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June 29, 2017

MEMORANDUM

CRC-17-20

TO: Coastal Resources Commission
FROM: Ken Richardson, *Shoreline Management Specialist*
SUBJECT: 15A NCAC 7J.1301 Development Line Procedures Amendments

On April 1, 2016, the CRC's Development Line Procedures rules became effective, giving oceanfront communities an alternative to the Static Vegetation Line Exception. Once approved by the CRC, a development line allows a community with a static vegetation line to then measure construction setbacks from first line of stable and natural vegetation, and site development no further oceanward than the development line.

At the April 27, 2017 CRC meeting, staff briefly discussed with the Commission a few recurring issues with the Development Line Procedures based on experience implementing this rule over the past year. As requested by the Commission, staff has summarized those issues and offers the following ideas should the Commission wish to pursue additional amendments to the rules.

Drawing the Development Line

The rule directs communities to "utilize an adjacent neighbor sight-line approach, resulting in an average line of structures. In areas where the seaward edge of existing development is not linear, the petitioner may determine an average line of construction on a case-by-case basis." As we have seen with the communities that have requested Development Lines so far, the seaward edge of existing development is not usually linear, and may vary by tens of feet between adjacent structures. This variation has resulted in approved Development Lines that may allow large numbers of structures to be moved oceanward, sometimes significantly. Staff's understanding is that the Commission did not intend to facilitate large-scale oceanward redevelopment under the Development Line rules. For comparison, rebuilding under the Static Line Exception rule is limited to being no farther oceanward than the landward-most adjacent neighbor. Under the current rules, Staff has had challenges assisting local governments when asked about mapping Development Lines, and how to interpret a "sight-line approach." Staff has developed a few alternative methods (Attachment A) for drawing a Development Line for the Commission to consider.

CRC Approval

The current Development Line rules focus more on procedures than on criteria and standards. As discussed above, the standard for how closely a Development Line must follow the actual line of structures is vague, and the guidance for drawing the line is subject to interpretation. While proposed Development Lines might diverge significantly from the actual alignment of structures,

the Commission has little basis to decline approval since the “adjacent neighbor sight-line approach” and “average line of structures” standards are subjective. Establishing more objective standards for drawing Development Lines will help convey the Commission’s intent to communities.

Staff Involvement

The current rules do not include a role for Staff other than receiving Development Line requests, confirming receipt, verifying that requests are complete, and maintaining a list of approved Development Lines. By comparison, the Static Line Exception rules (15A NCAC 7J .1200) include these and other substantive roles for Staff, including a presentation regarding the request and a recommendation to grant or deny the request based on the standards in the rules. Staff has made presentations at town council and staff meetings, and participated in a series of town planning committee meetings to better assist with understanding Development Line rules and mapping. However, Staff’s role only verifies that the petitioner is submitting required documentation and maps, and does not have the authority to request modifications when proposed development lines do not meet the intent of the sight-line definition. Staff believes that specific amendments to include the DCM in the Development Line review process would allow Staff to better assist local governments achieve the intent of the CRC, and assist the Commission’s review and approval process. At the Commission’s direction, Staff can include language in the Development Line rules to mirror Staff’s supporting role in the Static Line Exception rules.

Attachments:

(A) Maps Illustrating Development Line Concepts

Attachment (A)

Development Line: How to define “adjacent neighbor” or “line of construction”

1. **Possibility under current rule language (7J.1301(c)):** “Petitioner shall use an adjacent neighbor sight-line approach resulting in an average line of structures.” The line illustrated on the map below does not meet the intent of that standard, and could be challenged/denied on that basis. However, if approved, this scenario could potentially allow oceanward placement of new construction.



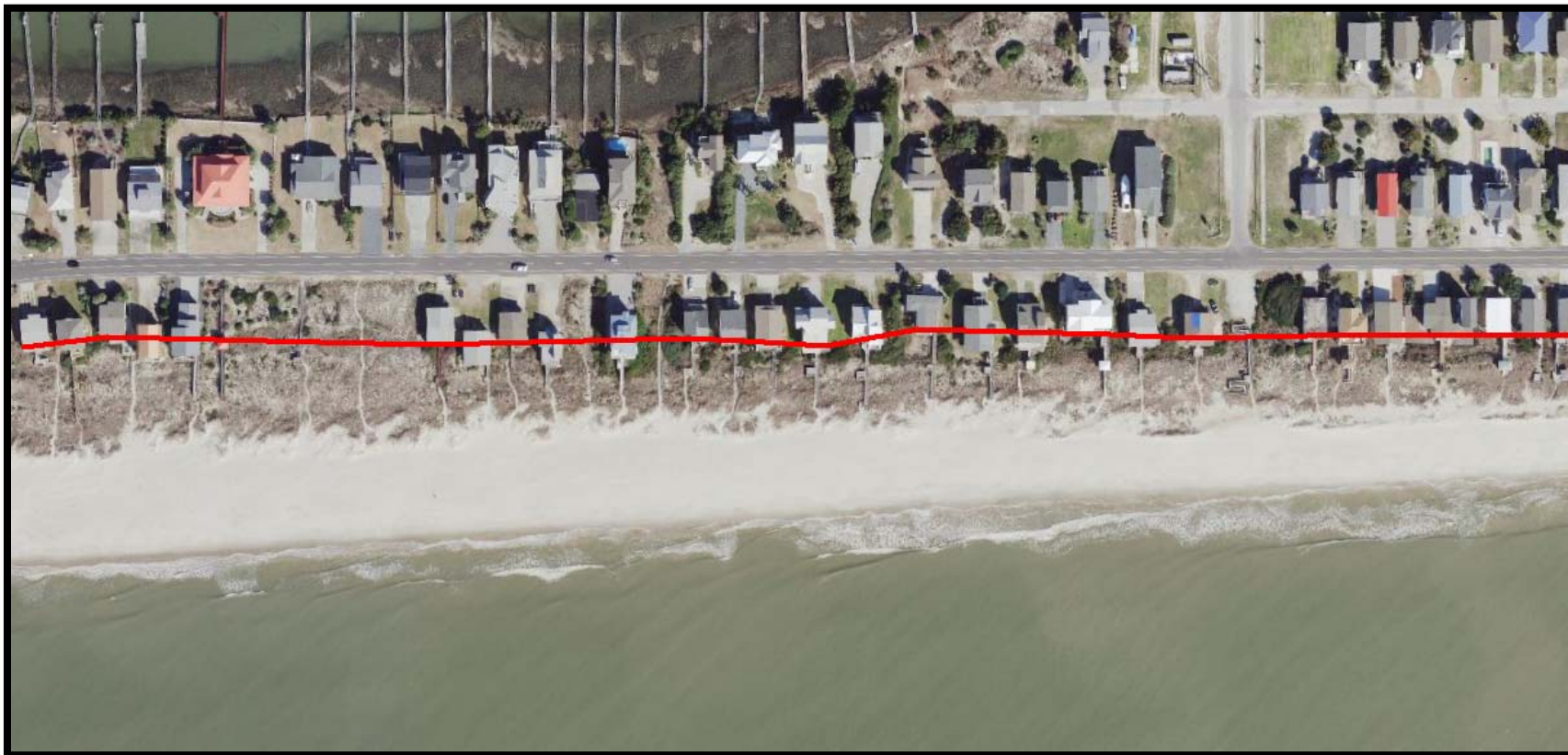
2. **Method #1: House-to-house or “stepwise”** – follow the oceanfront side of each structure (not decks or pools). Homes rebuilt would have to meet the line as initially mapped (previous structure/existing footprint).



3. **Method #2: Use a “Distance from Structure Rule”** – When adjacent neighbors include a more landward structure, this example illustrates a measurement of 10 feet from the most landward adjacent structure, and interpolate the DVL from corner of oceanward structure to the 10 feet point in front of more landward structure. The distance of 10’ is used as an example, not a recommendation. The idea is help with “smoothing” the stepwise approach. One concern with this method is choosing “the measurement distance,” so as not to promote oceanward encroachment.

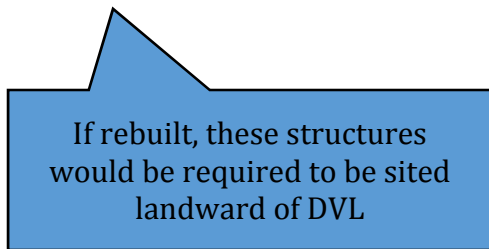


4. **Method #3: “Landward Most Adjacent Neighbor”** – this method is applied the same in Static Vegetation Line Exception.

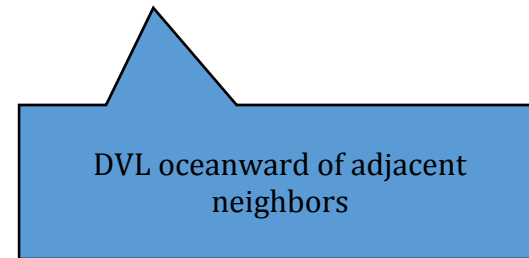


5. **Method #4: “Line of Sight”** – The closest to the initial intent of the Commission. Where structure placement is not linear in relation to the shoreline, the DVL is mapped using a smoothing method to interpolate an “average line of sight.” Additional amendments to rule language could better define mapping methodology.

6. **Method #5: “Distance measured from street-side reference feature (street center line, edge, or setback)”** – Method used by Oak Island. This method does not technically follow “average line of sight.”



If rebuilt, these structures would be required to be sited landward of DVL



DVL oceanward of adjacent neighbors