TO: The Coastal Resources Commission

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

DATE: August 31, 2016 (for the September 13-14, 2016 CRC Meeting)

RE: Variance Request by Nicholas Foy Nixon III (CRC-VR-16-06)

Petitioner Nicholas Foy Nixon III ("Petitioner") owns property on Hollis Lane on the AIWW in New Hanover County. Earlier this year, Petitioner sought a CAMA Major Permit for the construction of a house, driveway and private docking facility. On June 17, 2016, CAMA Major Permit No. 67-16 was issued for the upland development, but the docking facility was conditioned out of the permit as it exceeded the Commission’s "quarter width rule" found at 15A NCAC 7H .0208(b)(6)(g)(iii). Through this variance petition, Petitioner now seeks a variance from the quarter width rule in order to develop his docking facility as was proposed in his 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.): Meredith Jo Alocke, Petitioner’s Attorney, electronically
           Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
           Patricia Roberts, New Hanover CAMA LPO, electronically
RELEVANT STATUTES OR RULES

ATTACHMENT A

15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(1) Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;

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(b) Specific Use Standards

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(6) Piers and Docking Facilities.

(A) Piers shall not exceed six feet in width. Piers greater than six feet in width shall be permitted only if the greater width is necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur;

(B) The total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet. In calculating the shaded impact, uncovered open water slips shall not be counted in the total. Projects requiring dimensions greater than those stated in this Rule shall be permitted only if the greater dimensions are necessary for safe use, to improve public access, or to support a water dependent use that cannot otherwise occur. Size restrictions shall not apply to marinas;

(C) Piers and docking facilities over coastal wetlands shall be no wider than six feet and shall be elevated at least three feet above any coastal wetland substrate as measured from the bottom of the decking;

(D) A boathouse shall not exceed 400 square feet except to accommodate a documented need for a larger boathouse and shall have sides extending no farther than one-half the height of the walls and covering only the top half of the walls. Measurements of square footage shall be taken of the greatest exterior dimensions. Boathouses shall not be allowed on lots with less than 75 linear feet of shoreline. Size restrictions do not apply to marinas;

(E) The total area enclosed by an individual boat lift shall not exceed 400 square feet except to accommodate a documented need for a larger boat lift;

(F) Piers and docking facilities shall be single story. They may be roofed but shall not be designed to allow second story use;
(G) Pier and docking facility length shall be limited by:

(i) not extending beyond the established pier or docking facility length along the same shoreline for similar use; (This restriction does not apply to piers 100 feet or less in length unless necessary to avoid unreasonable interference with navigation or other uses of the waters by the public);

(ii) not extending into the channel portion of the water body; and

(iii) not extending more than one-fourth the width of a natural water body, or human-made canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier head line. The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body.

(H) Piers or docking facilities longer than 400 feet shall be permitted only if the proposed length gives access to deeper water at a rate of at least 1 foot each 100 foot increment of length longer than 400 feet, or, if the additional length is necessary to span some obstruction to navigation. Measurements to determine lengths shall be made from the waterward edge of any coastal wetland vegetation that borders the water body;

(I) Piers and docking facilities shall not interfere with the access to any riparian property and shall have a minimum setback of 15 feet between any part of the pier or docking facility and the adjacent property owner's areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co applicants. If the adjacent property is sold before construction of the pier or docking facility commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development of the pier. Application of this Rule may be aided by reference to the approved diagram in 15A NCAC 07H .1205(t) illustrating the rule as applied to various shoreline configurations. Copies of the diagram may be obtained from the Division of Coastal Management. When shoreline configuration is such that a perpendicular alignment cannot be achieved, the pier shall be aligned to meet the intent of this Rule to the maximum extent practicable as determined by the Director of the Division of Coastal Management; and
(J) Applicants for authorization to construct a pier or docking facility shall provide notice of the permit application to the owner of any part of a shellfish franchise or lease over which the proposed dock or pier would extend. The applicant shall allow the lease holder the opportunity to mark a navigation route from the pier to the edge of the lease.
STIPULATED FACTS

1. Petitioners are Nicholas Foy Nixon III and Catherine Elizabeth Connell. As husband and wife, Petitioners own property at 115 and 125 Hollis Lane (the "Property"), Wilmington, North Carolina.

2. Petitioners purchased the Property December 4, 2015, as evidenced by a deed recorded at Book 5935, Pages 1169-1172 of the New Hanover County Registry. A copy of the deed is attached.

3. The Property is adjacent to Masonboro Sound, which in this location is part of the Atlantic Intracoastal Waterway ("AIWW"). It is located between Masonboro Inlet to the north and Carolina Beach Inlet to the south. The closest major road leading to the Property is Masonboro Loop Road. The Property can be seen on the attached powerpoint presentation of photographs of the Property and surrounding area.

4. The Property comprises two contiguous undeveloped residential lots measuring approximately 3.2 acres combined.

5. The Property has approximately 184' of shoreline along Masonboro Sound.

6. On Petitioners' Property, there is an area of coastal wetlands along the shoreline which ranges from approximately 180' in width along the northern portion of the property to approximately 140' in width along the southern portion of the property. The coastal wetlands boundary continues to taper along the shoreline of the adjacent riparian property to the south.

7. Across the AIWW and forming the boundary of the water body, there is an undeveloped unnamed island owned by the State of North Carolina, according to the New Hanover County tax information, a copy of which is attached. This island is located within the USACE 1000’ right-of-way and designated as AIWW Disposal Area (DA 0257).

8. There are existing private piers located to the south of the Property. Immediately adjacent to Petitioners' property to the south is a pier owned Robert Hollis. The Hollis pier was permitted in 2011 and measures 323' in length and 6' in width. A copy of the 2011 Hollis CAMA permit is attached. The next pier to the south extends slightly farther into the sound than the Hollis pier. Based on a Staff review of the DCM database (CDAITS), this docking facility was authorized to Mr. Robert Huckabee through CAMA General Permit #20287-D on November 9, 1999 at the property located at 5711 Shoemaker Lane.

9. The adjacent property owner to the north, Mildred Buskirk, has a pier under construction at the time of filing this request. The Buskirk pier was permitted in 2016 and measures 343’ in length and 6’ in width. A copy of the 2016 Buskirk CAMA permit is attached. Boats accessing the Buskirk pier would use Monk’s Cove Channel to connect to the AIWW.

10. The waters of Masonboro Sound within the project area are classified as SA-ORW by the North Carolina Environmental Management Commission. They are further classified as a Primary
Nursery Area ("PNA") by the North Carolina Marine Fisheries Commission. The waters are closed to the harvest of shellfish.

11. The 2006 Wilmington-New Hanover County Joint Land Use Plan Update classifies this site as "Resource Protection."

12. On March 30, 2016, Petitioner, through their authorized agent Land Management Group, applied for a CAMA major permit to construct a single family residence, driveway, and private docking facility. The upland development includes one single-family house on pilings, garage, driveway, and septic field. The proposed driveway included associated impacts to .01 acres of Section 404 Wetlands. The total floor area of the house is 2,450 square feet. A copy of the CAMA major permit application is attached.

13. The proposed project is within the Public Trust Waters, Estuarine Waters, Outstanding Resources Waters, and Coastal Wetlands Areas of Environmental Concern ("AECs"), as designated by the CRC.

14. As part of the CAMA major permit review process, DCM Staff wrote a Field Investigation Report about the project, a copy of which is attached.

15. During the major permit review process, no state or federal agencies objected to the proposed project.

16. The Fisheries Resource Specialist commented that "If distances and depths identified in the application are not achieved, then additional review may be necessary." A copy of this comment letter is attached.

17. As part of the CAMA major permit review process, notice was given to the public through on-site posting and notice in the local newspaper. Notice was also sent to the adjacent riparian property owners, both of whom submitted statements of "no objection" to the project, copies of which are attached. No other comments from the public were received in connection with the permit application.

18. CAMA Major Permit No. 67-16 (the "Permit") was issued on June 17, 2016 authorizing all of the proposed development except the docking facility, which was found to be inconsistent with 15A NCAC 7H .0208(b)(6)(g)(ii)(the "one-quarter width rule"). Condition No. 1 of the Permit specifically excludes the proposed docking facility from the authorized construction. A copy of the major permit is attached.

19. The Coastal Area Management Act ("CAMA") provides that "[a]ny person may petition the Commission for a variance granting permission to use the person's land in a manner otherwise prohibited by rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article." N.C. Gen Stat. § 120.1(a). Petitioners stipulate that their proposed docking facility exceeds the CRC's one-quarter width rule. Petitioners seek a variance from CAMA Major Permit No. 67-16 Condition No. 1 and the one-quarter width rule so they may construct the docking facility proposed in their permit application.
20. The proposed 3-slip docking facility includes an access pier extending east into Masonboro Sound measuring 385' in length and 6' in width. The access pier would lead to a partially fixed covered platform measuring 19' by 14' oriented towards the north in an "L-shaped" configuration. An access ramp would lead to a floating dock measuring 25' by 8'. Two boat lifts are also proposed, both of which will measure 13' by 12'. The facility would provide docking for up to three vessels. No dredging is proposed. The configuration of the docking facility is shown on a scaled drawing labeled Sheet 3 of 5 in Petitioners' permit application.

21. The CRC's rules provide that "[t]he total square footage of shaded impact for docks and mooring facilities (excluding the pier) allowed shall be eight square feet per linear foot of shoreline with a maximum of 2,000 square feet." 15A NCAC 7H .0208(b)(6)(B). Based on a shoreline length of 184 linear feet, Petitioners are allowed up to 1,472 square feet of shaded impact. Petitioners have proposed 562 square feet of floating dock and platform.

22. The width of the AIWW at this location is approximately 890' measured from the waterward edge of any coastal wetlands bordering each side of the water body.

23. The proposed pier would extend approximately 285' into the water body measured from the waterward edge of the coastal wetlands, or approximately 32% of the width of the waterbody.

24. One-quarter the width of the water body at this location is 222.5'. The proposed pier length exceeds the CRC's rule by 62.5'.

25. One-third the width of the water body at this location is 296.6'. The proposed pier length is 11.6' shorter than the one-third location.

26. The water depths at the proposed terminus of the docking facility range from -2.5' to -4.0' at Normal Low Water ("NLW").

27. The water depths at the one-quarter length are approximately -1.0' to -1.5' at NLW.

28. The CRC's rules provide that "[p]ier and docking facility length shall be limited by . . . not extending beyond the established pier or docking facility length along the same shoreline for similar use." 15A NCAC 7H .0208(b)(6)(G)(i). The proposed pier complies with this rule as it does not extend beyond the established pier length for private piers on this shoreline.

29. The CRC's rules provide that "[p]ier and docking facility length shall be limited by . . . not extending into the channel portion of the water body." 15A NCAC 7H .0208(b)(6)(G)(ii). The proposed pier complies with this rule as it does not extend into the AIWW federal channel or the 80-foot setback therefrom. The proposed pier does not encroach into Monk’s Cove Channel, which is a marked channel.

30. The CRC's rules provide that "[p]ier and docking facility length shall be limited by . . . not extending more than one-fourth the width of a natural water body, or human made canal or basin. Measurements to determine widths of the water body, canals or basins shall be made from the waterward edge of any coastal wetland vegetation that borders the water body. The one-fourth length limitation does not apply in areas where the U.S. Army Corps of Engineers, or a local government in consultation with the Corps of Engineers, has established an official pier-head line."
The one-fourth length limitation shall not apply when the proposed pier is located between longer piers or docking facilities within 200 feet of the applicant's property. However, the proposed pier or docking facility shall not be longer than the pier head line established by the adjacent piers or docking facilities, nor longer than one-third the width of the water body." 15A NCAC 7H .0208(b)(6)(G)(iii). The proposed pier does not comply with the one-quarter width rule. The proposed pier does not qualify for the one-third width exception in the last part of the rule because it is not within 200 feet of longer piers, but it is proposed to no extend longer than one-third the width of the water body.

31. The proposed docking facility would not extend out into Masonboro Sound past the Hollis pier to the south.

32. The proposed docking facility would not extend out into Masonboro Sound past the two pilings marking the entrance to the channel to Monk's Cove to the north. As shown on Petitioners' riparian survey, these channel markers are located just a few feet west of the 80-foot setback from the federal channel.

STIPULATED EXHIBITS
1. Petitioners' General Warranty Deed 5935/1169
2. 2011 Hollis pier permit
3. 2016 Buskirk pier permit
4. CAMA Major Permit Application received March 30, 2016
5. DCM Field Investigation Report
6. Fisheries Resource Specialist comment dated April 12, 2016
7. Neighbor “no objection” forms
8. CAMA Major Permit No. 67-16
9. Certified Mail Receipts
10. Site photographs in the powerpoint presentation
PETITIONERS’ 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.

Petitioners’ Position: Yes.

Strict application of the rule prevents Petitioners from reaching water depths sufficient for most boating. At the one-quarter distance, water depths are -1.0 to -1.5 at Normal Low Water. Extending the pier to the one-third distance allows Petitioners to reach water depths of -2.5 to -4.0 at Normal Low Water. Terminating the pier at greater water depths will reduce the potential impacts to the substrate and shallow bottom habitat that would occur from motor vessels. This presents an unnecessary hardship because strict application of the rule is unnecessary to protect navigation or prevent excessive usurpation of public trust waters, as further addressed in the fourth factor below. The hardship of being unable to reach deep water is also unnecessary because the small publicly owned island across from the Property is unlikely to ever be developed. Therefore, there is no need to balance the competing interest that a property owner across the water body may want to pier out, as is sometimes the case.

Strict application of the one-quarter rule causes Petitioners unnecessary hardships while providing only marginal, if any, protections to public trust waters.

Staff’s Position: Yes.

Staff agrees that a strict application of the one-fourth width rule would result in unnecessary hardship for Petitioners. Compliance with the one-fourth width rule would result in water depths of -1’ to -1.5’ at Normal Low Water, which could result in impacts to the substrate and shallow bottom habitat in an area designated as a Primary Nursery Area by the N.C. Marine Fisheries Commission. Petitioners’ proposed pier length complies with all other aspects of 15A NCAC 7H .0208(b)(6) and Staff contend that in this location, strict application of the one-fourth width rule is not essential to protect public navigation, especially due to the existence of (and current construction of) longer piers along this shoreline and the spoil island on the opposite side of the water body that is unlikely to ever be developed with a pier. As a result, staff agrees that a strict application of the one-fourth width rule would result in unnecessary hardship to Petitioners.

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

Petitioners’ Position: Yes.

The hardships result from conditions peculiar to Petitioners' property, including that Petitioners' lot is not a typical rectangular-shaped lot. It is irregularly shaped along the water, as are the coastal wetlands bordering it. The wetland border on the island across from the Property is also irregularly shaped and juts waterward at the center point of Petitioners' riparian corridor, reducing the "width of the water body" at this location. These features are shown on Petitioners'
riparian survey. The hardships caused by strict application of the one-quarter rule result from these unique features.

Staff’s Position: Yes.

Staff agrees that Petitioners’ hardship is a result from conditions peculiar to the Petitioners’ property. Strict application of the one-fourth width rule would result in Petitioners’ pier being located landward of the three docks that are to the south of Petitioners’ property and would result in Petitioners’ dock being in water depths of -1’ to -1.5’ at Normal Low Water. Also, Petitioners’ property is located across from a spoil island that is unlikely to be developed with a pier, so strict application of the one-fourth width rule is unnecessary to protect public navigation.

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

Petitioners' Position: No.

Petitioners have taken no actions that cause the hardships. Although theoretically Petitioners have contributed to their hardship by applying for a design that conflicts with the rule, Petitioners have chosen a design that better protects the shallow bottom habitat without interfering with navigation.

Staff’s Position: No.

Staff agrees that Petitioners’ hardship does not result from actions taken by Petitioners and that the design is similar to other piers in the area. Staff also agrees that the design should reduce impacts to shallow bottom habitats.

V. Will the variance requested by the petitioner

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

Petitioners' Position: Yes.

The variance will be consistent with the spirit, purpose and intent of the Commission's rules. The primary AEC's affected by the development are public trust areas and estuarine waters. The management objective for public trust areas is to "protect public rights for navigation and recreation and to conserve and manage the public trust areas so as to safeguard and perpetuate their biological, economic and aesthetic value." 15A NCAC 7H .0207(c). The primary purposes of the rules that limit pier length are to protect the public's right to navigation and to limit the amount of public trust area lost when a private pier structure is built. Here, both are met by the proposed project.

There will be no unreasonable interference with navigation based on these facts:
• The proposed pier does not extend beyond the established pier length for private piers on this shoreline.
• The proposed pier does not extend into the 80-foot setback from the AIWW federal channel.
• The proposed pier complies with the one-third rule.
• The proposed pier would not extend past the Hollis pier to the south.
• The proposed pier would not extend past the two channel markers to the north.

The proposed pier also meets the spirit, purpose and intent of the one-quarter rule because it causes no excessive usurpation of public trust waters. Petitioners propose only 62.5 additional feet beyond the one-quarter rule. While this presents an additional intrusion into public trust waters, it is not an unreasonable usurpation, especially considering that Petitioners' docking facility includes only 562 square feet of floating dock and platform, slightly more than a third of the amount Petitioners might be permitted under the rules. That the CRC's rules exclude the access pier from the calculation of shaded impacts allowed (based on shoreline length) shows that the CRC recognizes that sometimes longer piers are needed in our unique coastal environment. In fact, sometimes longer piers are preferred where resource impacts must be considered.

Consistent with the management objective for public trust waters, the requested variance will protect public rights for navigation and recreation while simultaneously safeguarding the biological, economic and aesthetic value of the public trust areas. The requested pier length will not unreasonably interfere with the public's right of navigation and recreation in the public trust waters, but will allow Petitioners reasonable access to deeper water.

The variance will also be consistent with the spirit, purpose and intent of the Commission's rules that are designed to protect important habitats. The management objective for estuarine waters is to "conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system." 15A NCAC 7H.0206(c). Use standards for estuarine and public trust waters require an applicant to minimize impacts to PNAs as well as ORWs. 15A NCAC 7H.0208(a). The proposed pier is consistent with the intent of these rules because it avoids significant adverse impacts to the more fragile shallow bottom habitat.

**Public safety and welfare** will be secured by this variance because the public's safe use of the waters near the pier will not be adversely affected. The pier would not interfere with established navigation routes or interfere with adjacent riparian property owners' ability to recreate and navigate safely.

**Substantial justice** will be preserved by this variance because Petitioners may extend out to the same distance as the Hollis pier to the south. Even though Petitioners' pier will extend beyond the Buskirk pier (under construction) to the north, it will not extend beyond the nearby channel markers that are more restrictive than the Buskirk pier from the standpoint of boaters on the AIWW. Both neighbors support the project. Justice will further be preserved because the CRC's
rule will be applied in a common sense manner that properly balances the competing interests of navigation and estuarine resource protection.

For the reasons stated above, granting Petitioner the requested variance will be consistent with all four (4) of the criteria stated in N.C. Gen Stat. § 113A-120.1 and in NCAC 7J .0700. Petitioners respectfully request that the Commission issue a variance in accordance the permit application.

**Staff's Position: Yes.**

Staff agrees that the requested variance is consistent with the spirit of the pier length rules, secures public safety and welfare, and preserves substantial justice. In 1998, the Commission changed its one-third width pier length restriction to the current one-fourth width rule. That rule change was intended to better protect public navigation by ensuring that, if both sides of the waterbody were developed, at least half the width of the waterbody would be unobstructed by piers.

In this case, the proposed pier does not unreasonably interfere with public navigation along the AIWW. The proposed pier does not extend beyond the Hollis pier to the south, does not extend beyond the two channel markers to the north, complies with the AIWW federal setback, and is limited to approximately one-third of the width of the waterbody. Also, the site is located across from an undeveloped, State-owned spoil island that is unlikely to be developed with its own pier, so as a practical matter, more than half the waterbody would still be protected for public use if the variance is granted. As a result, Petitioners’ proposed pier is consistent with the spirit of the one-fourth width rule. Furthermore, strict application of the one-fourth width rule would result in an increased chance for negative impacts to shallow bottom habitat in an area that is designated as a Primary Nursery Area by the N.C. Marine Fisheries Commission. Staff agrees that the variance strikes a reasonable balance between Petitioners’ right to pier out, the public’s right to navigate, and the protection of public trust resources.
ATTACHMENT D:
PETITIONERS’ VARIANCE REQUEST MATERIALS
CAMA VARIANCE REQUEST FORM

PETITIONER'S NAME    Nicholas Foy Nixon III

COUNTY WHERE THE DEVELOPMENT IS PROPOSED  New Hanover

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

Signature of Petitioner or Attorney: Meredith Jo Alcoke

Date: August 1, 2016

Meredith Jo Alcoke
Printed Name of Petitioner or Attorney

mjalcoke@wardandsmith.com
Email address of Petitioner or Attorney

Post Office Box 867
Mailing Address

252.672.5400
Telephone Number of Petitioner or Attorney

New Bern, NC 28563-0867
City State Zip

252.672.5477
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
Revised: July 2014

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
July 29, 2016

VIA EMAIL
ORIGINAL VIA U.S. MAIL

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

RE: Petitioner Nicholas Foy Nixon III
CAMA Variance Request Form
Our File 160331-00001

Dear Mr. Davis:

We represent Petitioner Nicholas Foy Nixon III in his endeavor to obtain a variance to undertake the construction of a pier with a floating dock and two boat lifts on his property located at 115 and 125 Hollis Lane, Wilmington, North Carolina. In this regard and on his behalf, we are submitting the enclosed original Variance Petition together with supporting documents. We respectfully request that this variance request be scheduled for the September meeting of the Coastal Resources Commission in Wilmington, North Carolina. Please let us know if there is anything else you need from us to ensure this matter will be heard as requested.

Thank you for your consideration of this matter.

Yours truly,

Meredith Jo Alcoe

Enclosures
cc: Mr. Nicholas Foy Nixon III (w/enecs.)
Attorney General's Office (w/enecs.)
Eric J. Remington, Esq.
July 29, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Mildred Buskirk
354 Friendly Lane
Wilmington, NC 28409

RE: CAMA Variance Request by Nicholas Foy Nixon III
Our File 160331-00001

Dear Ms. Buskirk:

This is to notify you that Nicholas Foy Nixon III is applying for a variance from the North Carolina Coastal Resources Commission to allow for the construction of a pier with a floating dock and two boat lifts on his property located at 115 and 125 Hollis Lane, Wilmington, North Carolina. The proposed 3-slip pier will span approximately 385 feet into the water and will be 6 feet in width. Two platforms and two boat lifts are proposed at the end of the structure.

The variance is projected to be heard at the September 13-14, 2016 meeting of the Coastal Resources Commission in Wilmington. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 400 Commerce Avenue, Morehead City, North Carolina 28557. You may also contact the Division of Coastal Management at 252-808-2808.

Yours very truly,

Meredith Jo Alcock
Attorney for Nicholas Foy Nixon III

cc: Mr. Nicholas Foy Nixon III
July 29, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Joseph Hollis
126 Hollis Lane
Wilmington, NC  28409

RE:  CAMA Variance Request by Nicholas Foy Nixon III
      Our File 160331-00001

Dear Mr. Hollis:

This is to notify you that Nicholas Foy Nixon III is applying for a variance from the North Carolina Coastal Resources Commission to allow for the construction of a pier with a floating dock and two boat lifts on his property located at 115 and 125 Hollis Lane, Wilmington, North Carolina. The proposed 3-slip pier will span approximately 385 feet into the water and will be 6 feet in width. Two platforms and two boat lifts are proposed at the end of the structure.

The variance is projected to be heard at the September 13-14, 2016 meeting of the Coastal Resources Commission in Wilmington. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 400 Commerce Avenue, Morehead City, North Carolina 28557. You may also contact the Division of Coastal Management at 252-808-2808.

Yours very truly,

Meredith Jo Alcoke
Attorney for Nicholas Foy Nixon III

ND: 4820-1525-7140, v. 1
cc: Mr. Nicholas Foy Nixon III
July 29, 2016

VIA EMAIL

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

RE: Petitioner Nicholas Foy Nixon III
CAMA Variance Request Form
Our File 160331-00001

Dear Mr. Davis:

We represent Petitioner Nicholas Foy Nixon III in his endeavor to obtain a variance to undertake the construction of a pier with a floating dock and two boat lifts on his property located at 115 and 125 Hollis Lane, Wilmington, North Carolina. In this regard and on his behalf, we are submitting the enclosed original Variance Petition together with supporting documents. We respectfully request that this variance request be scheduled for the September meeting of the Coastal Resources Commission in Wilmington, North Carolina. Please let us know if there is anything else you need from us to ensure this matter will be heard as requested.

Thank you for your consideration of this matter.

Yours truly,

Meredith Jo Alcoke

ND: 4829-8452-8948, v. 1
Enclosures
cc: Mr. Nicholas Foy Nixon III (w/encls.)
    Attorney General’s Office (w/encls.)
    Eric J. Remington, Esq.
ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT

1. Petitioners' General Warranty Deed 5935/1169
2. 2011 Hollis pier permit
3. 2016 Buskirk pier permit
4. CAMA Major Permit Application received March 30, 2016
5. DCM Field Investigation Report
6. Fisheries Resource Specialist comment dated April 12, 2016
7. Neighbor “no objection” forms
8. CAMA Major Permit No. 67-16
9. Certified Mail Receipts
10. Site photographs in the powerpoint presentation
STATE OF NORTH CAROLINA

REVENUE STAMPS: $1,850.00

GENERAL WARRANTY DEED

PARCEL #: R07200-008-041-002 & R07200-008-041-004

DRAWN BY: BOYLES LAW FIRM, PLLC / HS
319 North 4th Street, Wilmington, NC 28401

RETURN TO: BOYLES LAW FIRM, PLLC BTA 201504890

GRANTOR MAILING ADDRESS: 5102 N. Creek Drive, Wilmington, NC 28409
PROPERTY ADDRESS: 115 & 125 Hollis Lane, Wilmington, NC 28409
GRANTOR PRIMARY RESIDENCE: Yes X No (Property conveyed)
GRANTEE'S MAILING ADDRESS: 111 Brookhaven Trail, Leland, NC 28451

Brief Legal: Tract 1: (2.56 ACRES) ADJ WM HOLLIS & Tract 2: LOT 3 Katherine Figueroa MAP

This deed made and entered into this 3rd day of December, 2015, by and between BARBARA JACKSON, unmarried widow, Grantor(s), and NICHOLAS FOY NIXON, III and wife, CATHERINE ELIZABETH CONNELL, Grantee(s).

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

SEE ATTACHED EXHIBIT A

RECEIVED

AUG 01 2016

DCM- MHD CITY

To have and to hold the aforesaid lot or parcel, together with all privileges and appurtenances thereto, heretofore belonging to the Grantor in fee simple.

The Grantor covenants with the Grantee, that the Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that the 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 whomever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: The provisions of all applicable zoning and land ordinances, statutes and regulations; 2015 ad valorem taxes: and all applicable restrictive covenants and utility easements of record.
GRANTOR: BARBARA JACKSON

STATE OF NC
COUNTY OF New Hanover

I certify that the following person(s) BARBARA JACKSON, personally appeared before me this day, acknowledging to me that he/she/they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: GRANTOR(S),

[Check One]

(i) I have personal knowledge of the identity of the principal(s); or

(ii) I have seen satisfactory evidence of the principal’s identity by a current state or federal identification, with the principal’s photograph, in the form of a NCDL

Date: December 3, 2015

[Notary Public Signature]

My Commission Expires: 5·9·19

RECEIVED
AUG 01 2016
DCM- MHD CITY
EXHIBIT A

TRACT ONE: 115 Hollis Lane

BEGINNING at an iron pipe on the eastern edge of a ditch, said pipe being South 70 degrees 18 minutes East 2639.39 feet from a stone marked "J.R.H." in the centerline of a dirt road and in the eastern right of way line of Masonboro Loop Road (S.R. 1148) (30.0 feet from the centerline thereof), the centerline of said dirt road being South 27 degrees 15 minutes West 1210 feet from the centerline of Mohican Trail in Section 3 of Tanglewood, said beginning point being in the northern line of the Robert H. Hollis tract as recorded in Map Book 9 at page 21 of the New Hanover County Registry; running thence from said beginning point and along the northern line of said R. H. Hollis tract, South 70 degrees 18 minutes East 604.24 feet to a stone marked "J.R.H." and the same course continued, South 70 degrees 18 minutes East about 400 feet to the low water line of Masonboro Sound; running thence Northwardly along the low water line of Masonboro Sound to a point that is South 70 degrees 18 minutes 00 seconds East from a concrete monument; running thence North 70 degrees 04 minutes 56 seconds West about 225 feet to a concrete monument; running thence the same course, North 70 degrees 04 minutes 56 seconds West 545.85 feet to a stake on the eastern edge of a ditch; running thence along the eastern edge of said ditch, South 31 degrees 14 minutes 56 seconds West 170.80 feet to the point of BEGINNING; containing 2.1 acres of land, more or less, of high ground and about 1 acre of marsh, the same being a portion of that certain tract of land conveyed by William Hollis and wife, Maria F. Hollis, by deed dated September 25th, 1922, and duly recorded in Book 164 at Page 304 of the New Hanover County Registry. (Courses and distances from survey by Johnie C. Garrison, dated April 5, 1995.)

Together with a right of way, 10 feet in width, along the northern line of aforementioned R. H. Hollis Tract, from aforementioned Masonboro Loop Road to Masonboro Sound.

For additional reference, see Deed Book 1875, Page 917, New Hanover County Registry.

TRACT TWO: 125 Hollis Lane

All of Lot 3 as shown on Division Map of Survey for Katherine Figueroa recorded in Map Book 23 Page 73 in the New Hanover County Registry and being the same lands described in instrument recorded in Book 1358 Page 994 in said Registry, TOGETHER WITH AND SUBJECT TO a right of way for ingress and egress and access to Masonboro Sound over Hollis Lane, a 20 foot wide road, as shown on the aforementioned map and as set forth in Agreements and Deeds of Easement recorded in Book 1261 Pages 996 and 998 in said Registry.

For additional reference, see Deed Book 2250, Page 46, New Hanover County Registry.
State of North Carolina, County of NEW HANOVER
Filed For Registration: 12/04/2015 12:48:24 PM
Book: RB 5935 Page: 1169-1172
4 PGS $1,876.00
Real Property $26.00
Excise Tax $1,850.00
Recorder: ANDREA CRESWELL
Document No: 2015036911

DO NOT REMOVE!
This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.
**GENERAL PERMIT**

**Dredge & Fill**

Authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC.

**Applicant Name:** Robert Hollis

**Address:** 128 Hollis Lane

**City:** Wilmington

**ZIP:** 28403

**Authorized Agent:** Jimmy North

**Contact Information:**
- Phone: (910) 731-8514
- Fax: (910) 731-8514

**Project Location:** County: New Hanover

**Street Address/State Road/Lot #:** 128 Hollis Lane

**Subdivision:**

**City:** Wilmington

**ZIP:** 28403

**Phone #:** (910) 731-8514

**River Basin:** Cape Fear

**Adjacent Wtr. Body:** NHW

**Closest Maj. Wtr. Body:** Masonboro Sound

**Type of Project/Activity:** Construction of a private pier, covered platform, floating dock, boat lift and mooring pilings.

**Scale:** 1" = 100'

**Notes/Special Conditions:**

- *NH Co. Inspections 7/18, 7/18.* [Check #]

- A building permit may be required by: NH Co. Inspections 7/18-7/18. [Check #]

- Please read compliance statement on back of permit. [Check #]

**Application Fee(s):**

**Permit Officer's Signature:**

**Issuing Date:** 12/10/2011

**Expiration Date:** 01/01/2012

**Local Planning Jurisdiction:**

**Rover File Name:** 0-073014A

---

**Previous permit #**

**Date previous permit issued:** 7/1/2000

**Rules attached:**

---

**Agent or Applicant Printed Name:**

**Signature:**

**Application Fee(s):**
As authorized by the State of North Carolina, Department of Environment and Natural Resources and the Coastal Resources Commission in an area of environmental concern pursuant to 15A NCAC.

Applicant Name: Mildred Buskirk
Address: 354 Friendly Lane
City: Wilmington
State: NC
ZIP: 28409
Phone #: (910) 392-7303
E-Mail: Reb.Buskirk@gmail.com
Authorized Agent: Jimmy Nest

Project Location: County: New Hanover
Street Address/State Road/Lot #: 354 Friendly Lane
Subdivision: Friendly Lane
City: Wilmington
ZIP: 28409
Phone #: (910) 392-7303
Adj. Wtr. Body: River Basin
Closest Maj. Wtr. Body: Monticello Sound

Type of Project/Activity: Construction of a private docking facility

Pier (dock) length: 6 x 343
Fixed Platform(s): 16 x 24, 2 x 36
Floating Platform(s): 8 x 24
Finger pier(s):
Groin length:
number:
Bulkhead/Revet length:
avg distance offshore:
max distance offshore:
Basin, channel:
cubic yards:
Boat ramp:
Boathouse/Boatlift:
Beach Bulldozing:
Other:

13 x 14

Shoreline Length: ~ 380
SAV: not sure yes
Moratorium: n/a yes
Photos: yes
Waiver Attached: yes

A building permit may be required by: NH CO. Inspections.
( Note Local Planning Jurisdiction)

Rules with RRC & all other state, local
and federal regulations apply.

Agent or Applicant Printed Name: 
Signature: **Please read compliance statement on back of permit**

Permit Officer's Printed Name: Reb. Mains
Signature: 5/25/16

Application Fees(s): 
Check #: 20063

Issuing Date: 9/25/16
Expiration Date: 9/25/16
March 29, 2016

Mr. Robb Mairs
Division of Coastal Management
127 Cardinal Drive Extension
Wilmington, NC 28405

Re: CAMA Major Permit Application
115 & 125 Hollis Lane; Wilmington (New Hanover County), NC
Nicholas Nixon III, Applicant

Dear Robb:

On behalf of Nicholas Nixon III, LLC, please find enclosed the application materials for a CAMA Major Permit. The applicant proposes to construct a single-family home on pilings, driveway, and a pier with a floating dock and two boat lifts within the above-referenced project area. For purposes of review and permit processing, please find the attached information:

1. Project Narrative
2. Forms DCM MP-1, 2, 3, and 4
3. Sheet 1: Vicinity Map
4. Sheet 2: Site plan showing proposed development landward of NHWL
5. Sheets 3-4: Plan view and cross section of proposed development waterward of NHWL
6. Sheet 5: Survey of property showing AIWW Channel line and setbacks
7. Permit Fee check in the amount of $400.00
8. Signed Agent Authorization
9. Property Deed

Please note that the MP-4 form and Sheets 3-5 were prepared by Mr. Jimmy North. Adjacent riparian notifications, including copies of items 1-6 listed above, will be mailed via USPS as soon as I receive confirmation from you that the application is complete. Thank you for your assistance with this project, please contact me if you have any questions.

Sincerely,

Kim Williams
Environmental Scientist

Enclosures

Cc: Nicholas Nixon III

RECEIVED
AUG 01 2016
DCM- MHD CITY
CAMA MAJOR PERMIT APPLICATION  
Project Narrative

Nicholas Nixon III  
115 & 125 Hollis Lane  
Wilmington, NC (New Hanover County)

Nicholas Nixon III proposes to construct a single-family home on pilings, driveway, and a pier with a floating dock and two boat lifts within a project area located at 115 and 125 Hollis Lane in Wilmington, NC (New Hanover County). The site abuts Masonboro Sound and is located within an Area of Environmental Concern.

Existing Conditions

The project area is 3.2 acres in size and consists of two tracts (R07200-008-041-002 & R07200-008-041-004) located at 115 and 125 Hollis Lane in Wilmington, NC. The site is adjacent to Masonboro Sound, which is classified as SA and ORW. This waterbody is also a Primary Nursery Area (PNA). The site is located within the VE flood zone (VE-15, VE-16, and VE-17) and is within the White Oak River Basin (HUC 03030007). Wetlands within the site were delineated by Land Management Group, Inc. Freshwater and coastal wetlands are located adjacent to Masonboro Sound on the eastern part of the site. Freshwater wetlands contain Nyssa sylvatica, Magnolia virginiana, Pinus taeda, Morella cerifera, and Juncus effusus. Coastal wetlands support Iva frutescens, Spartina alterniflora, and Distichlis spicata. Uplands within the site support Pinus taeda, Quercus virginiana, Ilex vomitoria, Morella cerifera, and Quercus falcata. The 404 wetland line was approved by Mr. John Policarpo the US Army Corps of Engineers and the coastal wetland line was approved by Mr. Robb Mairs of the Division of Coastal Management on January 28th, 2016. The normal high water line was established by Ms. Patricia Roberts with New Hanover County. The existing land use map in the CAMA Land Use Plan for the City of Wilmington (2006) classifies this site as Conservation Area since it is adjacent to Masonboro Sound, a waterbody classified as Outstanding Resource Waters (ORW). The lot is zoned R-15 by New Hanover County. The R-15 Residential District is established as a district in which the principal use of land is for residential purposes and to insure that residential development not having access to public water and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to insure a healthful environment.
Proposed Project

The applicant proposes to construct a single-family home, driveway, detached garage/shed, septic field, and pier with a floating dock and two boat lifts within the project area. The two-story home will be constructed on pilings and the total floor area will be 2,450 sf. The total area of disturbance within the site will be approximately 18,000 square feet (~12,900 sf in AEC) and the overall impervious area will be 13,700 square feet (~12,900 sf in AEC). The applicant proposes to fill a total of 0.01 acre (436 sf) of freshwater wetlands in order to construct a driveway. The applicant will utilize an on-site wastewater treatment system for septic and a well for water supply. Standard construction methods will be used during construction.

The proposed pier will span approximately 385 feet into the water and will be 6’ in width. Two platforms and three slips are proposed at the end of the structure. Two boat lifts are also proposed, both of which will be 13’ x 12’.

The proposed pier length exceeds the ¼-width of the water body in this location and is needed to obtain adequate water depths. Water depths at the 1/4 width are approximately 1 to 1.5 feet. Water depths at the proposed terminus (approximately 1/3 the width of the water body) average 4’. The proposed pier will extend out to the neighbor’s existing dock to the south and inshore of the channel mark pilings to the north. It appears that the land on the other side of Masonboro Sound is owned by the State of North Carolina and is unlikely to be developed. Extending the pier out to this location will also prevent scouring of the substrate during boat use.
**APPLICATION for Major Development Permit**

North Carolina DIVISION OF COASTAL MANAGEMENT

(last revised 12/27/06)

### 1. Primary Applicant/ Landowner Information

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Project Name (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>115 and 125 Hollis Lane</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicant 1: First Name</th>
<th>MI</th>
<th>Last Name</th>
</tr>
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<tbody>
<tr>
<td>Nicholas</td>
<td></td>
<td>Nixon III</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicant 2: First Name</th>
<th>MI</th>
<th>Last Name</th>
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<td></td>
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</table>

If additional applicants, please attach an additional page(s) with names listed.

<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>PO Box</th>
<th>City</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>111 Brookhaven Trail</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ZIP</th>
<th>Country</th>
<th>Phone No.</th>
<th>Phone No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>28451</td>
<td>USA</td>
<td>843-457-1974 ext.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address (if different from above)</th>
<th>City</th>
<th>State</th>
<th>ZIP</th>
</tr>
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<table>
<thead>
<tr>
<th>Email</th>
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<td></td>
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### 2. Agent/Contractor Information

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Land Management Group Inc.</th>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Agent/ Contractor 1: First Name</th>
<th>MI</th>
<th>Last Name</th>
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<tbody>
<tr>
<td>Kim</td>
<td></td>
<td>Williams</td>
</tr>
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<tr>
<th>Agent/ Contractor 2: First Name</th>
<th>MI</th>
<th>Last Name</th>
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<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>PO Box</th>
<th>City</th>
<th>State</th>
</tr>
</thead>
<tbody>
<tr>
<td>3805 Wrightsville Avenue; Suite 15</td>
<td></td>
<td></td>
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<thead>
<tr>
<th>ZIP</th>
<th>Phone No. 1</th>
<th>Phone No. 2</th>
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<tbody>
<tr>
<td>28403</td>
<td>910-452-0001 ext.</td>
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<tr>
<th>FAX No.</th>
<th>Contractor #</th>
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<tbody>
<tr>
<td>910 462 0060</td>
<td></td>
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</table>

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<thead>
<tr>
<th>Street Address (if different from above)</th>
<th>City</th>
<th>State</th>
<th>ZIP</th>
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<tr>
<th>Email</th>
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Email: kwilliams@lmgroup.net

Form continues on back
## 3. Project Location

<table>
<thead>
<tr>
<th>County (can be multiple)</th>
<th>Street Address</th>
<th>State Rd. #</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hanover</td>
<td>115 and 125 Hollis Lane</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subdivision Name</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Wilmington</td>
<td>NC</td>
<td></td>
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<tr>
<th>Phone No.</th>
<th>Lot No.(s) (If many, attach additional page with list)</th>
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<table>
<thead>
<tr>
<th>a. In which NC river basin is the project located?</th>
<th>b. Name of body of water nearest to proposed project</th>
</tr>
</thead>
<tbody>
<tr>
<td>White Oak</td>
<td>Masonboro Sound</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>c. Is the water body identified in (b) above, natural or manmade?</th>
<th>d. Name the closest major water body to the proposed project site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Natural</td>
<td></td>
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</tbody>
</table>

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<thead>
<tr>
<th>e. Is proposed work within city limits or planning jurisdiction?</th>
<th>f. If applicable, list the planning jurisdiction or city limit the proposed work falls within.</th>
</tr>
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<tr>
<td>☑ Yes</td>
<td></td>
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</table>

## 4. Site Description

<table>
<thead>
<tr>
<th>a. Total length of shoreline on the tract (ft.)</th>
<th>b. Size of entire tract (sq. ft.)</th>
</tr>
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<tbody>
<tr>
<td>184</td>
<td>138,539</td>
</tr>
</tbody>
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<thead>
<tr>
<th>c. Size of individual lot(s)</th>
<th>d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level)</th>
</tr>
</thead>
<tbody>
<tr>
<td>99,930 sf, 38,609 sf</td>
<td>5-10' NHW or NWL</td>
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</table>

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<tr>
<th>e. Vegetation on tract</th>
<th>f. Man-made features and uses now on tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freshwater Wetlands: Nyssa sylvatica, Magnolia virginiana, Pinus taeda, Morella cerifera</td>
<td>Undeveloped and vegetated; No manmade features</td>
</tr>
<tr>
<td>Uplands: Quercus virginiana, Pinus taeda, Morella cerifera, illex vomitoria</td>
<td></td>
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<tr>
<th>g. Identify and describe the existing land uses adjacent to the proposed project site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undeveloped or residential</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>h. How does local government zone the tract?</th>
<th>i. Is the proposed project consistent with the applicable zoning?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>(Attach zoning compliance certificate, if applicable)</td>
</tr>
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<thead>
<tr>
<th>j. Is the proposed activity part of an urban waterfront redevelopment proposal?</th>
</tr>
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<tbody>
<tr>
<td>☑ Yes</td>
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<thead>
<tr>
<th>k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy.</th>
</tr>
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<tbody>
<tr>
<td>☑ Yes</td>
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<tr>
<th>If yes, by whom?</th>
</tr>
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<tr>
<th>l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Yes</td>
</tr>
</tbody>
</table>

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<Form continues on next page>
**m. (i) Are there wetlands on the site?**  
- Yes  
- No

(ii) Are there coastal wetlands on the site?  
- Yes  
- No

(iii) If yes to either (i) or (ii) above, has a delineation been conducted?  
- Yes  
- No  
*Attach documentation, if available*

**n. Describe existing wastewater treatment facilities.**  
No existing wastewater treatment facilities on site.

**o. Describe existing drinking water supply source.**  
None

**p. Describe existing storm water management or treatment systems.**  
No existing stormwater treatment systems.

---

### 5. Activities and Impacts

**a. Will the project be for commercial, public, or private use?**  
- Commercial  
- Public/Government  
- Private/Community

**b. Give a brief description of purpose, use, and daily operations of the project when complete.**  
The applicant plans to construct one single-family home, driveway, septic field, pier with a floating dock and two boat lifts.

**c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.**  
Driveway will be constructed first to provide access to site. Then fill material will be brought into site and grading activities will occur. Piling will be installed; house will be constructed. Pier and dock construction will occur once access is in place and permits have been obtained. Standard marine construction equipment and methods will be used. Equipment to be stored on upland portion of property during construction.

**d. List all development activities you propose.**  
To construct one single-family house, septic field, driveway, garage, and pier with a floating dock and two boat lifts.

**e. Are the proposed activities maintenance of an existing project, new work, or both?**  
New work

**f. What is the approximate total disturbed land area resulting from the proposed project?**  
\(~ 0.42 \)  
- Sq.Ft  
- Acres

**g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?**  
- Yes  
- No  
- N/A

**h. Describe location and type of existing and proposed discharges to waters of the state.**  
The applicant proposes to fill a total of 436 sf of freshwater wetlands for the construction of a driveway. Stormwater runoff will be treated per County requirements.

**i. Will wastewater or stormwater be discharged into a wetland?**  
- Yes  
- No  
- N/A

*If yes, will this discharged water be of the same salinity as the receiving water?*  
- Yes  
- No  
- N/A

**j. Is there any mitigation proposed?**  
- Yes  
- No  
- N/A

*If yes, attach a mitigation proposal.*
6. Additional Information

In addition to this completed application form, (MP-1) the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) – (f) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.

a. A project narrative.

b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.

c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.

d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.

e. The appropriate application fee. Check or money order made payable to DENR.

f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

Name Robert Joseph Hollis Etal
Address 126 Hollis Lane; Wilmington, NC 28409
Phone No. 

Name Mildred Parker Bobbitt
Address 354 Friendly Lane; Wilmington, NC 28409
Phone No. 

Name
Address 


g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

N/A


h. Signed consultant or agent authorization form, if applicable.

i. Wetland delineation, if necessary.

j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner)

k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

Date 3/21/2016
Print Name Kim Williams
Signature 

Please indicate application attachments pertaining to your proposed project:

☑ DCM MP-2 Excavation and Fill Information
☑ DCM MP-3 Upland Development
☑ DCM MP-4 Structures Information

☑ DCM MP-5 Bridges and Culverts

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Form DCM MP-2

EXCAVATION and FILL
(Except for bridges and culverts)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

Describe below the purpose of proposed excavation and/or fill activities. All values should be given in feet.

<table>
<thead>
<tr>
<th>Access Channel (NLW or NWL)</th>
<th>Canal</th>
<th>Boat Basin</th>
<th>Boat Ramp</th>
<th>Rock Groin</th>
<th>Rock Breakwater</th>
<th>Other (excluding shoreline stabilization)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length</td>
<td>17&quot;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Width</td>
<td>25&quot;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avg. Existing Depth</td>
<td>NA</td>
<td>NA</td>
<td>+8' above NHW</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final Project Depth</td>
<td>NA</td>
<td>NA</td>
<td>+8.5' above NHW</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. EXCAVATION

a. Amount of material to be excavated from below NHW or NWL in cubic yards.

b. Type of material to be excavated.

(c) Does the area to be excavated include coastal wetlandsmarsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.

☐ CW  ☐ SAV  ☐ SB  ☐
☐ WL  ☐ None

(i) Describe the purpose of the excavation in these areas:

________________________________________________________________________

(d) High-ground excavation in cubic yards.

_________________________________________________________

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2. DISPOSAL OF EXCAVATED MATERIAL

a. Location of disposal area.

b. Dimensions of disposal area.

d. (i) Will a disposal area be available for future maintenance?

☐ Yes  ☐ No  ☐ NA

(ii) If yes, where?

________________________________________________________________________

e. (i) Does the disposal area include any coastal wetlandsmarsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.

☐ CW  ☐ SAV  ☐ SB  ☐
☐ WL  ☐ None

(ii) Describe the purpose of disposal in these areas:

________________________________________________________________________

f. (i) Does the disposal include any area in the water?

☐ Yes  ☐ No  ☐ NA

(ii) If yes, how much water area is affected?

________________________________________________________________________
SHORELINE STABILIZATION
(If development is a wood groin, use MP-4 – Structures)

a. Type of shoreline stabilization:
   - [ ] Bulkhead
   - [ ] Riprap
   - [ ] Breakwater/Sill
   - [ ] Other: ______

c. Average distance waterward of NHW or NWL:

   ________________________________


e. Type of stabilization material:

   ________________________________


f. (i) Has there been shoreline erosion during preceding 12 months?
   - [ ] Yes
   - [ ] No
   - [ ] NA

   (ii) If yes, state amount of erosion and source of erosion amount information.

   ________________________________


g. Number of square feet of fill to be placed below water level.
   - Bulkhead backfill: ______
   - Riprap: ______
   - Breakwater/Sill: ______
   - Other: ______

h. Source of fill material:

   ________________________________


4. OTHER FILL ACTIVITIES
(Excluding Shoreline Stabilization)

a. (i) Will fill material be brought to the site? [ ] Yes [ ] No [ ] NA
   If yes,
   (ii) Amount of material to be placed in the water: None
   (iv) Purpose of fill:
   To level the site in order to construct a single-family home and driveway.

b. (i) Will fill material be placed in coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
   - [ ] CW ______
   - [ ] SAV ______
   - [ ] SB ______
   - [ ] WL 435 ______
   - [ ] NA

   (ii) Describe the purpose of the fill in these areas:
   To construct a driveway.

   ________________________________

5. GENERAL

a. How will excavated or fill material be kept on site and erosion controlled?
   Silt fencing will be used during construction.

b. What type of construction equipment will be used (e.g., dragline, backhoe, or hydraulic dredge)?
   Pile driver; other standard construction equipment.

   ________________________________

c. (i) Will navigational aids be required as a result of the project?
   - [ ] Yes
   - [ ] No
   - [ ] NA

   (ii) If yes, explain what type and how they will be implemented.

   ________________________________

d. (i) Will wetlands be crossed in transporting equipment to project site?
   - [ ] Yes
   - [ ] No
   - [ ] NA

   (ii) If yes, explain steps that will be taken to avoid or minimize environmental impacts.
   Wetland crossing included in proposed impacts above.

   ________________________________

3/29/2016

Date

115 and 125 Hollis Lane

Project Name

Nicholas Nixon

Applicant Name

[Signature]

Applicant Signature

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revised: 12/26/06
Form DCM MP-3

UPLAND DEVELOPMENT

(Construction and/or land disturbing activities)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

GENERAL UPLAND DEVELOPMENT

a. Type and number of buildings, facilities, units or structures proposed.
   One single-family house on pilings, garage, driveway, and septic field

b. Number of lots or parcels.
   2


c. Density (give the number of residential units and the units per acre).
   one unit per 3.2 acres

d. Size of area to be graded, filled, or disturbed including roads, ditches, etc.
   ~ 18,000 sf

f. List the materials (such as marr, paver stone, asphalt, or concrete) to be used for impervious surfaces.
   Rock and concrete for the driveway; concrete for house pad; asphalt shingles for roof.

h. Projects that require a CAMA Major Development Permit may also require a Stormwater Certification.
   (i) Has a site development plan been submitted to the Division of Water Quality for review?
      ☐ Yes ☐ No ☑ NA
   (ii) If yes, list the date submitted: ____________

i. Give the percentage of the entire tract to be covered by impervious and/or built-up surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.
   10%

k. Have the facilities described in item (i) received state or local approval?
   ☐ Yes ☐ No ☑ NA
   If yes, attach appropriate documentation.

m. Does the proposed project include an innovative stormwater design?
   ☐ Yes ☐ No ☑ NA
   If yes, attach appropriate documentation.

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Describe proposed drinking water supply source (e.g., well, community, public system, etc.)
New Hanover County water supply

When was the lot(s) platted and recorded?

July 1984

Will water be impounded? ☐ Yes  ☐ No  ☐ NA
If yes, how many acres?

If proposed development is a subdivision, will additional utilities be installed for this upland development?
☐ Yes  ☐ No  ☐ NA

3/29/2016
Date

115 and 125 Holliis Lane
Project Name

Nicholas Nixon III
Applicant Name

Karen litter - LMO  Agent
Applicant Signature

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Form DCM MP-4

STRUCTURES
(Construction within Public Trust Areas)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

9. DOCKING FACILITY/MARINA CHARACTERISTICS
   a. (i) Is the docking facility/marina:
      ☐ Commercial ☐ Public/Government ☑ Private/Community
   b. (i) Will the facility be open to the general public?
      ☐ Yes ☑ No
   c. (i) Dock(s) and/or pier(s)
      (ii) Number 1
      (iii) Length 355
      (iv) Width 6
      (v) Floating ☑ Yes ☐ No
   d. (i) Are Finger Piers included? ☐ Yes ☑ No
      If yes:
      (ii) Number
      (iii) Length
      (iv) Width
      (v) Floating ☑ Yes ☐ No
   e. (i) Are Platforms included? ☑ Yes ☐ No
      If yes:
      (ii) Number 1
      (iii) Length 16, 13 1/2
      (iv) Width 16, 19
      (v) Floating ☑ Yes ☐ No
   f. (i) Are Boatlifts included? ☑ Yes ☐ No
      If yes:
      (ii) Number
      (iii) Length 13 1/2
      (iv) Width 13 1/2
   g. (i) Number of slips proposed 3
      (ii) Number of slips existing 0
   h. Check all the types of services to be provided:
      ☐ Full service, including travel lift and/or fuel, repair or maintenance service
      ☐ Dockage, fuel, and marine supplies
      ☐ Dockage ("wet slips") only, number of slips:
      ☐ Dry storage; number of boats:
      ☐ Boat ramp(s); number of boat ramps:
      ☐ Other, please describe:
   i. Describe the typical boats to be served (e.g., open runabouts, charter boats, sail boats, mixed types):
      open runabouts
   j. (i) Will the facility be open to the general public?
      ☑ Yes ☐ No
   k. Typical boat length: 16'
   m. (i) Will the facility have tie pilings?
      ☑ Yes ☐ No
      (ii) If yes number of tie pilings:
      2

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revised: 12/27/06
2. DOCKING FACILITY/MARINA OPERATIONS

(a) Check each of the following sanitary facilities that will be included in the proposed project.
- Toilets for patrons; Number: ___; Location: ___.
- Showers
- Boatholding tank pumpout; Give type and location:

(b) Describe treatment type and disposal location for all sanitary wastewater.

(c) Describe the disposal of solid waste, fish offal and trash.

(d) How will overboard discharge of sewage from boats be controlled?

(e) (i) Give the location and number of "No Sewage Discharge" signs proposed.

(ii) Give the location and number of "Pumpout Available" signs proposed.

(f) Describe the special design, if applicable, for containing industrial type pollutants, such as paint, sandblasting waste and petroleum products.

(g) Where will residue from vessel maintenance be disposed of?

(h) Give the number of channel markers and "No Wake" signs proposed.

(i) Give the location of fuel-handling facilities, and describe the safety measures planned to protect area water quality.

(j) What will be the marina policy on overnight and live-aboard dockage?

(k) Describe design measures that promote boat basin flushing.

(l) If this project is an expansion of an existing marina, what types of services are currently provided?

(m) Is the marina/docking facility proposed within a primary or secondary nursery area?
   - [ ] Yes
   - [ ] No

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Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area? □ Yes □ No

If any boxes are checked, provide the number of square feet affected.

□ CW □ SAV □ SB
□ WL □ None

Is the proposed marina/docking facility located within or within close proximity to any shellfish leases? □ Yes □ No
If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.

---

3. BOATHOUSE (including covered slips)

a. (i) Is the boathouse structure(s):
   □ Commercial □ Public/Government □ Private/Community

(ii) Number
(iii) Length
(iv) Width

Note: Rooted areas are calculated from drip line dimensions.

4. GROIN (e.g., wood, sheetpile, etc.) If a risk analysis is used for Groin and Fill. □ This section not applicable

a. (i) Number
(ii) Length
(iii) Width

5. BREAKWATER (e.g., wood, sheetpile, etc.) □ This section not applicable

a. Length
b. Average distance from NHW, NML, or wetlands
   —

   c. Maximum distance beyond NHW, NML or wetlands
   —

6. MOORING PILINGS and BUOYS □ This section not applicable

a. Is the structure(s):
   □ Commercial □ Public/Government □ Private/Community

   c. Distance to be placed beyond shoreline
   Note: This should be measured from marsh edge, if present.
   —

   d. Description of buoy (color, inscription, size, anchor, etc.)
   —
   —

   e. Arc of the swing
   —

7. GENERAL

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Proximity of structure(s) to adjacent riparian property lines

73', 46'

Note: For buoy or mooring piling, use arc of swing including length of vessel.

c. Width of water body

919'

e. (i) Will navigational aids be required as a result of the project?  
☐ Yes ☒ No ☐ NA

(ii) If yes, explain what type and how they will be implemented.

b. Proximity of structure(s) to adjacent docking facilities.

9' >200 ft of channel/pilings

d. Water depth at waterward end of structure at NLW or NML

4'

8. OTHER

a. Give complete description:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

8/13/15

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Boundaries are approximate and are not meant to be absolute.

Map Source: ArcGIS World Street Map

115 & 125 Hollis Lane
New Hanover County, NC
Mr. Nicholas Nixon III

March 2016
LMG # 40-15-241W

www.lmgroupllc.com
3805 Wrightsville Avenue
Wilmington, NC 28403
Phone: 910.452.0001  Fax: 910.452.0006

Sheet 1 of 5
Vicinity Map
AGENT AUTHORIZATION FORM

Date: 3-15-16

Name of Property Owner Applying for Permit: Nicholas Nixon III

Name of Authorized Agent for this project: Kim Williams; Land Management Group, Inc.

Owner's Mailing Address: 111 Brookhaven Trail
Leland, NC 28451

Agent's Mailing Address: 3805 Wrightsville Avenue; Suite 15
Wilmington, NC 28403

Phone Number (910) 457-1974

Phone Number (910) 452-0001

I certify that I have authorized the agent listed above to act on my behalf, for the purpose of applying for and obtaining all CAMA Permits necessary to install or construct the following (activity):

One single-family home with driveway and septic field; floating dock structure

(my property located) at 115 and 125 Hollis Lane; Wilmington, NC

This certification is valid thru date 8-15-17

Property Owner Signature

Date 3-15-16

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1. **APPLICANT'S NAME:** Nicholas Nixon III c/o Land Management Group, Inc.

2. **LOCATION OF PROJECT SITE:** 115 and 125 Hollis Lane, adjacent to the AIWW and Masonboro Sound, New Hanover County.

   State Plane Coordinates - X: 2344576   Y: 146294
   Latitude: 34°08'47.45"N   Longitude: 77°51'41.21"W

3. **INVESTIGATION TYPE:** CAMA & D & F

4. **INVESTIGATIVE PROCEDURE:** Dates of Site Visit – 03/15/2016
   Was Applicant Present – Yes (agent)

5. **PROCESSING PROCEDURE:** Application Received – 03/30/16 (Completed)
   Office – Wilmington

6. **SITE DESCRIPTION:**
   (A) Local Land Use Plan - New Hanover County
   Land Classification From LUP - Resource Protection
   (B) AEC(s) Involved: PT, EW, CW, ORW
   (C) Water Dependent: Yes
   (D) Intended Use: Private
   (E) Wastewater Treatment: Existing – None
       Planned – Septic System
   (F) Type of Structures: Existing - Vacant lots
       Planned - New residential dwelling, driveway and private docking facility
   (G) Estimated Annual Rate of Erosion: N/A
       Source - N/A

7. **HABITAT DESCRIPTION:**

<table>
<thead>
<tr>
<th></th>
<th>[AREA]</th>
<th>DREDGED</th>
<th>FILLED</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Vegetated Wetlands (§ 404 wetlands and coastal wetlands)</td>
<td></td>
<td>436 sq. ft.</td>
<td>1,080 sq. ft. (shading)</td>
<td></td>
</tr>
<tr>
<td>(B) Non-Vegetated Wetlands</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Open water)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(C) Other (High Ground Disturbance)</td>
<td></td>
<td></td>
<td>18,000 sq. ft.</td>
<td></td>
</tr>
</tbody>
</table>

   (D) **Total Area Disturbed:** 21,341 sq. ft. (0.48 acres)
   (E) **Primary Nursery Area:** Yes
   (F) **Water Classification:** SA-ORW
       **Open:** No

8. **PROJECT SUMMARY:** The applicant proposes to construct a single-family residence with associated § 404 Wetlands impact and a private docking facility.
9. PROJECT DESCRIPTION:

The applicant’s properties are located at 115 and 125 Hollis Lane in New Hanover County. The proposed project is adjacent to the AIWW and Masonboro Sound. To find the properties one would travel south from Wilmington on South College Road (NC 132) to the intersection of South College, Carolina Beach Road (NC 421) and Piner Road. This intersection is known locally as Monkey Junction. Turn left onto Piner Road and travel approximately 0.75 miles and veer to the left onto Grissom Road. Continue heading north until Grissom Road merges into Masonboro Loop Road. Continue to head north on Masonboro Loop Road until you reach Hollis Lane, which will be on the right. Turn onto Hollis Lane and continue down the unimproved road until you reach the properties on the left.

The properties are contiguous residential lots approximately 3.2 acres combined. The lots are relatively flat and has an average elevation ranging approximately 5'-10' above normal high water (NHW). Located within the central portion of the project site and eastern end are areas of §404 Wetlands. There are no existing structures on the applicant’s lots.

The waterfront lot has approximately 184' of frontage along the AIWW and Masonboro Sound. The application states this section of the waterway measures approximately 918' across the waterbody; however, based on a recent site visit and review of updated aerial photography, it appears the distance of the waterbody is approximately 890'. Along the applicant’s shoreline is a border of coastal wetlands averaging approximately 180' in width. The upper portion of the coastal wetlands border, as it transitions from highground, is vegetated primarily with, Salt-meadow Grass (Spartina patens), and several shrub species, including: Southern Wax Myrtle (Myrica cerifera) and Yaupon Holly (Ilex vomitoria). Beyond is an approximately 150' wide border of Smooth Cordgrass (Spartina alterniflora) adjacent to open water.

There are existing private piers located to the south of the applicant’s property along the same shoreline. The property directly to the south of the applicant’s property, which currently has a private docking facility (R. Hollis) was authorized under CAMA General Permit No. 59107-D on December 16, 2011. The residential properties to the north off Friendly Lane, have a shared boat basin and an access channel to the AIWW with associated pilings as channel markers.

The Joint City of Wilmington and New Hanover County Land Use Plan classifies the adjacent waters as Conservation, and the adjacent high ground portion of the project area as Resource Protection. In the project area, the waters of Masonboro Sound are classified as SA-ORW by the NC Division of Water Resources, and they are CLOSED to the harvest of shellfish. These waters are designated as a Primary Nursery Area (PNA), by the NC Division of Marine Fisheries.

PROPOSED PROJECT:

The applicant proposes to construct a single-family residence with associated §404 Wetlands impact and a private docking facility. High ground development on the tract includes the construction of a single-family residence with a footprint of ~100' in length by 35' in width with associated 14' in width concrete driveway. The application states that the two-story home would be constructed on pilings and the total floor area would be approximately 2,450 sq. ft. The application states that the wastewater would be treated through a proposed septic system located on the most western end of the project site. The application states the proposed driveway would incorporate an area of 436 sq. ft. of jurisdictional §404 wetlands. All proposed upland development, outside the septic system would be located within the 575’ Area of Environmental Concern (AEC). According to the application package, approximately 12,900 sq. ft. (11%) of impervious surface would cover the property. All proposed upland development would be located landward of the Coastal Shoreline 30’ Buffer.

The applicant is also proposing to construct a private docking facility into Masonboro Sound/AIWW. An access pier, measuring approximately 385' in length by 6' in width would extend towards the east into Masonboro Sound. The access pier would lead onto a partially fixed covered platform, measuring approximately 14' in length by 19' in width, which would be oriented towards the north creating an “L-shape” configuration. Portions of the drip-line of the roof cover would extend approximately 2’ outside the footprint of fixed platform.
An access ramp would then lead onto a floating dock, measuring approximately 25’ in length by 8’ in width, which would extend in the same alignment as the access pier. A boatlift, measuring approximately 13’ in length by 13’ in width would be located on the southern side of the floating dock. Another boatlift, measuring approximately 12’ in length by 12’ in width would be located on the southern side of the most waterward end of the access pier. The applicant states that the proposed docking facility would provide mooring for up to three (3) vessels within existing water depths in the vicinity ranging from approximately -2.5’ to -4.0’ NLW. As proposed and per the riparian survey, the proposed docking facility would be located within the established pier length, within the applicant’s area of riparian access and would not encroach into the adjacent 15’ riparian corridor setback area requirement. However, it appears the docking facility would exceed the current 1/4 distance rule where the existing water depths are approximately -1.0’ to -1.5’ NLW; however, the structures would not exceed the 1/3 of the distance of the waterbody.

10. ANTICIPATED IMPACTS:

The proposed upland development activities would result in the disturbance of approximately 18,000 sq. ft. of high ground and approximately 436 sq. ft. of § 404 wetlands (0.01 acres) for the construction of the single-family residence and associated driveway. All proposed upland development would be located landward of the Coastal Shoreline 30’ Buffer. According to the application package, approximately 12,900 sq. ft. (11%) of impervious surface would cover the property within the 575’ AEC.

The proposed access pier would shade approximately 1,080 sq. ft. of coastal wetlands would incorporate approximately 1,828 sq. ft. of Public Trust Area and Estuarine Waters. As proposed, the applicant’s proposal would not encroach into the 80’ federal setback requirement from the AIWW channel. Based on the provided riparian survey, the proposed structures would not encroach into the adjacent 15’ riparian corridor setback area requirement. The proposed structures would allow the facility to accommodate up to three (3) vessels in water depths of approximately -2.5’ to -4.0’ NLW. The proposed structures would extend approximately 215’ into a waterbody, which measures approximately 890’ across. As proposed, the docking facility appears to exceed the 1/4 width rule where the existing water depths are approximately -1.0’ to -1.5’ NLW; however, it does not appear to exceed the 1/3 distance and the established pier length, aforementioned. Minor increases in turbidity should be expected during construction; however, no long term impacts are anticipated.
The total area of platform and floating dock were calculated as follows:

Shoreline length = 184 ft. x 8 sq. ft. = 1,472 sq. ft. allowable.
Platform = 19' x 14' = 266 sq. ft.
Roof dripline = 32' x 3' = 96 sq. ft.
Floating dock = 25' x 8' = 200 sq. ft.
Total = 562 sq. ft.

The construction would provide docking space for the total up to three (3) vessels. The proposed floating dock, platform, and boatlifts would be located entirely over open water; however, it appears the docking facility would be INCONSISTENT with NCAC 07H.0208(b)(6)(G)(ii) (1/4 distance rule). **If the applicant revises the proposed docking facility to conform to the ¼ width distance, this office has no objections to the proposed work.**

It is the staff’s recommendation that the proposed upland development appears to be CONSISTENT with the Rules of 15A NCAC 07H.0209 COASTAL SHORELINES (d). This office has no objection to the proposed work, provided it is consistent with state and federal permitting requirements regarding the fill of §404 wetlands. If the project is determined to be consistent with 15A NCAC 07H.0209 COASTAL SHORELINES (d) and built in accordance with NCAC 07H.0208(b)(ii)(iii), this office has no objection to the proposed work, provided it is consistent with all other state and federal permitting requirements. Any permit issued should include standard conditions for upland and private docking facilities.
April 12, 2016

MEMORANDUM:

TO:  Gregg Bodnar  
       Fisheries Resource Specialist  
       DCM, Morehead City

FROM:  Heather Coats, Assistant Major Permits Coordinator  
       NCDEQ – Division of Coastal Management  
       127 Cardinal Drive Ext., Wilm., NC 28405 heather.coats@ncdenr.gov  
       Fax: 395-3984

SUBJECT:  CAMA / Dredge & Fill Application Review

Applicant:  Nicholas Nixon III

Project Location:  115 & 125 Hollis Ln., adjacent to the AlWW and Masonboro Sound,  
in Wilmington, New Hanover County

Proposed Project:  to construct a SFR with associated §404 Wetlands impact, and  
a private docking facility

Please indicate below your agency's position or viewpoint on the proposed project and  
return this form to Heather Coats at the address above by May 6, 2016. If you have any  
questions regarding the proposed project, contact Robb Mairs at (910) 796-7423 when appropriate,  
In-depth comments with supporting data is requested.

REPLY:

☐ This agency has no objection to the project as proposed.  
☐ This agency has no comment on the proposed project.  
☐ This agency approves of the project only if the recommended changes are incorporated. See attached.  
☐ This agency objects to the project for reasons described in the attached comments.

SIGNED  

DATE  5/12/16

RECEIVED

APR 18 2016

DCM- MHD CITY
ADJACENT RIPARIAN PROPERTY OWNER STATEMENT

I hereby certify that I own property adjacent to Nicholas Nixon's property located at 115 & 125 Hollis Lane
(Address, Lot, Block, Road, etc.)
(Masonboro Sound), in Wilmington, N.C.
(Nearest Waterbody) (City/Town and/or County)

The applicant has described to me, as shown below, the development proposed at the above location.

[ ] I have no objection to this proposal.
[ ] I have objections to this proposal.

DESCRIPTION AND/OR DRAWING OF PROPOSED DEVELOPMENT
(Individual proposing development must fill in description below or attach a site drawing)

Please see enclosed application materials.

WAIVER SECTION

I understand that a pier, dock, mooring pilings, boat ramp, breakwater, boathouse, lift, or groin must be set back a minimum distance of 15' from my area of riparian access unless waived by me. (If you wish to waive the setback, you must initial the appropriate blank below.)

[ ] I do wish to waive the 15' setback requirement.
[ ] I do not wish to waive the 15' setback requirement.

(Property Owner Information)

Mildred P. Buskirk
111 Brookhaven Trail
Leland, NC 28451

Telephone Number / email address 8 April 2016
Date

*Valid for one calendar year after signature*

(Adjacent Property Owner Information)

Mildred P. Buskirk
354 Friendly Ln
Wilmington, NC 28409

Telephone Number / email address 11/21/16
Date*

APR 25 2016
(Revised Aug. 2014)
ADJACENT RIPARIAN PROPERTY OWNER STATEMENT

I hereby certify that I own property adjacent to Nicholas Nixon's property located at 115 & 125 Hollis Lane (Address, Lot, Block, Road, etc.) on Masonboro Sound (Nearest Waterbody), in Wilmington (City/Town and/or County), N.C.

The applicant has described to me, as shown below, the development proposed at the above location.

☐ I have no objection to this proposal.
☐ I have objections to this proposal.

DESCRIPTION AND/OR DRAWING OF PROPOSED DEVELOPMENT

(Individual proposing development must fill in description below or attach a site drawing)

Please see enclosed application materials.

WAIVER SECTION

I understand that a pier, dock, mooring pilings, boat ramp, breakwater, boathouse, lift, or groin must be set back a minimum distance of 15' from my area of riparian access unless waived by me. (If you wish to waive the setback, you must initial the appropriate blank below.)

☐ I do wish to waive the 15' setback requirement.
☐ I do not wish to waive the 15' setback requirement.

(Property Owner Information)

Signature

c/o Nick Nixon
Print or Type Name
111 Brookhaven Trail
Mailing Address
Leland, NC 28451
City/State/Zip

Telephone Number / email address
8 April 2016
Date

(Adjacent Property Owner Information)

Signature*

Robert Hous
Print or Type Name
114 Hous Lane
Mailing Address
Leland NC 28451
City/State/Zip
910-251-6D30
Telephone Number / email address
4/19/16
Date*

*Valid for one calendar year after signature*
STATE OF NORTH CAROLINA
Department of Environmental Quality
and
Coastal Resources Commission

Permit

for

X  Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

___ Excavation and/or filling pursuant to NCGS 113-229

Issued to Nicholas Nixon, III, 111 Brookhaven Trail, Leland, NC 28451

Authorizing development in New Hanover County adj. to Masonboro Sound, at 115 & 125 Hollis Lane, Wilmington, as requested in the permittee’s application dated 3/29/16 (MP-1, MP-2 & MP-3), and 2/13/16 (MP-4), incl. attached workplan drawing (1), 2 of 5 dated 3/23/16.

This permit, issued on June 17, 2016, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

1) The proposed docking facility exceeds the pier length allowance described in 15A NCAC 07H .0208(b)(6)(G)(iii). Accordingly, the proposed docking facility is not authorized by this permit.

Upland Development

2) Unless specifically altered herein, this permit authorizes the land disturbing activities associated with the development of the above referenced property, including the single-family residence, driveway, & garage, all as expressly and specifically set forth in the attached permit application and workplan drawing. Any additional land disturbing activities and/or construction may require a modification of this permit. Contact a Division of Coastal Management representative at (910)796-7215 for this determination.

(See attached sheet for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on December 31, 2019

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DEQ and the Chairman of the Coastal Resources Commission.

Braxton C. Davis, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

Signature of Permittee
3) Any development or land disturbing activity that is considered non-water dependent is not authorized within 30 feet of the normal high water level unless specifically exempted by Coastal Resource Commission (CRC) regulations in place at the time of such development.

4) Any building constructed shall comply with the North Carolina Building Code and the local flood damage prevention ordinance as required by the National Flood Insurance Program.

**Sedimentation and Erosion Control**

**NOTE:** An Erosion and Sedimentation Control Plan will be required for this project. This plan must be filed at least thirty (30) days prior to the beginning of any land disturbing activity. Submit this plan to the Department of Environmental Quality, Land Quality Section, 127 Cardinal Drive Extension, Wilmington, NC 28405.

5) In order to protect water quality, runoff from the construction shall not visibly increase the amount of suspended sediments in adjacent waters.

6) Appropriate sedimentation and erosion control devices, measures or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, etc.).

**Stormwater Management**

7) A stormwater management permit from the Division of Energy, Mineral and Land Resources will be required for the authorized project. A copy of the stormwater management approval shall be obtained and a copy provided to the Division of Coastal Management prior to the initiation of any development activities authorized by this permit.

**General**

8) The permittee and/or his or her contractor shall meet with a representative of the Division prior to project initiation.

9) No fill material shall be placed at any time in any vegetated wetlands outside of the alignment of the fill area indicated on the workplan drawing.

10) No open water areas shall be excavated or filled.

11) This permit shall not be assigned, transferred, sold, or otherwise disposed of to a third party without the written approval of the Division of Coastal Management.

**NOTE:** Future development of the permittee's property may require a modification of this permit. Contact a representative of the Division at (910) 796-7215 prior to the commencement of any such activity for this determination.

**NOTE:** This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.
**ADDITIONAL CONDITIONS**

**NOTE:** An application processing fee of $400 was received by DCM for this project. This fee also satisfied the Section 401 application processing fee requirements of the Division of Water Resources.

**NOTE:** The U.S. Army Corps of Engineers authorized the proposed project by way of General Permit 197800056 and Nationwide Permit 14 (Action ID No. SAW-2016-00987), which was issued on 6/3/16.

**NOTE:** The N.C. Division of Water Resources assigned the proposed project DWR Project No. DWR-16-0367.
April 8, 2016

TO: Robert Joseph Hollis Etal
126 Hollis Lane
Wilmington, NC 28409

RE: Required Notification
115 & 125 Hollis Lane; Wilmington (New Hanover County), NC
CAMA Major Permit Application

Dear Mr. Hollis:

This letter serves to notify you of a proposed project at 115 and 125 Hollis Lane in Wilmington, NC. Mr. Nicholas Nixon has submitted a CAMA Major Permit application to the NC Division of Coastal Management (DCM) requesting authorization to construct a single-family home on pilings, driveway, and a pier with a floating dock and two boat lifts within the above-referenced project area. As an adjacent riparian property owner to the project, you are required by the permit application process to be notified.

A copy of the CAMA permit application (narrative, application forms, and figures) as it has been submitted to NC DCM is enclosed. If you have no objections to the project, please indicate on the enclosed form and return to Mr. Robb Mairs, NC DCM, 127 Cardinal Drive Ext., Wilmington, NC, 28405. Any written objections can also be directed to Mr. Mairs, NC DCM, 127 Cardinal Drive Ext., Wilmington, NC, 28405. No comment within 30 days of receipt of this package indicates no objection. I am happy to answer any questions you may have regarding the enclosed materials and can be reached at 910-452-0001.

Sincerely,

Kim Williams
Land Management Group, Inc. (agent)

Encl.

cc: Robb Mairs, NC DCM
April 8, 2016

TO: Ms. Mildred Parker Bobbitt
354 Friendly Lane
Wilmington, NC 28409

RE: Required Notification
115 & 125 Hollis Lane; Wilmington (New Hanover County), NC
CAMA Major Permit Application

Dear Ms. Bobbitt:

This letter serves to notify you of a proposed project at 115 and 125 Hollis Lane in Wilmington, NC. Mr. Nicholas Nixon has submitted a CAMA Major Permit application to the NC Division of Coastal Management (DCM) requesting authorization to construct a single-family home on pilings, driveway, and a pier with a floating dock and two boat lifts within the above-referenced project area. As an adjacent riparian property owner to the project, you are required by the permit application process to be notified.

A copy of the CAMA permit application (narrative, application forms, and figures) as it has been submitted to NC DCM is enclosed. If you have no objections to the project, please indicate on the enclosed form and return to Mr. Robb Mairs, NC DCM, 127 Cardinal Drive Ext., Wilmington, NC, 28405. Any written objections can also be directed to Mr. Mairs, NC DCM, 127 Cardinal Drive Ext., Wilmington, NC, 28405. No comment within 30 days of receipt of this package indicates no objection. I am happy to answer any questions you may have regarding the enclosed materials and can be reached at 910-452-0001.

Sincerely,

Kim Williams
Land Management Group, Inc. (agent)

Encl.

cc: Robb Mairs, NC DCM
### Product & Tracking Information

**Postal Product:** First Class Mail®
**Features:** Certified Mail™
**Return Receipt**

See tracking for related item: 9599950306195077825214

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<tr>
<th>DATE &amp; TIME</th>
<th>STATUS OF ITEM</th>
<th>LOCATION</th>
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<td>April 14, 2016, 12:54 pm</td>
<td>Notice Left (No Authorized Recipient Available)</td>
<td>WILMINGTON, NC 28409</td>
</tr>
<tr>
<td>April 13, 2016, 7:00 pm</td>
<td>Departed USPS Facility</td>
<td>FAYETTEVILLE, NC 28302</td>
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<tr>
<td>April 13, 2016, 9:27 am</td>
<td>Arrived at USPS Facility</td>
<td>FAYETTEVILLE, NC 28302</td>
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<tr>
<td>April 13, 2016, 1:01 am</td>
<td>Departed USPS Facility</td>
<td>CHARLOTTE, NC 28228</td>
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<tr>
<td>April 13, 2016, 12:22 am</td>
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<td>CHARLOTTE, NC 28228</td>
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<td>April 12, 2016, 6:32 pm</td>
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<tr>
<td>April 12, 2016, 11:00 am</td>
<td>Acceptance</td>
<td>WILMINGTON, NC 28403</td>
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We attempted to deliver your item at 12:54 pm on April 14, 2016 in WILMINGTON, NC 28409 and a notice was left because an authorized recipient was not available. You may arrange redelivery by using the Schedule a Redelivery feature on this page or calling 1-800-ASK-USPS® or may pick up the item at the Post Office indicated on the notice. If this item is unclaimed by April 20, 2016 then it will be returned to sender.
Nixon and Connell Variance Request
September 13, 2016

Site Location

Department of Environmental Quality
Nixon-Connell Property

AIWW

View of Project Site Facing West
Photo: NC DCM Aerial Photography dated 1.29.16

DA-0257
View From Project Site Facing East
Photo: NC DCM On-Site

Department of Environmental Quality
Department of Environmental Quality
Department of Environmental Quality