jennings, Michele Walker, Tancred Miller, Ken Richardson, Angela Willis, Christy Goebel (AG Office)
Mike Lopazanski served as hearing officer. No public comments were received.

5/11/15 Carteret County (DCM Morehead City Office)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis, Tancred Miller
Mike Lopazanski served as hearing officer. No public comments were received.

5/12/15 Brunswick County (Oak Island Town Hall)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

5/12/15 New Hanover County (New Hanover County Government Center)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

5/14/15 Pender County (Surf City Town Hall)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

5/14/15 Onslow County (Onslow County Public Library)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

5/19/15 Ocracoke (Ocracoke Volunteer Fire Department)
CRC in Attendance: none
DCM Staff in Attendance: Mike Lopazanski, Angela Willis
Mike Lopazanski served as hearing officer. No public comments were received.

North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

MEMORANDUM **CRC- 15-14**

To: Coastal Resources Commission
From: Michael Christenbury, Wilmington District Planner
Date: June 29, 2015
Subject: Certification of an Amendment to the 2007 Carolina Beach CAMA Land Use Plan

Recommendation:
Certification of an Amendment to the 2007 Carolina Beach CAMA Land Use Plan, as amended through December 17, 2014, with the determination that the Town has met the substantive requirements outlined in the 15 NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program.

Overview

The Town of Carolina Beach is seeking Certification of an amendment to the Carolina Beach CAMA Land Use Plan (LUP). The Town amended the LUP to modify the Future Characteristics of the Marina Mixed Use District on the Future Land Use Map, by removing prescribed density characteristics.

Specifically, the Town is proposing to eliminate the 15 to 17 units per acre requirement as noted below.

> ***4.4.2 Description of Existing and Future Development Characteristics in Land Classification Areas***
>
> ***Future Characteristics of Marina Mixed Use***
>
> ***The desired Future Land Use of the Marina Mixed Use area includes a future predominance of single-family and duplex units. Commercial uses shall include low intensity water-oriented restaurants and services which provide additional public access opportunity. Building height will not exceed a 60' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A). Density will be moderate with 10,000 square foot lot minimums*** ~~*and around 15 to 17 units per acre*~~***. A ratio of roughly three-fourths residential to one-fourth commercial is desired. Lot coverage will not be allowed to exceed 40%.***

N.C. Division of Coastal Management
127 Cardinal Drive Ext., Wilmington, NC 28405
Phone: 910-796-7215 \ FAX: 910-395-3964 Internet: www.nccoastalmanagement.net

The Town of Carolina Beach held a duly advertised public hearing on June 9, 2015 and voted unanimously (5-0) by resolution to adopt the Land Use Plan Amendment. DCM Staff reviewed the amendment and has determined that the Town has met the substantive requirements outlined in the CRC's 15A NCAC 7B Land Use Plan Guidelines and that there are no conflicts with either state or federal law or the State's Coastal Management Program. Staff recommends Certification of the amendment to the 2007 Carolina Beach CAMA Land Use Plan.

Attachment: Carolina Beach Resolution Number 15-2095

Resolution Number: 15-2095

RESOLUTION IN SUPPORT OF THE AMENDMENT OF THE 2007 TOWN OF CAROLINA BEACH CAMA LAND USE PLAN

WHEREAS, the 2007 Land Use Plan amendment is entirely consistent with the Harbor Management Plan which included input and work by the public, elected officials, appointed officials, volunteers, staff and others who participated in the preparation of the plan, and

WHEREAS, the Town Council realizes the importance of the amendment in guiding the future growth and development of the Town, and

WHEREAS, the Town of Carolina Beach has met the intent and requirements as set forth in the North Carolina General Statutes and the North Carolina Administrative Code, and

WHEREAS, the Town Council certifies that the Town has followed the process as required in GS 113A-110 and notices as referred to in 15A NCAC 07B.0802 (b)(3), and

WHEREAS, the Town Council hereby finds that the amended policy statement has been evaluated with other existing policies and the Future Land Use Plan Map, and it has been determined that no internal inconsistencies exist, and

WHEREAS, the Town Council hereby finds that the six management topics including (1) Public Access, (2) Land Use Compatibility, (3) Infrastructure Carrying Capacity, (4) Natural Hazard Areas, (5) Water Quality, and (6) Local Concerns have been evaluated and it has been determined that no internal inconsistencies exist.

NOW, THEREFORE BE IT RESOLVED, THAT the Town Council of the Town of Carolina Beach hereby adopts this amendment as reviewed for public hearing on June 9, 2015 and hereby requests that the amendment and it's supporting documentation be sent forward to the Coastal Resources Commission for their review at the July 15-16, 2015 meeting.

AMENDED TO:

4.4 Future Land Use and Classification Map

4.4.2 Description of Existing and Future Development Characteristics in Land Classification Areas

Future Characteristics of Marina Mixed Use:

The desired Future Land Use of the Marina Mixed Use area includes a future predominance of single-family and duplex units. Commercial uses shall include low intensity water-oriented restaurants and services which provide additional public access opportunity. Building height will not exceed a 60' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A). Density will be moderate with 10,000 square foot lot minimums ~~and around 15 to 17 units per acre~~. A ratio of roughly three-fourths residential to one-fourth commercial is desired. Lot coverage will not be allowed to exceed 40%.

Approved by a vote of 5 in favor and 0 opposed on this 9TH day of June, 2015.

Dan Wilcox, Mayor

ATTEST:

Kimberlee Ward, Town Clerk

TOWN OF CAROLINA BEACH OFFICIAL SEAL NORTH CAROLINA

North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

July 1, 2015

MEMORANDUM

CRC – Information Only

TO: Coastal Resources Commission

FROM: Charlan Owens, AICP, DCM Elizabeth City District Planner

SUBJECT: Currituck County Land Use Plan (LUP) Implementation Status Report

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Background

Local governments submit an implementation status report every two (2) years following the date of LUP certification per the following:

> **15A NCAC 07L .0511 REQUIRED PERIODIC IMPLEMENTATION STATUS REPORTS**
> (a) To be eligible for future funding each local government engaged in CAMA land use planning shall complete a CAMA land use plan Implementation Status Report every two years as long as the current plan remains in effect. DCM shall provide a standard implementation report form to local governments. This report shall be based on the action plan and schedule provided in 15A NCAC 07B -Tools for Managing Development.
> (b) The Implementation Status Report shall identify:
> (1) All local, state, federal, and joint actions that have been undertaken successfully to implement its certified CAMA land use plan;
> (2) Any actions that have been delayed and the reasons for the delays;
> (3) Any unforeseen land use issues that have arisen since certification of the CAMA land use plan;
> (4) Consistency of existing land use and development ordinances with current CAMA land use plan policies; and
> (5) Current policies that create desired land use patterns and protection of natural systems.
> (c) Results shall be made available to the public and shall be forwarded to DCM.

The Currituck County implementation status report is available on DCM's Land Use Planning web page at: http://www.nccoastalmanagement.net/web/cm/currituck-county . It is not provided in the CRC packet.

Discussion

The implementation status report does not require approval by the CRC, but must be made available to the public and forwarded to DCM. The report is based on the LUP Action Plan and identifies activities that the local government has undertaken in support of the LUP's policies and implementation actions. Staff has reviewed the submitted report and finds that the community has met the minimum requirements.