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TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: January 31, 2018 (for the February 13-14, 2018 CRC Meeting)

RE: **Variance Request by Richard & Valerie Heasley (CRC-VR-17-03)**

Petitioners Richard & Valerie Heasley (“Petitioners”) own a vacant oceanfront lot at 4017 East Beach Drive (the “Site”) in the middle portion of Oak Island. The property is located within the Commission’s Ocean Hazard Area of Environmental Concern (“AEC”). Much of Oak Island is subject to a “static line” following a large-scale beach nourishment project in 2001-02. Also, since September of 2016, the Town is subject to a “development line” following approval by the Commission.

Following Petitioners’ purchase of the Site in February of 2017, they filed a CAMA Minor Permit application in June of 2017, seeking to construct a single-family residence, a deck and a pool. On July 7, 2017, the Town of Oak Island’s Coastal Area Management Act (“CAMA”) Local Permitting Officer (“LPO”) denied Petitioner’s CAMA Minor Permit application as the proposed swimming pool, which is not allowed under the “development line rule” (if it doesn’t meet the static line) was inconsistent with the applicable setback rules, where the pool would not be landward of the static line. In August of 2017, Petitioners filed this variance petition in order to have the oceanfront setback rules varied so they could include the proposed swimming pool along with the proposed home (which does not need a variance). As part of the variance process, Petitioners have re-designed their layout to pull the proposed pool landward on the lot, but half the pool and decking still would require a variance.

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.): Richard & Valerie Heasley, Petitioners, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Donna Coleman, Town of Oak Island CAMA LPO, electronically



RELEVANT STATUTES OR RULES**APPENDIX A****15A NCAC 07H .0301 OCEAN HAZARD CATEGORIES**

The next broad grouping is composed of those AECs that are considered natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. **Ocean hazard areas include beaches**, frontal dunes, inlet lands, and other areas in which geologic, vegetative and soil conditions indicate a substantial possibility of excessive erosion or flood damage.

15A NCAC 07H .0302 SIGNIFICANCE OF THE OCEAN HAZARD CATEGORY

(a) The primary causes of the hazards peculiar to the Atlantic shoreline are the constant forces exerted by waves, winds, and currents upon the unstable sands that form the shore. During storms, these forces are intensified and can cause significant changes in the bordering landforms and to structures located on them. Ocean hazard area property is in the ownership of a large number of private individuals as well as several public agencies and is used by a vast number of visitors to the coast. Ocean hazard areas are critical, therefore, because of both the severity of the hazards and the intensity of interest in the areas.

(b) The location and form of the various hazard area landforms, in particular the beaches, dunes, and inlets, are in a permanent state of flux, responding to meteorologically induced changes in the wave climate. For this reason, **the appropriate location of structures on and near these landforms must be reviewed carefully in order to avoid their loss or damage. As a whole, the same flexible nature of these landforms which presents hazards to development situated immediately on them offers protection to the land, water, and structures located landward of them.** The value of each landform lies in the particular role it plays in affording protection to life and property. (The role of each landform is described in detail in Technical Appendix 2 in terms of the physical processes most important to each.) Overall, however, the energy dissipation and sand storage capacities of the landforms are most essential for the maintenance of the landforms' protective function.

15A NCAC 07H .0303 MANAGEMENT OBJECTIVE OF OCEAN HAZARD AREAS

(a) The CRC recognizes that absolute safety from the destructive forces indigenous to the Atlantic shoreline is an impossibility for development located adjacent to the coast. The loss of life and property to these forces, however, can be greatly reduced by the proper location and design of structures and by care taken in prevention of damage to natural protective features particularly primary and frontal dunes. Therefore, it is the CRC's objective to provide management policies and standards for ocean hazard areas that serve to eliminate unreasonable danger to life and property and achieve a balance between the financial, safety, and social factors that are involved in hazard area development.

(b) The purpose of these Rules shall be to further the goals set out in G.S. 113A-102(b), with particular attention to minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development. Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to and use of the lands and waters of the coastal area.

15A NCAC 07H .0304 AECS WITHIN OCEAN HAZARD AREAS

The ocean hazard AECs contain all of the following areas:

(1) Ocean Erodible Area. This is the area where there exists a substantial possibility of excessive erosion and significant shoreline fluctuation. The oceanward boundary of this area is the mean low water line. The landward extent of this area is the distance landward from the first line of stable and natural vegetation as defined in 15A NCAC 07H .0305(a)(5) to the recession line established by multiplying the long term annual erosion rate times 90; provided that, where there has been no long term erosion or the rate is less than two feet per year, this distance shall be set at 120 feet landward from the first line of stable natural vegetation. For the purposes of this Rule, the erosion rates are the long-term average based on available historical data. The current long-term average erosion rate data for each segment of the North Carolina coast is depicted on maps entitled "2011 Long-Term Average Annual Shoreline Rate Update" and approved by the Coastal Resources Commission on May 5, 2011 (except as such rates may be varied in individual contested cases or in declaratory or interpretive rulings). In all cases, the rate of shoreline change shall be no less than two feet of erosion per year. The maps are available without cost from any Local Permit Officer or the Division of Coastal Management on the internet at <http://www.nccoastalmanagement.net>.

15A NCAC 07H .0305 GENERAL IDENTIFICATION AND DESCRIPTION OF LANDFORMS

(a) This Paragraph describes natural and man-made features that are found within the ocean hazard area of environmental concern.

(1) Ocean Beaches. Ocean beaches are lands consisting of unconsolidated soil materials that extend from the mean low water line landward to a point where either: (A) the growth of vegetation occurs; or (B) a distinct change in slope or elevation alters the configuration of the landform, whichever is farther landward.

(2) Nearshore. The nearshore is the portion of the beach seaward of mean low water that is characterized by dynamic changes both in space and time as a result of storms.

(3) Primary Dunes. Primary dunes are the first mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level (in a storm having a one percent chance of being equaled or exceeded in any given year) for the area plus six feet. Primary dunes extend landward to the lowest elevation in the depression behind that same mound of sand (commonly referred to as the “dune trough.”)

(4) Frontal Dunes. The frontal dune is the first mound of sand located landward of the ocean beach that has stable and natural vegetation present.

(5) Vegetation Line. The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment. The Division of Coastal Management or Local Permit Officer shall determine the location of the stable and natural vegetation line based on visual observations of plant composition and density. If the vegetation has been planted, it may be considered stable when the majority of the plant stems are from continuous rhizomes rather than planted individual rooted sets. Planted vegetation may be considered natural when the majority of the plants are mature and additional species native to the region have been recruited, providing stem and rhizome densities that are similar to adjacent areas that are naturally occurring. In areas where there is no stable and natural vegetation present, this line may be established by interpolation between the nearest adjacent stable natural vegetation by on-ground observations or by aerial photographic interpretation.

(6) Static Vegetation Line. In areas within the boundaries of a large-scale beach fill project, the vegetation line that existed within one year prior to the onset of project construction shall be defined as the “static vegetation line.” The “onset of project construction” shall be defined as the date sediment placement begins, with the exception of projects completed prior to the effective date of this Rule, in which case the award of the contract date will be considered the onset of construction. A static vegetation line shall be established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo a large-scale beach fill project. Once a static vegetation line is established,

and after the onset of project construction, this line shall be used as the reference point for measuring oceanfront setbacks in all locations where it is landward of the vegetation line. In all locations where the vegetation line as defined in this Rule is landward of the static vegetation line, the vegetation line shall be used as the reference point for measuring oceanfront setbacks. A static vegetation line shall not be established where a static vegetation line is already in place, including those established by the Division of Coastal Management prior to the effective date of this Rule. A record of all static vegetation lines, including those established by the Division of Coastal Management prior to the effective date of this Rule, shall be maintained by the Division of Coastal Management for determining development standards as set forth in Rule .0306 of this Section. Because the impact of Hurricane Floyd (September 1999) caused significant portions of the vegetation line in the Town of Oak Island and the Town of Ocean Isle Beach to be relocated landward of its pre-storm position, the static line for areas landward of the beach fill construction in the Town of Oak Island and the Town of Ocean Isle Beach, the onset of which occurred in 2000, shall be defined by the general trend of the vegetation line established by the Division of Coastal Management from June 1998 aerial orthophotography.

(7) Beach Fill. Beach fill refers to the placement of sediment along the oceanfront shoreline. Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule. A “large-scale beach fill project” shall be defined as any volume of sediment greater than 300,000 cubic yards or any storm protection project constructed by the U.S. Army Corps of Engineers.

(8) Erosion Escarpment. The normal vertical drop in the beach profile caused from high tide or storm tide erosion.

(9) Measurement Line. The line from which the ocean hazard setback as described in Rule .0306(a) of this Section is measured in the unvegetated beach area of environmental concern as described in Rule .0304(3) of this Section. Procedures for determining the measurement line in areas designated pursuant to Rule .0304(3) of this Section shall be adopted by the Commission for each area where such a line is designated pursuant to the provisions of G.S. 150B. These procedures shall be available from any local permit officer or the Division of Coastal Management. In areas designated pursuant to Rule .0304(3)(b) of this Section, the Division of Coastal Management shall establish a measurement line that approximates the location at which the vegetation line is expected to reestablish by: (A) determining the distance the vegetation line receded at the closest vegetated site to the proposed development site; and (B) locating the line of stable and natural vegetation on the most current pre-storm aerial photography of the proposed development site and moving this line landward the distance determined in Subparagraph (a)(1) of this Rule. The measurement line established pursuant to this process shall in every case be located landward of the average width of the beach as determined from the most current pre-storm aerial photography.

(10) Development Line. The line established in accordance with 15A NCAC 07J .1300 by local governments representing the seaward-most allowable location of oceanfront development. In areas that have development lines approved by the CRC, the vegetation line or measurement line

shall be used as the reference point for measuring oceanfront setbacks instead of the static vegetation line, subject to the provisions of Rule 07H .0306(a)(2) of this Section.

(b) For the purpose of public and administrative notice and convenience, each designated minor development permit-letting agency with ocean hazard areas may designate, subject to CRC approval in accordance with the local implementation and enforcement plan as defined in 15A NCAC 07I .0500, an identifiable land area within which the ocean hazard areas occur. This designated notice area must include all of the land areas defined in Rule .0304 of this Section. Natural or man-made landmarks may be considered in delineating this area.

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

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

(1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.

(2) In areas with a development line, the ocean hazard setback shall be set in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.

(3) In no case shall a development line be created or established on state owned lands or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.

(4) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:

(A) The total square footage of heated or air-conditioned living space;

(B) The total square footage of parking elevated above ground level; and

(C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

(5) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:

(A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

- (a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met:

- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations' and meets all other non-setback requirement of this Subchapter.

STIPULATED FACTS**ATTACHMENT B**

1. Petitioners Richard & Valerie Heasley ("Petitioners") own a vacant oceanfront lot located at 4017 East Beach Drive (the "Site") near SE 40th Street in the Town of Oak Island ("Town"), Brunswick County, North Carolina. (Lot 9, Block 17, Section 2 of Long Beach). The Site was platted in June of 1963, and is shown on a plat map recorded at Map Book 1, Pages 96-99 of the Brunswick County Registry, a copy of which is attached as a stipulated exhibit.
2. Petitioners purchased the Site on February 17, 2017, as evidenced by a deed recorded at Book 3873, Page 623 of the Brunswick County Registry, a copy of which is attached as a stipulated exhibit.
3. The Site as platted is 50 feet wide by 150 feet deep, for a total of 7,500 square feet (or .17 acres), as shown on a survey prepared by Licensed Professional Land Surveyor Joey Brochure of Island Surveyors, Inc. PA (the "Site Survey"), a copy of which is included as part of Petitioner's CAMA Minor Permit application. The CAMA Minor Permit application including the Site Survey is attached as stipulated exhibits. The Site is serviced by sewer, not septic.
4. The Site is in Flood Zone VE 19 as shown on the Site Survey.
5. The Site is in a developed area along the oceanfront, with an existing residence on the west side and a vacant lot on the east side. The 1,898 square foot residence to the west was built in 1984 per the tax card and there is no pool on this lot. The currently-vacant lot on the east side was recently issued a CAMA permit for a home and deck, as well as a pool on the street-side of the house. A copy of the CAMA permit and Site Plan is attached as a stipulated exhibit.
6. The Lot is within the Ocean Erodible Area of Environmental Concern ("AEC"), a subcategory of the Ocean Hazard AEC designated by the Coastal Resources Commission ("CRC") in 15A NCAC 7H .0304.
7. N.C.G.S. § 113A-118 requires that a CAMA permit be obtained before any development takes place in an AEC.
8. On or about June 29, 2017, Petitioners applied to the Town's CAMA Local Permit Officer (LPO) for a CAMA minor development permit to develop a 2-story, piling-supported single family residence with a 28' by 34' footprint (952 sq ft x 2 = 1,904). Petitioners also proposed an 8' by 34' oceanfront deck and a 12' by 25' pool with an associated 6' wide concrete apron around the pool and a 6' by 12' concrete pad on the east side of the pool. This would result in a total footprint 60' deep on the Site (28' house + 8' deck + 6' deck + 12' pool + 6' deck). A copy of the Petitioners' CAMA Minor Permit application is attached as a stipulated exhibit.
9. On the application survey, the "development line" was labeled and was approximately 1' waterward of the waterward edge of the pool apron. The "static line" was shown and was

labeled “1998 Vegetation Line.” The “actual” vegetation line was located approximately 98’ waterward of the development line.

10. In June of 2017, before submitting his CAMA permit application, Petitioner reviewed two proposed site plans offered by their surveyor, including one that pulled the proposed house back to the 15’ street side setback and one that had the rear of the house 25’ from the street side setback. Petitioner chose to submit the plan with 25’ between the street right of way and the rear of the house in order to have a larger parking area for five cars. A copy of the rejected 15’ site plan is attached with email from surveyor. Section 18-148 of the Town’s ordinances requires two minimum off-street parking spaces for up to three habitable rooms and an additional parking space for each additional habitable room (excluding kitchens, hallways, bathrooms & closets).

11. As required, Petitioner claims that he gave notice of the permit application to the two adjacent riparian property owners and both acknowledged notice, though no copies of this notice can be located at this time. Notice was also posted on site and no public comments were received.

12. On July 7, 2017, the Town’s CAMA LPO denied Petitioner's application as the proposed swimming pool does not comply with 15A NCAC 07H .0306(a) which prohibits construction of a swimming pool seaward of the applicable vegetation line (which in this case is the “static line”). While a “development line” allows for residences to build to the development line, the Commission’s development line rule does not specifically allow pools which are landward of the development line and waterward of the applicable vegetation line. Petitioner's application was also denied based on being inconsistent with the Town’s CAMA Land Use Plan policy I.112 which says that “The Town will continue to enforce the dune preservation Ordinance (Chapter 14, Article III of the Town Code). A copy of the denial letter is attached as a stipulated exhibit.

13. Since it was first adopted in 1979, the Commission has required an erosion setback (“Erosion Setback”) requirement that applies to development along the oceanfront. 15A NCAC 7H .0306(a).

14. The Erosion Setback is generally measured from the FLSNV. “This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and more stable upland areas. [It] is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment.” 15A NCAC 7H .0305(a)(5).

15. The FLSNV on the Lot was staked by CAMA LPO Donna Coleman for this permit application and associated survey. It is located waterward of the lot and is labeled “first line of vegetation/top of dune” on the survey.

16. Generally, structures measuring less than 5,000 square feet must be set back a distance of 30 times the long-term annual erosion rate affecting the Lot from the FLSNV. 15A NCAC 07H .0306(a)(5)(A).

17. The average annual erosion rate for the Lot is 2 feet per year. Therefore, the Erosion Setback applicable to the Lot, for the 1,904 square foot “total floor area” building is 60 feet (30 years x 2 feet).

18. During the 1990’s, the Town was impacted by a series of hurricanes, including major hurricanes Fran (1996) and Floyd (1999).

19. In the winter of 2001-02, the U.S. Army Corps of Engineers (“Corps”) began a “Section 933” spoil deposition project on the oceanfront at Oak Island. This project was completed in March of 2002. The project met the definition of a “large scale spoil deposition project” under the CRC’s ocean hazard rules as it was defined at that time, and so the area within the bounds of the project were subject to the use of a “static line” for determining CAMA ocean erosion setbacks. Attached aerial photographs of the Site taken from the time of this large scale project are attached as a Stipulated Exhibit with the Site’s parcel lines overlain on the historic photographs.

20. The applicable “static line” for Oak Island is based on 1998 pre-storm aerial photography instead of the 2001 hurricane-impacted pre-project vegetation line location. See 15A NCAC 7H .0305(a)(6). At the request of the Town, the Commission allowed the use of 1998 pre-storm aerial photography to determine the location of the vegetation line to be used as the static line, as the 2001 line was still largely a result of Hurricane Floyd-caused erosion in 1999. The Commission felt it was more fair to use the 1998 location instead of the Floyd-impacted location from 2001.

21. As an alternative to the “static line” rule for communities with demonstrated long-term nourishment projects, the Commission developed the “static line exception” rule at 15A NCAC 7H .0306(a)(12). The Town of Oak Island has not petitioned the Commission for a “static line exception” designation, which requires a long-term nourishment plan and associated funding, which to date, the Town lacks. The “static line exception” rules specifically did NOT apply to the development of swimming pools per 15A NCAC 7H .0306(a)(12)(D).

22. As an alternative to the “static line exception” rule, the Commission recently developed the “development line” rule, which became effective on April 1, 2016, and was codified as 15A NCAC 7H .0305(a)(10) and 7H .0306(a)(12). This rule allows for development of a residence up to the development line location. However, the Commission did not specifically include swimming pools as development subject to the development line rule. Instead, swimming pool development is controlled by 15A NCAC 7H .0309(a) which states that “In all cases, this development [including swimming pools] shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable. . .”

23. At the September 2016 meeting of the Commission, the Commission granted the Town of Oak Island's request for a development line. This approval was memorialized in a September 23, 2017 decision letter from CRC Counsel, a copy of which is attached.

24. The CRC's rules governing variance procedures require that "[b]efore filing a petition for a variance from a rule of the Commission, the person must seek relief from local requirements restricting use of the property, and there must not be pending litigation between the petitioner and any other person which may make the request for a variance moot." 15A NCAC 7J .0701(a).

25. The Town has a front yard/building setback of 15 feet ("Town Setback") for oceanfront lots zoned R-7 (which is different from other R-7 lots which have a 25-foot setback). While Petitioners sought a variance from the Town's Board of Adjustment, they were incorrectly advised by the Town's Zoning Administrator to seek a variance from this Commission's setback rules and not from Town setback ordinances. Correctly, the zoning administrator advised, and the Board of Adjustment denied Petitioners' variance request for lack of jurisdiction to vary this Commission's rules. See the Board of Adjustment Packet in the attached Stipulated Exhibits.

26. Petitioners gave notice to their adjacent riparian owners they were seeking a Town Variance. On June 29, 2017, the Town's Board of Adjustment unanimously denied Petitioners' request for a variance. A copy of the Town's order is attached as a stipulated exhibit.

27. Petitioners contend that moving their development closer than 15' from the road is too close and so do not wish to relocate their development landward any amount, and not closer than the current 15' town setback. Petitioners were given the option to seek a new, correct local variance in September of 2017, but declined to do so and instead, seek a variance from the Commission's procedural rules requiring a local variance be sought before applying for a CAMA variance.

28. Aerial and ground-level photographs of the Lot and the surrounding properties are attached as exhibits and as part of the powerpoint exhibit.

29. Aerial photography on Google Earth (dated October 2016) shows that the nearest existing oceanfront swimming pools are located 1.59 miles to the east (at St. James Plantation Beach Club between SE 71st and SE 72nd Streets) and located 0.93 miles to the west (at 25th Place East).

30. Petitioners stipulate that their proposed development does not comply with the Commission's ocean erosion setback rules including 15A NCAC 7H .0309(a) which requires swimming pools to be landward of the 1998 Town of Oak Island static line on the Site. Petitioners also stipulate that this variance petition does not include proof that they sought local variance relief from applicable streetside setbacks, as required by 15A NCAC 7J .0701.

31. Petitioners have notified both adjacent owners that they are applying for this variance from the Commission. Copies of the letters and the associated “green cards” and tracking information is attached as stipulated exhibits.

32. As part of this variance request, Petitioner offers an “Alternative Site Plan” that he would accept if the Commission is willing to grant a variance. This “Alternative Site Plan” is attached and the seal is dated October 30, 2017. This “Alternative Site Plan” pulls the house landward to the 15’ street side setback (as far back as allowed without a local variance), and the static line bisects the pool in half (with approximately 6’ of pool and 6’ of concrete apron waterward of the static line).

33. Petitioner seeks a variance from 1) the Commission’s procedural rule at 15A NCAC 7J.0701 requiring that a variance petition first seek local relief (though a street-side setback variance in this case) before their CAMA variance application is complete, and 2) a variance from the Commission’s oceanfront setback rules, requiring development (including swimming pools) to be set back behind the applicable line (in this case, the static line).

34. On October 18, 2017, Petitioner sent notice of this Alternative Site Plan to his two adjacent riparian owners. To date, no comments have been received by DCM Staff.

35. Without a variance from this Commission, Petitioners can construct a pool landward of the proposed house, similar to what is permitted on the adjacent lot to the east. Also without a variance from this Commission, Petitioners can still construct the proposed house and deck in their originally proposed locations (per the application drawing), and omit the pool. Petitioners could also omit the proposed “deck or porch” and pull the swimming pool landward of the static line. Petitioners could also seek a variance from the local street-side setback to reduce the size of the variance requested (i.e. 5’ local variance = 10’ street-side setback area and CAMA variance of 7’ CAMA variance).

36. In this matter, the Division of Coastal Management is represented by Christine Goebel, Assistant General Counsel for DEQ. The Petitioners are representing themselves.

Stipulated Exhibits

1. Heasley Deed recorded at Book 3873, Page 623 of the Brunswick County Registry
2. Plat Maps Book 1, Pages 96-99
3. CAMA Minor Permit Application, including Site Survey
4. Survey considered and rejected by Petitioner with house at 15' setback
5. CAMA Permit with site plan for owners to the east
6. July 7, 2017 CAMA permit denial letter
7. Development Line Approval Letter from CRC Counsel, September 2016
8. June 13, 2017 Town Variance Application, notice to adjacent owners and Denial Letter and copy of Board of Adjustment meeting minutes.
9. Notice of CAMA Variance to adjacent owners - signed green cards
10. GIS parcel boundaries overlain on aerial photos from 1998 and 2016, showing historic shorelines.
11. Powerpoint presentation with ground and aerial photos of the Site
12. Alternative Site Plan proposed by Petitioner during variance process
13. Notice of Alternative Site Plan sent to riparian neighbors on October 18, 2017

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.

The strict application of the 1998 static vegetation line limiting where the pool can be placed will cause great monetary and personal hardship because we will not be able to build our dream beach house and pool within our budget on the lot we purchased. We hope to build a basic 28x34 (1904 square foot) beach house with pool and porches ocean side to enjoy the views. We plan to use it as a rental most of the year in order to recoup our investment and to generate retirement income. However, it's more than a rental investment to us. We also hope to enjoy it a few times a year making memories with friends and family becoming part of the community after retirement. The rental management company and builder both say this size house with a pool oceanside is in high demand for rentals. The current rule sets the pool in the center of the buildable footprint space making it impossible. The now static vegetation line serves no purpose for our property's protection. As you can see from the photos it has a great dune protection seaward of the development line. We are a great proponent of costal [sic] management and will maintain and improve on the natural vegetation extending seaward of the current static vegetation line. We have tried all configuration's to this property, to make reasonable use of with pool and found none.

Staff's Position: Yes.

1) As an initial matter, Petitioners seek a variance from the Commission's procedural variance rule at 15A NCAC 7J .0701(a), which requires that before seeking a variance from the Commission, a Petitioner "must seek relief from local requirements restricting use of the property..." In this case, while Petitioners sought a variance from the Town of Oak Island, they were incorrectly directed by Town Staff to seek a variance from this Commission's rules with the Town's Board of Adjustment, which was denied on June 29, 2017 as the Board understood it lacked the authority to vary this Commission's setback rules. Instead, Petitioners could have sought a variance from the Town's front (road-side) setback of 15' in the several months that have passed before seeking this variance, in order to slide the proposed development footprint landward and eliminating/reducing the size of the variance sought from this Commission. However, Staff acknowledge that the Town has essentially granted a variance from its street-side setback through an ordinance which reduces the street-side setback for all oceanfront lots. Due to this ordinance, Staff contend that the Commission should proceed with this variance without first requiring that Petitioner seek a local variance from the street-side setback.

2) Petitioners seek a variance from the Commission's oceanfront setback rules, specifically 15A NCAC 07H .0309, which prohibit development of a pool waterward of the Town of Oak

Island's 1998 static vegetation line. The Town's 1998 Static Line was the location of the first line of stable, natural vegetation as it existed in 1998, before both Hurricane Floyd in 1999 and the Town's 2001-02 large-scale nourishment project. This large-scale project was a one-time project and not part of a long-term nourishment plan, and the Town has not received another large-scale nourishment since the 2001-02 project. As it lacks a long-term nourishment plan, the Town of Oak Island never applied for the Static Line Exception. Instead, the Town adopted a Development Line in September 2017, and that is what allows Petitioners to build the house and deck as proposed. However, in creating both the Static Line Exception rules and the Development Line rules, the Commission very specifically chose not to include swimming pools as allowable development covered by those exceptions to the ocean erosion setback. The Commission's rules at 15A NCAC 07H .0309, which are exceptions to the oceanfront erosion setback, allow swimming pools, but only as long as they are located landward of the FLSNV or the static line as applicable.

The Commission's rules regarding the Ocean Hazard AEC acknowledge that shoreline erosion is part of the oceanfront system, and the intent of the rules is "minimizing losses to life and property resulting from storms and long-term erosion, preventing encroachment of permanent structures on public beach areas, preserving the natural ecological conditions of the barrier dune and beach systems, and reducing the public costs of inappropriately sited development" (15A NCAC 07H .0303(b)).

Staff contend that Petitioners do not face an unnecessary hardship by not being able to include a swimming pool waterward of their proposed home and deck as proposed (both initially during permit review and the alternative design). As evidenced by the location of the Static Line (the location of the FLSNV in 1998, before Hurricane Floyd, which eroded the FLSNV even further), this Site has experienced significant erosion in the past. While this portion of Oak Island has been largely untested by storm-caused erosion since 1999, the Site will continue to be impacted by coastal storms and chronic erosion that may result in the swimming pool being undermined or eventually located on the public beach. In addition, the Town of Oak Island does not have a long-term renourishment permit or plan.

Staff believe that not having an oceanfront pool is not an "unnecessary hardship" as required by this statutory criterion. Without a variance from this Commission, the Petitioners could place the pool along the side of the house or between the house and street following the example set by the house to the east. (See Facts 5 & 35) For these reasons, staff contend that the strict application of the Commission's oceanfront setback rules does not cause Petitioners' any unnecessary hardships.

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

Petitioners' Position: Yes.

The 1998 vegetation line is no longer protective but causes a hardship for us by restricting our footprint. We were shocked and dumbfounded to find a 1998 line that no longer seems relevant and prevents us from being able to put a pool past the center of the buildable area. Especially when we were first attracted to the property by the impressive dunes with mature vegetation. The dunes on the lot are over 8-10 ft. high and at least 30 to 40 ft. deep. The building footprint is 34 ft. wide and 70 ft. long. We need more than a 15ft. set back to handle 5 vehicles and build the house large enough to accommodate families – like our own 4 grown children and their expanding families (3 grandchildren) and a pool. A ground pool is more economical and assessable [sic] for those with handicaps and the elderly (we hope my wife's parents in their 80s can visit) and makes it safer and easier for families, especially with children going back and forth from the ocean to the pool. We also intend to use the pool for health reasons because we suffer from chronic arthritis and joint pain.

Staff's Position: No.

Staff disagree that the 1998 static vegetation line is a condition peculiar to the property. Instead, it is the post-nourishment line used to measure setbacks at the Site. Initially, the pre-project line used for setbacks was the location of the vegetation line at the start of the 2001-02 nourishment project. However, this Commission gave relief to the Town by acknowledging that the 2001-02 vegetation line was largely a result of 1999's Hurricane Floyd, and so agreed to use the 1998 (pre-Floyd) position of the vegetation line as the Static Line. So the 1998 line is not even the farthest landward that the first line of stable, natural vegetation has been on the Site. The Commission, in authorizing nourishment projects, wanted to prevent development-creep on renourished beaches, understanding that beach renourishment is only a temporary fix. Even when renourishment projects have largely stabilized, the underlying processes of beach erosion and the potential for future storms remain. In the long-term, further erosion at the Site is likely and therefore the Static Line is not irrelevant or outdated, especially where the Town lacks a long-term beach renourishment plan. Staff identify no peculiar conditions on the property which cause Petitioners' hardship.

Petitioners' health conditions and family make-up are not physical conditions of the property, such as size, location or topography, and so are not proper for consideration by the Commission in deciding this statutory criterion.

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

Petitioners' Position: No.

The hardship is not self-imposed, we just need to be able to build a reasonable house that suits our needs and is well within the buildable footprint.

Staff's Position: Yes.

Staff believe any hardships alleged by Petitioners would be entirely self-imposed. Rather than redesigning the site layout to place the pool on the street-side of the house and alleviating the need for a variance (as the adjacent owner has done), Petitioner seeks to have both a closer view of the ocean as well as a pool. The proposed location of the pool is waterward of where the natural vegetation line was in 1998 (Pre-Floyd). Staff also note that Petitioner can, without a variance, build the house and deck as proposed, landward of the development line, and so it is entirely the Petitioners' choice to seek the proposed house, deck and pool where proposed and not pull the development back on the lot. Finally, there are no existing oceanfront pools near the Site (see Fact 29), and so they will not be at a disadvantage in the rental market compared to those oceanfront rentals in this 2+ mile long area.

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

Petitioners' Position: Yes.

We believe this request is in the spirit of the ordinance since the property now has an exceptionally large dune to protect it a good distance from the building area. The home we wish to build is not out of the ordinary, but what anyone would expect to enjoy such a beautiful setting. We have tried every possible shift and configuration and cannot find another way. We cannot leave out porches, parking, or make the house 16ft. deep! – and still have a rentable, or even usable home.

Staff's Position: No.

Staff contends that granting a variance to Petitioners in order to vary the Commission's oceanfront erosion setback rules so that Petitioners can add approximately 186 square feet of new decking and half of the proposed pool is not consistent with the spirit, purpose, and intent of the Commission's rules. The Commission's rules have provided an oceanfront erosion setback since 1979, and the Commission has already allowed two exceptions to the static line with the Static Line Exception rule and the Development Line rule. Petitioner is already utilizing the Development Line Rule in order to build the proposed beach cottage as an exception to the static

line setback. However, in drafting both the Static Line Exception Line Rule and the Development Line Rule, the Commission specifically did not include swimming pools. The location of the static line is where the FLSNV existed in 1998, and while the Town has been fortunate in avoiding significant erosion at the Site since the 2001-02 large-scale beach project, the Commission's rules are based on concerns that the FLSNV will eventually erode landward again, especially where the Town lacks a long-term nourishment plan. While the additional decking and pool area proposed may seem like a small amount of square footage, there are other locations to place the pool that would not require a variance.

Staff contend that granting a variance will not secure public safety and welfare where it will be authorizing inappropriately sited development that can interfere with the public trust beach, be at greater risk for loss of property for both Petitioners and their neighbors with more structure in harm's way. It and may become a cost to the public if the public will have to pay to remove the deck and pool as future post-storm debris, or result in future applications for erosion control structures that further impact beach processes, public access, and public expenditures.

Finally, Staff contend that granting a variance would not preserve substantial justice where the Commission's rules already make several exceptions for structures that do not have to meet the oceanfront erosion setback rule, but this request for an "exception to the exceptions" would go further and allow a swimming pool waterward of the Static Line.

**ATTACHMENT D:
PETITIONERS' VARIANCE REQUEST MATERIALS**

DCM FORM 11
(revised 6/26/06)

CAMA VARIANCE REQUEST

DCM FILE NO.

Petitioner supplies the following information:

Your Name *Rick and Valerie Heasley*
 Address *122 S. 7th Ave Paden City W.V. 26159*
 Telephone *(304) 337-9123* cell *(304) 771-2673*
 Fax and/or Email *rwheasley@suddenlink.net*

Name of Your Attorney (if applicable)

Address

Telephone

Fax and/or Email

Have you received a decision from the Division of Coastal Management (DCM) or a Local Permit Officer denying your application for a CAMA permit?

no (You are not entitled to request a variance until your permit application has been denied.)

yes (You may proceed with a request for a variance.)

What did you seek a permit to do? *Extend the static vegetation line 18-20 feet seaward on my buildable footprint to install a pool*

What Coastal Resources Commission rule(s) prohibit this type of development?

NCGS 113A-120(a)(8)

15 NCAC 7H, 0309(a)

Rule .0306(a)(9)

Local Land Use Plan - I. 112 pg 5-39

Can you redesign your proposed development to comply with this rule? NO If your answer is no, explain why you cannot redesign to comply with the rule. *The static vegetation line runs through the middle of my development footprint 34' x 70'. The static line is 42' from the required 15' setback line. To do what I wish to do my home would be 16' deep and unbuildable.*

Can you obtain a permit for a portion of what you wish to do? NO If so, please state what the permit would allow.

State with specificity what you are NOT allowed to do as a result of the denial of your permit application. It will be assumed that you can make full use of your property, except for the uses that are prohibited as a result of the denial of your permit application. *To have my pool past the 1998 Static Vegetation line, I need 18-20' seaward well within the 34'x70' footprint.*

RESPOND TO THE FOUR STATUTORY VARIANCE CRITERIA:

- See
Hack
variance
response*
- I. Identify the hardship(s) you will experience if you are not granted a variance and explain why you contend that the application of this rule to your property constitutes an unnecessary hardship. [The North Carolina Court of Appeals has ruled that this factor depends upon the unique nature of the property rather than the personal situation of the landowner. It has also ruled that financial impact alone is not sufficient to establish unnecessary hardship, although it is a factor to be considered. The most important consideration is whether you can make reasonable use of your property if the variance is not granted. [*Williams v. NCDENR, DCM, and CRC*, 144 N.C. App. 479, 548 S.E.2d 793 (2001).]
 - II. Describe the conditions that are peculiar to your property (such as location, size, and topography), and cause your hardship.
 - III. Explain why your hardship does not result from actions that you have taken.
 - IV. Explain why the granting of the variance you seek will be consistent with the spirit, purpose, and intent of the CRC's rules, standards, or orders; preserve substantial justice; and secure public safety.

Please attach copies of the following:

Permit Application and Denial documents
 Site Drawing with Survey and Topographical Information
 Any letters filed with DCM or the LPO commenting on or objecting to your project

Provide a numbered list of all true facts that you are relying upon in your explanation as to why you meet the four criteria for a variance. Please list the variance criterion, ex. unnecessary hardship, and then list the relevant facts under each criterion. [The DCM attorney will also propose facts and will attempt to verify your proposed facts. Together you will arrive at a set of facts that both parties agree upon. Those facts will be the only facts that the Commission will consider in determining whether to grant your variance request.]

Attach all documents you wish the Commission to consider in ruling upon your variance request. [The DCM attorney will also propose documents and discuss with you whether he or she agrees with the documents you propose. Together you will arrive at a set of documents that both parties agree upon. Those documents will be the only documents that the Commission will consider in determining whether to grant your variance request.]

Pursuant to N.C.G.S. 113A-120.1 and 15A NCAC 7J .0700, the undersigned hereby requests a variance.

Date: 7/20/17

Signature: 


This variance request must be filed with the Director, Division of Coastal Management, and the Attorney General's Office, Environmental Division, at the addresses shown on the attached Certificate of Service form.

CERTIFICATE OF SERVICE

I hereby certify that this Variance Request has been served on the State agencies named below by United States Mail or by personal delivery to the following:

Original served on: Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

copy: Attorney General's Office
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

This the 20 day of July, 20 17.



Signature of Petitioner or Attorney

CAMA VARIANCE REQUEST

DEAR DIRECTOR FOR THE DIVISION FOR COSTAL MANAGEMENT AND ATTORNEY
GENERAL OFFICE ENVIRONMENTAL DIVISION

1. The strict application of the 1998 static vegetation line limiting where the pool can be placed will cause great monetary and personal hardship because we will not be able to build our dream beach house and pool within our budget on the lot we purchased. We hope to build a basic 28x34 (1904 square foot) beach house with pool and porches ocean side to enjoy the views. We plan to use it as a rental most of the year in order to recoup our investment and to generate retirement income. However, it's more than a rental investment to us. We also hope to enjoy it a few times a year making memories with friends and family becoming part of the community after retirement. The rental management company and builder both say this size house with a pool oceanside is in high demand for rentals. The current rule sets the pool in the center of the buildable footprint space making it impossible. The now static vegetation line serves no purpose for our property's protection. As you can see from the photos it has a great dune protection seaward of the development line. We are a great proponent of costal management and will maintain and improve on the natural vegetation extending seaward of the current static vegetation line. We have tried all configuration's to this property, to make reasonable use of with pool and found none.
2. The 1998 vegetation line is no longer protective but causes a hardship for us by restricting our footprint. We were shocked and dumbfounded to find a 1998 line that no longer seems relevant and prevents us from being able to put a pool past the center of the buildable area. Especially when we were first attracted to the property by the impressive dunes with mature vegetation. The dunes on the lot are over 8-10 ft. high and at least 30 to 40 ft. deep. The building footprint is 34 ft. wide and 70 ft. long. We need more than a 15ft. set back to handle 5 vehicles and build the house large enough to accommodate families -like our own 4 grown children and their expanding families (3 grandchildren) and a pool. A ground pool is more economical and assessible for those with handicaps and the elderly (we hope my wife's parents in their 80s can visit) and makes it safer and easier for families, especially with children going back and forth from the ocean to the pool. We also intend to use the pool for health reasons because we suffer from chronic arthritis and joint pain.
3. The hardship is not self-imposed, we just need to be able to build a reasonable house that suits our needs and is well within the buildable footprint.
4. We believe this request is in the spirit of the ordinance since the property now has an exceptionally large dune to protect it a good distance from the building area. The home we wish to build is not out of the ordinary, but what anyone would expect to enjoy such a beautiful setting. We have tried every possible shift and configuration and cannot find another way. We cannot leave out porches, parking, or make the house 16ft. deep! - and still have a rentable, or even usable home.

We have been dreaming of living on the ocean for a long time and after searching up and down the coast choice Oak Island to be our dream destination. We have fallen in love with the area for its small-town atmosphere, kind, friendly people and the beauty all around. We hope to become both part of this wonderful community and economy.

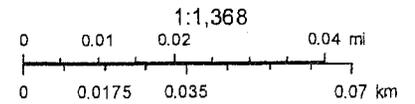
Thank you,
Rick and Valerie Heasley
06/12/17

Brunswick County GIS Data Viewer



June 14, 2017

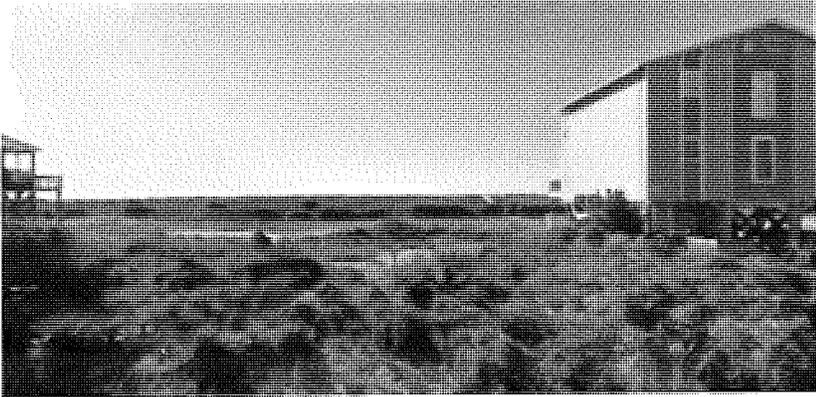
- | | | | | |
|--------------|------------|---------|-------------------|-----------------|
| ■ Addresses | — US Hwy | Minor | Parcel | ■ Green: Band_2 |
| — Roads | — NC Hwy | Parcels | ■ County Boundary | ■ Blue: Band_3 |
| — Interstate | State Road | Condo | ■ Red: Band_1 | |



Google Maps 4017 E Beach Dr



Imagery ©2017 Google, Map data ©2017 Google United States 50 ft



4017 E Beach Dr
Oak Island, NC 28465



ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT



Brenda M. Clemmons Register of Deeds
02-17-2017 12:21:00.001 Brunswick County, NC
NC REVENUE STAMP: \$406.00 (#519706)

Presenter G+K Ret: BK
Total 26 Rev 406 Int. 55
Ck \$ 432 Ck # 10954 Cash \$ _____
3 Refund: _____ Cash \$ _____ Finance _____
 Portions of document are illegible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or copied.

NORTH CAROLINA GENERAL WARRANTY DEED

This instrument prepared by Geddings & Kleva, PLLC, licensed North Carolina attorneys. Delinquent taxes, if any, to be paid by the closing attorney to the Brunswick County Tax Collector upon disbursement of closing proceeds.

Excise Tax: \$ 406.00
Brief Description For The Index: **L-9 B-17 S-2**

Parcel ID: **249DG017**

THIS DEED made by and between,

GRANTOR

Linda W. Crowe and husband, Phillip E. Crowe
31 Locust Grove Road
Weaverville, NC 28787

GRANTEE

Richard W. Heasley and wife, Valerie L. Heasley
122 S 7th Ave.
Paden city, WV 26159

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

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple all that certain lot or parcel of land situated in Brunswick County, North Carolina and more particularly described in EXHIBIT A, attached hereto and made a part hereof.

Geddings & Kleva, PLLC
8721 East Oak Island Drive, Oak Island, North Carolina 28465



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

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

- 1- Ad valorem taxes for the current year;
- 2- Restrictions, easements and rights-of-way of record.

The property being conveyed is ___/ is not _XX_ the seller's primary residence.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written.

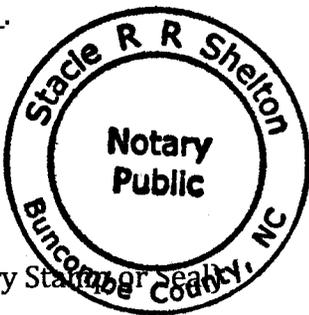
Linda W. Crowe (SEAL)
Linda W. Crowe

Phillip E. Crowe (SEAL)
Phillip E. Crowe



STATE OF North Carolina
COUNTY OF Buncombe

I, the undersigned Notary Public of the County and State aforesaid, certify that **Linda W. Crowe and Phillip E. Crowe** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 10 day of February, 2017.



(Notary Stamp or Seal)

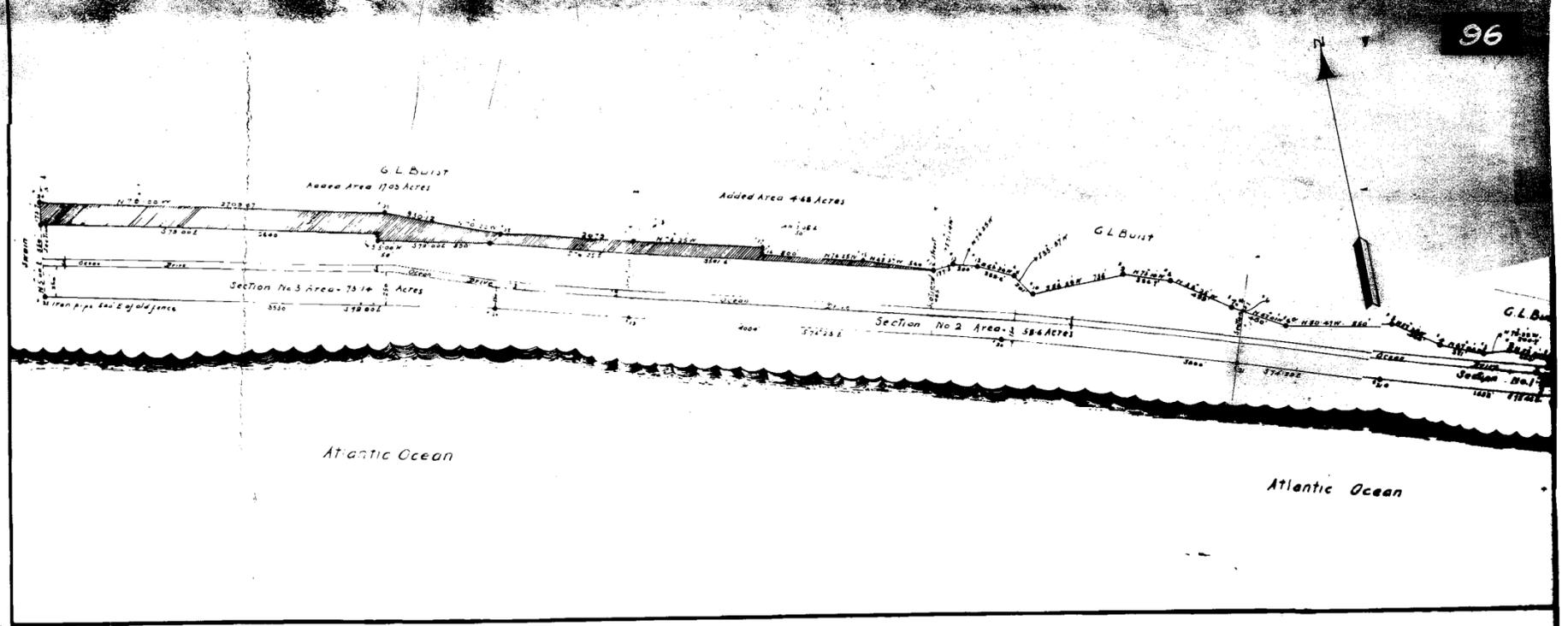
Stacie R R Shelton
Notary Public
My commission expires: 01/08/2022



EXHIBIT A

ALL that certain lot or parcel of land situated in the City of Long Beach (now known as Oak Island), North Carolina, according to a map thereof recorded in Map Book 1 at Pages 96-99 of the Brunswick County Registry, said lot having the metes, bounds and location as shown on said map. Also being all of Lot 9, Block 17, Section 2, as the same appears on a plat of a subdivision of property on Long Beach by Frank E. Lawrence, Engineer and recorded in Map Book 1 at pages 96-99, in the office of the Register of Deeds of Brunswick County, North Carolina.

For back reference see Deed recorded in Book 3392, Page 835 of the Brunswick County Registry.



STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

Personally appeared before me, F. L. Lawrence, Civil Engineer and being duly sworn, deposes and says that the foregoing map is the result of an actual survey made by him of the boundary of this tract, with subdivisions surveyed and plotted, and he believes the same to be correct. Magnetic Variation is 5° 00' West.

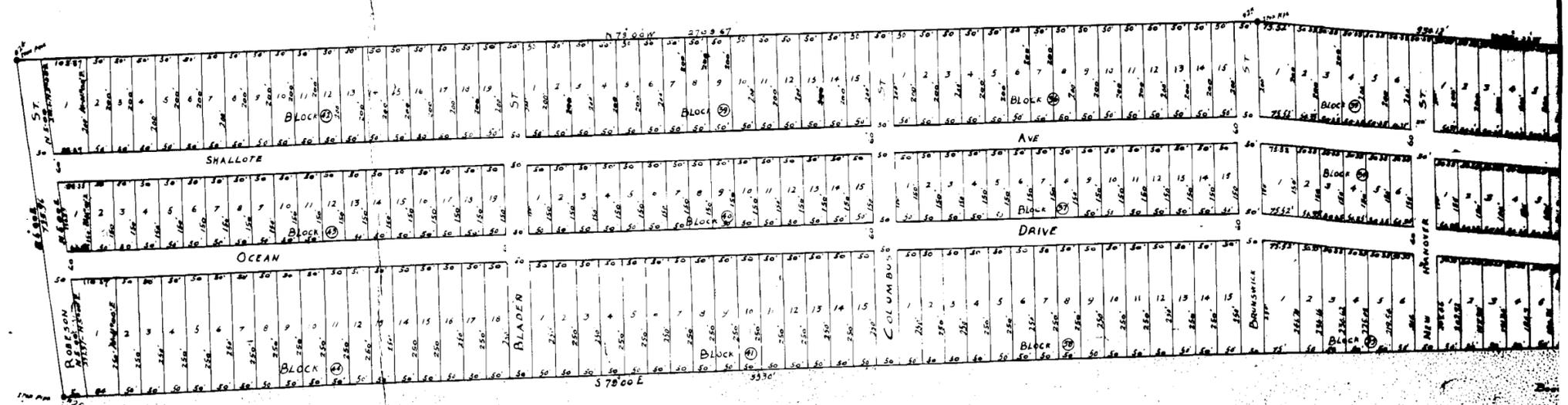
Dated this the 17th day of March, 1930

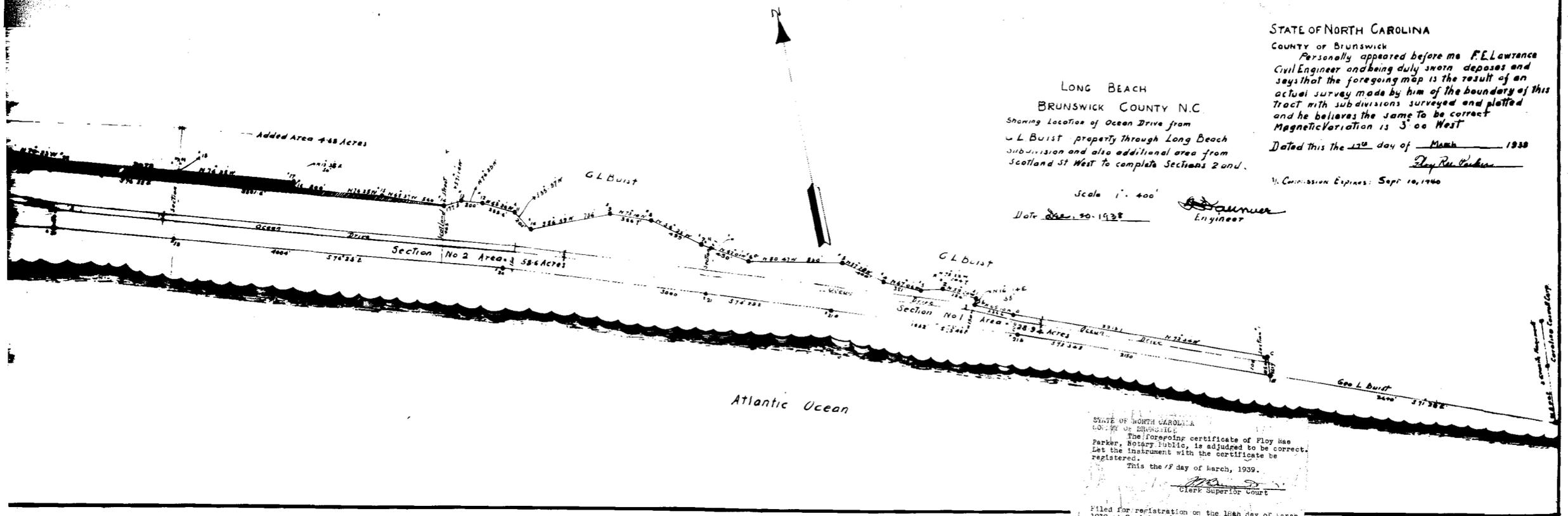
F. L. Lawrence
My Commission Expires: Sept. 15, 1934

State of North Carolina
COUNTY OF BRUNSWICK

The foregoing certificate of F. L. Lawrence is duly judged to be correct and with this certificate be read the 18th day of March, 1930.

Filed for registration on the 18th day of March, 1930 at 2 o'clock. Landed in Book of Maps.





STATE OF NORTH CAROLINA
 COUNTY OF BRUNSWICK
 Personally appeared before me F.E. Lawrence
 Civil Engineer and being duly sworn deposes and
 says that the foregoing map is the result of an
 actual survey made by him of the boundary of this
 tract with subdivisions surveyed and plotted
 and he believes the same to be correct
 Magnetic Variation is 3° 00' West
 Dated this the 12th day of March 1939
 Floy R. Parker
 Notary Public
 My Commission Expires: Sept. 10, 1940

LONG BEACH
 BRUNSWICK COUNTY N.C.
 Showing Location of Ocean Drive from
 L. Buist property through Long Beach
 subdivision and also additional area from
 Scotland St West to complete Sections 2 and 1.

Scale 1" = 400'
 Date Dec. 20, 1938
 F. Lawrence
 Engineer

STATE OF NORTH CAROLINA
 COUNTY OF BRUNSWICK
 The foregoing certificate of Floy R. Parker, Notary Public, is adjudged to be correct.
 Let the instrument with the certificate be
 registered.
 This the 17th day of March, 1939.
 Clerk Superior Court

Filed for registration on the 18th day of March
 1939 at 2 o'clock P. M. and recorded in Book
 of Maps, page
 Register of Deeds

STATE OF NORTH CAROLINA
 COUNTY OF BRUNSWICK
 Personally appeared before me F.E. Lawrence
 Civil Engineer and being duly sworn deposes and
 says that the foregoing map is the result of an
 actual survey made by him of the boundary of this
 tract, with subdivisions surveyed and plotted,
 and he believes the same to be correct
 Magnetic Variation is 3° 00' West
 Dated this the 12th day of March 1939
 Floy R. Parker
 Notary Public
 My Commission Expires: Sept. 10, 1940

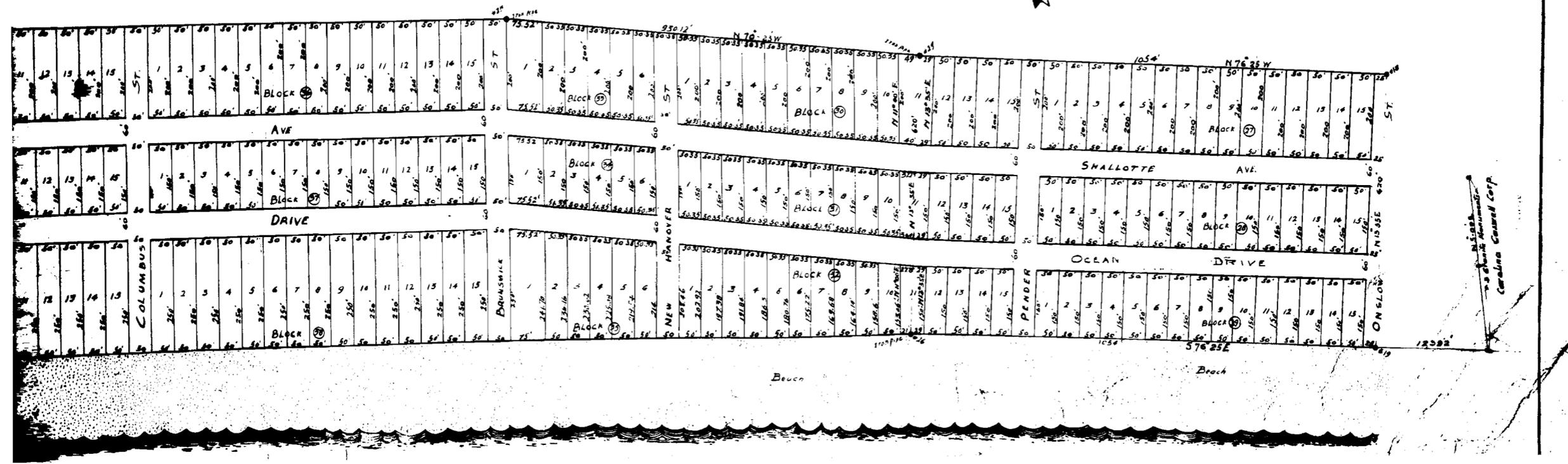
State of North Carolina
 County of Brunswick
 The foregoing certificate of Floy R. Parker is
 adjudged to be correct. Let the instrument
 with this certificate be registered this
 the 18th day of March, 1939.

Filed for registration on the 18th day
 of March 1939 at 2 o'clock P.M. and re-
 corded in Book of Maps page
 Register of Deeds

PLAT OF LONG BEACH
 Section 3
 BRUNSWICK COUNTY N.C.

Scale 1" = 100' Nov. 26, 1938

F. Lawrence
 Engineer



STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

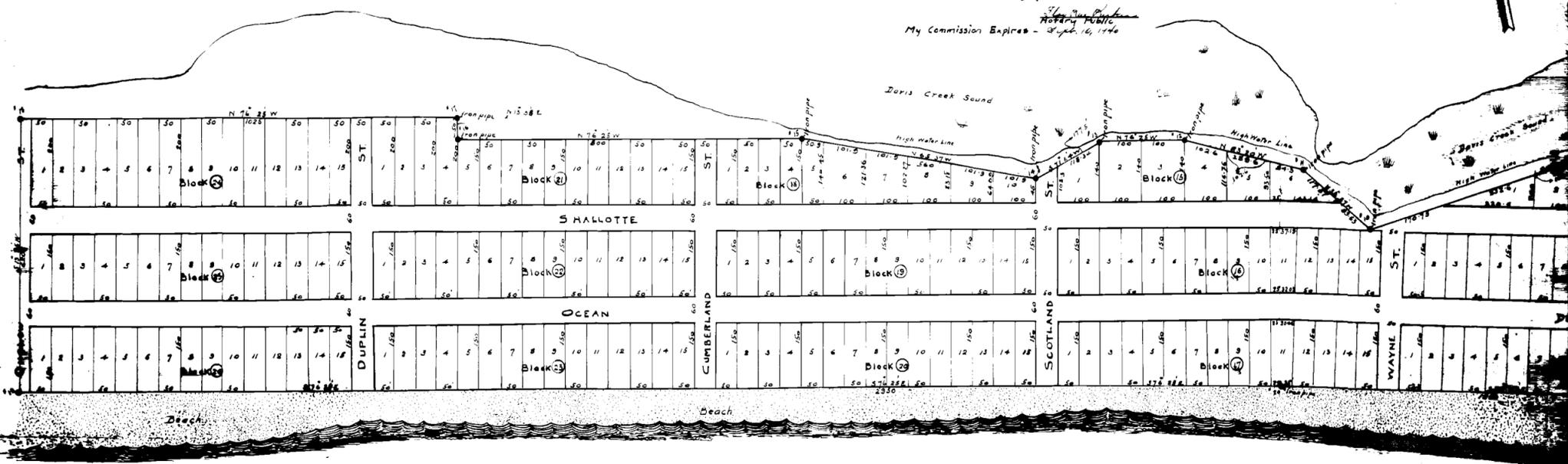
Personally appeared before me F.E. Lawrence,
Civil Engineer and being duly sworn, deposes and
says that the foregoing map is the result of an
actual survey made by him of the boundary of this
tract, with subdivisions surveyed and plotted,
and he believes the same to be correct.
Magnetic Variation is 3 degrees West

Dated this 12th day of December 1938

My Commission Expires - Oct. 16, 1940

The foregoing certificate of F.E. Lawrence
is adjudged to be correct. Let the in-
strument with this certificate be registered.
This the 18th day of March 1939.

Clerk Superior Court
Filed for registration on the 18th day
of March 1939 at 2 o'clock P.M. and
recorded in Book of Maps, Page
Register of Deeds



STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

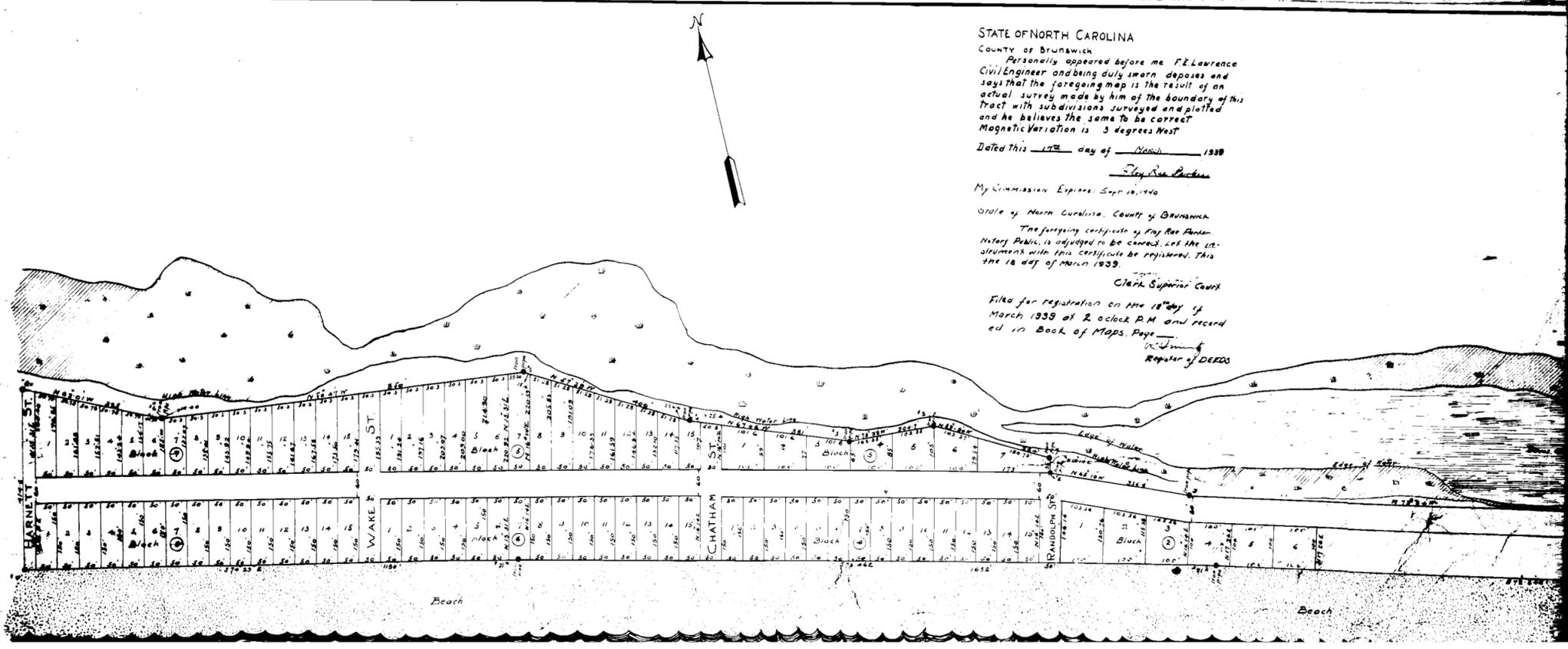
Personally appeared before me F.E. Lawrence
Civil Engineer and being duly sworn, deposes and
says that the foregoing map is the result of an
actual survey made by him of the boundary of this
tract with subdivisions surveyed and plotted
and he believes the same to be correct.
Magnetic Variation is 3 degrees West

Dated this 12th day of March 1939

My Commission Expires - Sept. 16, 1940

Clerk Superior Court
The foregoing certificate of F.E. Lawrence
is adjudged to be correct. Let the in-
strument with this certificate be registered.
This the 18th day of March 1939.

Clerk Superior Court
Filed for registration on the 18th day of
March 1939 at 2 o'clock P.M. and record
ed in Book of Maps, Page
Register of Deeds



Locality Oak Island Permit Number OI 17-42

Ocean Hazard Estuarine Shoreline _____ ORW Shoreline _____ Public Trust Shoreline _____ Other HH
(For official use only)

GENERAL INFORMATION

LAND OWNER

Name Rick & Valerie Heasley

Address 122 S. 7th Ave

City Raden City State W.V. Zip 26159 Phone (304) 337-9123

Email rwheasley@suddenlink.net (304) 771-2673

AUTHORIZED AGENT

Name _____

Address _____

City _____ State _____ Zip _____ Phone _____

Email _____

LOCATION OF PROJECT: (Address, street name and/or directions to site. If not oceanfront, what is the name of the adjacent waterbody.) 4017 E. Beach Dr.

DESCRIPTION OF PROJECT: (List all proposed construction and land disturbance.) Single Family Resident with swimming Pool

SIZE OF LOT/PARCEL: _____ square feet _____ acres

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

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

(1) OCEAN HAZARD AECs: TOTAL FLOOR AREA OF PROPOSED STRUCTURE: 1904 square feet (includes air conditioned living space, parking elevated above ground level, non-conditioned space elevated above ground level but excluding non-load-bearing attic space)

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

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

YES _____ NO

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

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

STATEMENT OF OWNERSHIP:

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

an owner or record title, Title is vested in Richard & Valerie Heasley see Deed Book _____ page _____ in the Brunswick County Registry of Deeds.

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

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

NOTIFICATION OF ADJACENT PROPERTY OWNERS:

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

(Name)	(Address)
(1) <u>Sgt. Smith</u>	<u>4012 E. Beach Dr</u>
(2) <u>Richard Carlson</u>	<u>4015 E Beach Dr</u>
(3) _____	_____
(4) _____	_____

ACKNOWLEDGEMENTS:

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

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

This the June 29 day of June, 20 17

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

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

AEC HAZARD NOTICE

Project Is In An: Ocean Erodible Area High Hazard Flood Area Inlet Hazard Area

Property Owner: Phil Henry

Property Address: 4017 E. Beach Dr Oak Island NC

Date Lot Was Platted: _____

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

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

The best available information, as accepted by the Coastal Resources Commission, indicates that the annual long-term average ocean erosion rate for the area where your property is located is 2 feet per year.

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

Studies also indicate that the shoreline could move as much as 325 feet landward in a major storm.

The flood waters in a major storm are predicted to be about 19 feet deep in this area.

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

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

Phil Henry 6/29/2017
Applicant Signature Date

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

For more information, contact:

Donna Coleman
Local Permit Officer

4601 E. Oak Island Dr
Address

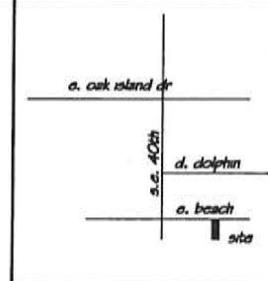
Oak Island, NC 28465
Locality

(910) 201-8047
Phone Number

I, Joseph R. Brochure, PLS - 1759, Certify that this plat was drawn under my supervision from an actual survey made under my supervision from information shown in deed books referenced on map and map books reference on map; That any lines not actually surveyed appear as broken lines and were plotted from information as noted on the plat; That the ratio of precision as calculated is better than 1:10,000, that the area is computed by coordinate method, witness my original signature, registration number and seal this the 07TH day of JUNE, A.D. 2017.

Joseph R. Brochure - L-1759
Professional Land Surveyor

NOTES:
ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.
THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.
PROPERTY ADDRESS:
4017 E. BEACH DRIVE
OAK ISLAND, N.C.
PARCEL # 249DG017
LOT AREA: 7,500 SF. +/-

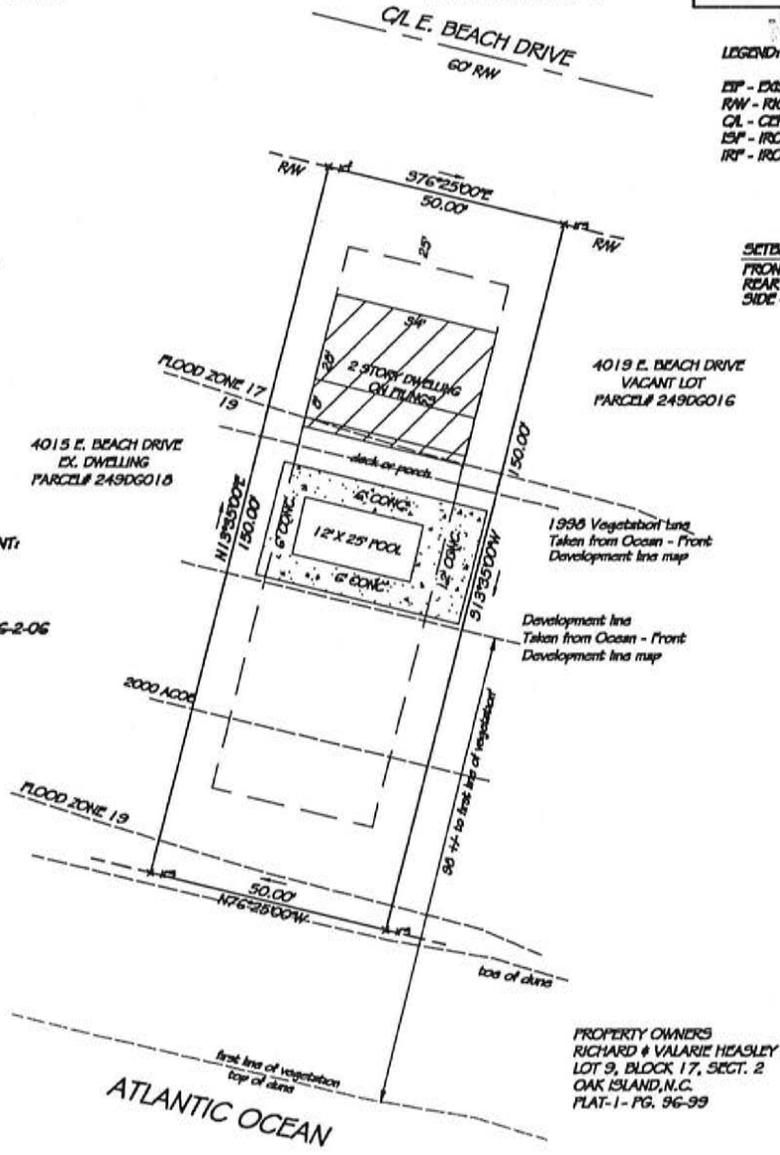


LEGEND:
EIP - EXISTING IRON PIPE
RW - RIGHT OF WAY
CL - CENTERLINE ST.
ISP - IRON STAKE FOUND
IRS - IRON ROD SET

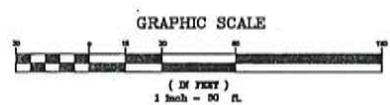
SETBACKS - R7
FRONT - 15'
REAR - 20'
SIDE - 8'



FLOOD STATEMENT:
FIRM: 370202
PANEL: 2065
PREFIX: 1J
ZONED: 1/2 15'
EFFECTIVE DATE: 6-2-06



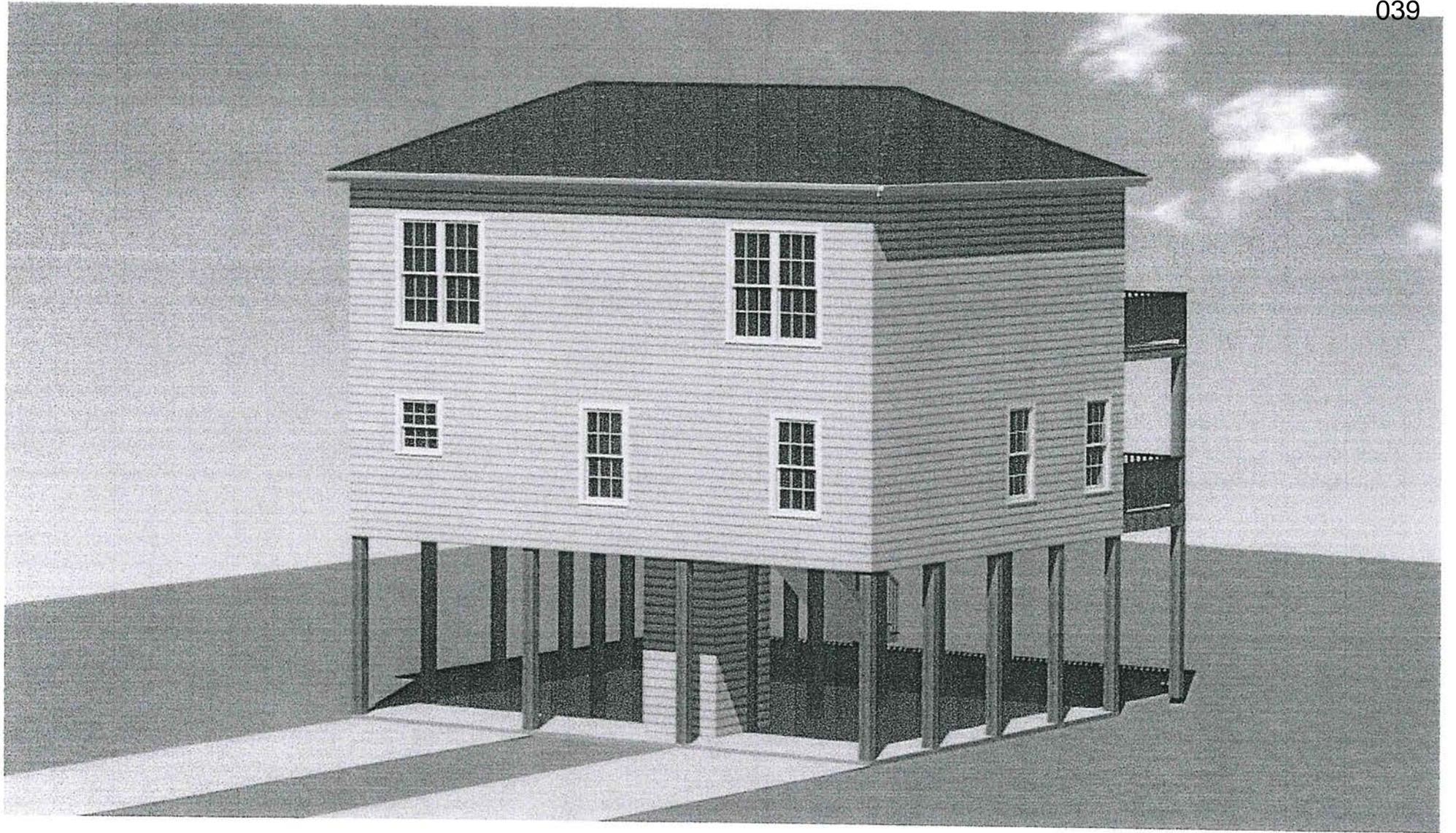
PROPERTY OWNERS
RICHARD & VALARIE HEASLEY
LOT 9, BLOCK 17, SECT. 2
OAK ISLAND, N.C.
PLAT-1 - PG. 96-99

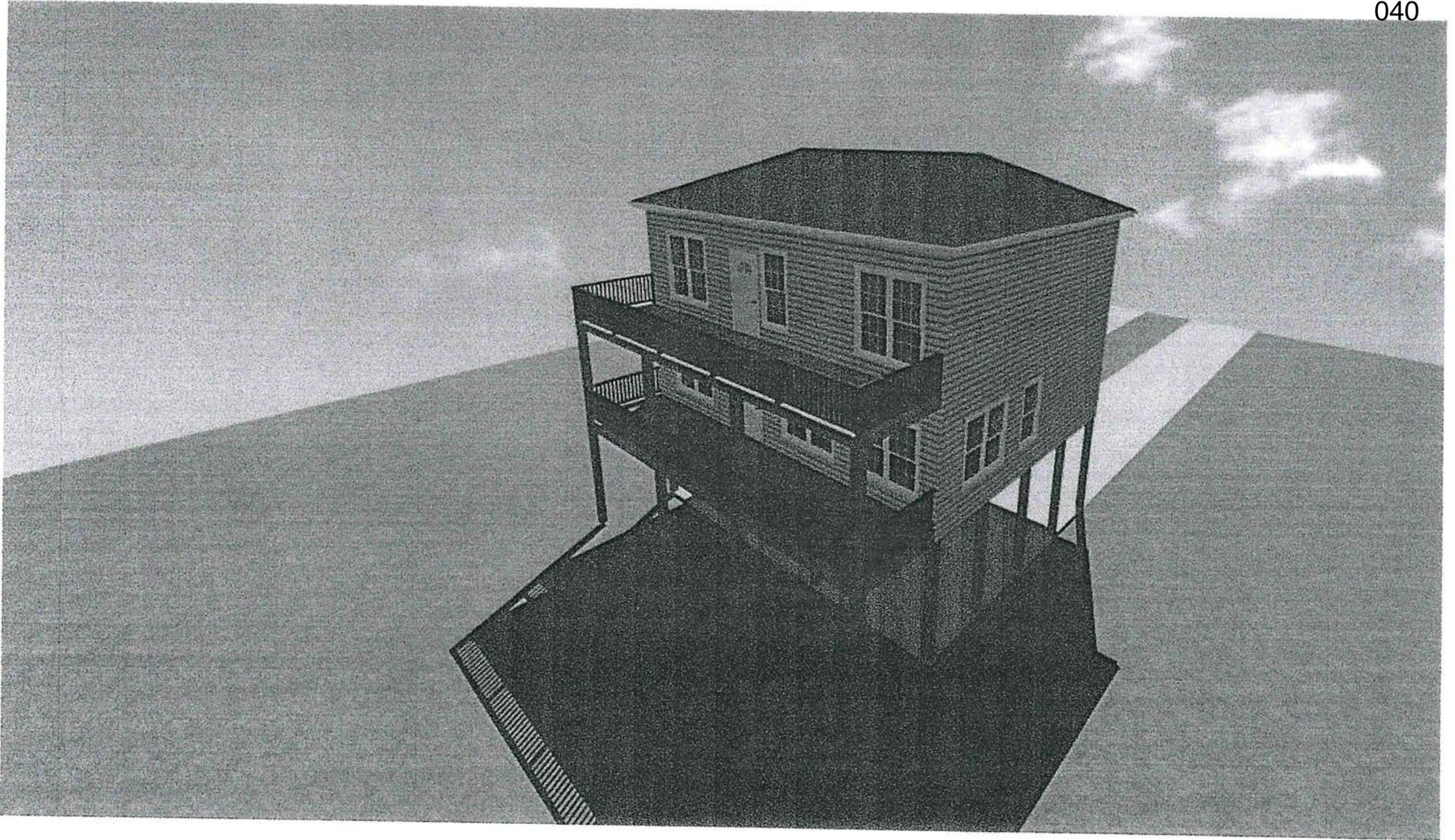


Island Surveyors, Inc. P.A.
JOEY BROCHURE L-1759
427 Womble St
Oak Island, N.C. 29465
PHONE: 910-250-9192
CELL: 910-523-6122
www.islandsurveyor.com
Residential & Commercial Site Plan
Lot Surveys & Flood Elev. Certificates
email: islandsurveyors@gmail.com

PROJECT # -
2017-000-HEASLEY
SURVEYED BY: JRB
DRAWN BY: JRB
CHECKED BY: JRB
DATE: 06/26/2017
SCALE: 1" = 30'

SURVEY FOR
RICHARD & VALARIE HEASLEY
4017 E. BEACH DRIVE
OAK ISLAND, N.C.
SMITHVILLE TWP. - BRUNSWICK CO. N.C.
DATE: 06/17 SCALE: 1" = 30'
PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES





SITE DRAWING/APPLICATION CHECKLIST

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

PHYSICAL DIMENSIONS

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

PHYSICAL CHARACTERISTICS

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

If you will be working in the ocean hazard area:

- Draw and label dune ridges (include spot elevations)
- Draw and label toe of dunes
- Identify and locate first line of stable vegetation (contact LPO for assistance)
- Draw and label erosion setback line (contact LPO for assistance)
- Draw and label topographical features (optional)

If you will be working in a coastal shoreline area:

- Show the roof overhang as a dotted line around the structure
- Draw and label landward limit of AEC
- Draw and label all wetland lines (contact LPO for assistance)
- Draw and label the 30-foot buffer line

DEVELOPMENT PLANS

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

NOTE TO APPLICANT

Have you:

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

FOR STAFF USE

Site Notice Posted Final Inspection Fee Received

Site Inspections

_____	_____
_____	_____
_____	_____

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

I, Joseph R. Brochure, PLS - 1759, Certify that this plat was drawn under my supervision from an actual survey made under my supervision from information shown in deed books referenced on map and map books reference on map; That any lines not actually surveyed appear as broken lines and were plotted from information as noted on the plat; That the ratio of precision as calculated is better than 1:10,000, that the area is computed by coordinates method. witness my original signature, registration number and seal this the 07TH day of JUNE. A.D. 2017.

Joseph R. Brochure - L-1759
Professional Land Surveyor

NOTES:

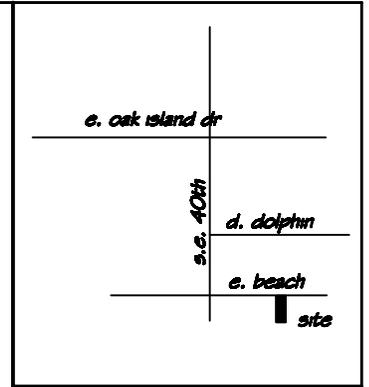
ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.

THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

PROPERTY ADDRESS:
4017 E. BEACH DRIVE
OAK ISLAND, N.C.

PARCEL # 249DGO17

LOT AREA: 7,500 SF. +/-

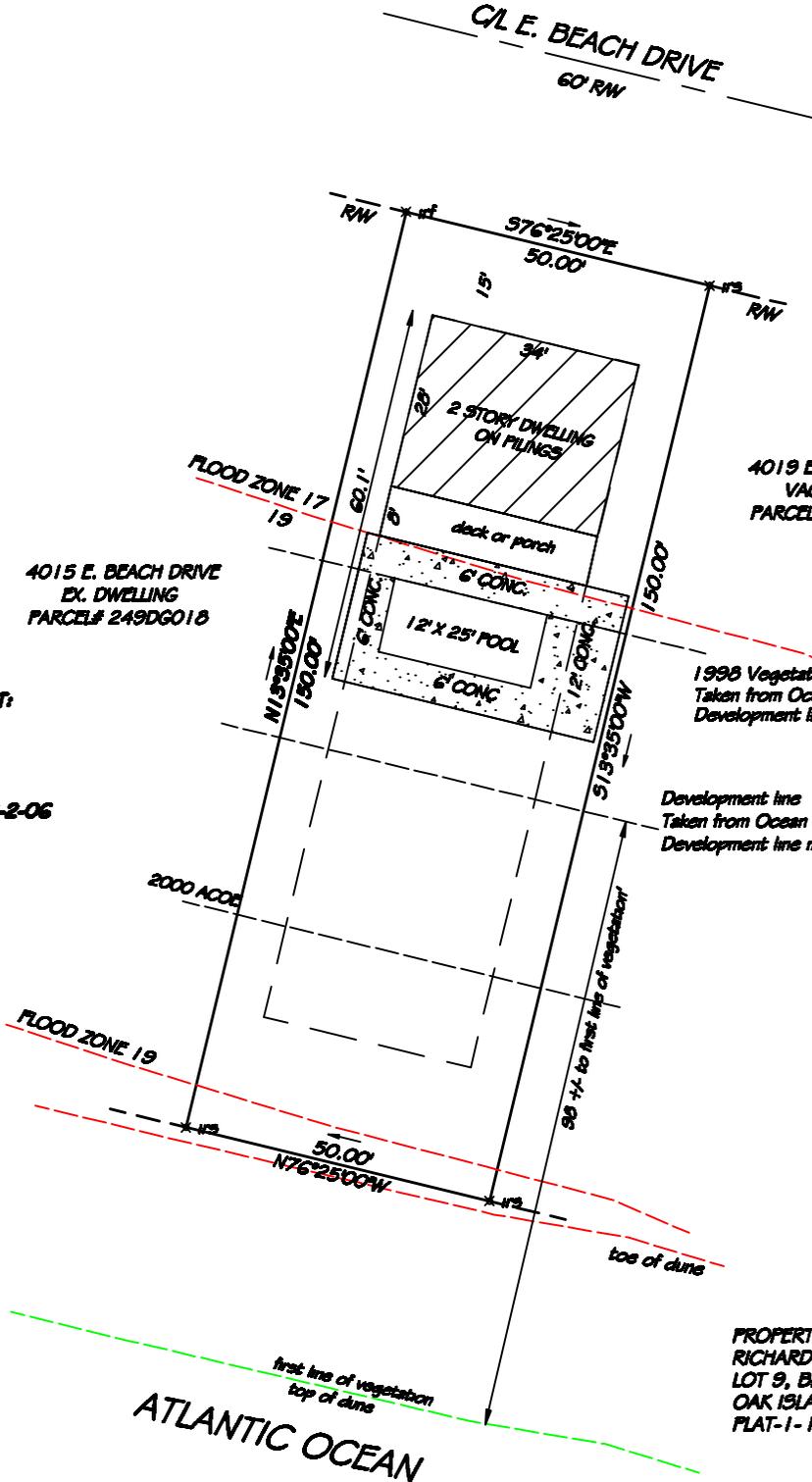


- VICINITY MAP -
(NOT TO SCALE)

LEGEND:

- EIF - EXISTING IRON PIPE
- RW - RIGHT OF WAY
- CL - CENTERLINE ST.
- ISF - IRON STAKE FOUND
- IRF - IRON ROD SET

SETBACKS - R7
FRONT - 15'
REAR - 20'
SIDE - 0'



4015 E. BEACH DRIVE
EX. DWELLING
PARCEL# 249DGO18

4019 E. BEACH DRIVE
VACANT LOT
PARCEL# 249DGO16

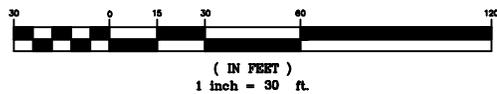
FLOOD STATEMENT:
FIRM: 370202
PANEL: 2063
PREFIX 'J'
ZONED 'VE 19'
EFFECTIVE DATE: 6-2-06

1998 Vegetation Line
Taken from Ocean - Front
Development line map

Development line
Taken from Ocean - Front
Development line map

PROPERTY OWNERS
RICHARD & VALARIE HEASLEY
LOT 9, BLOCK 17, SECT. 2
OAK ISLAND, N.C.
PLAT-1 - PG. 96-99

GRAPHIC SCALE



Island Surveyors, Inc. P.A.

JOEY BROCHURE L-1759
427 Womble St
Oak Island, N.C. 28465
PHONE: 910-250-9192
CELL: 910-523-6122
www.islandsurveyor.com

Residential & Commercial Site Plan
Lot Surveys & Flood Elev. Certificates
email: islandsurveyors@gmail.com

PROJECT # -
2017-000-HEASLEY

SURVEYED BY: JRB
DRAWN BY: JRB
CHECKED BY: JRB
DATE: 06/2017

SCALE: 1" = 30'

SURVEY FOR

RICHARD & VALARIE HEASLEY

4017 E. BEACH DRIVE
OAK ISLAND, N.C.

SMITHVILLE TWSF. - BRUNSWICK CO. N.C.

DATE: 06/17 SCALE: 1" = 30'

PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES

From: [Joey](#)
To: rwheasley@suddenlink.net
Subject: map
Date: Thursday, June 08, 2017 10:59:03 PM
Attachments: [4017 e beach drive.dwg_25" sb-8.5x14.pdf](#)

moved house 25' from right of way, probably will need this to get 5 cars parking spaces

--

Island Surveyors, Inc.
427 Womble St.
Oak Island, N.C. 28465
Joey Brochure, PLS
910-250-9192

I, Joseph R. Brochure, PLS - 1759, Certify that this plat was drawn under my supervision from an actual survey made under my supervision from information shown in deed books referenced on map and map books reference on map; That any lines not actually surveyed appear as broken lines and were plotted from information as noted on the plat; That the ratio of precision as calculated is better than 1:10,000, that the area is computed by coordinates method. witness my original signature, registration number and seal this the 07TH day of JUNE. A.D. 2017.

Joseph R. Brochure - L-1759
Professional Land Surveyor

NOTES:

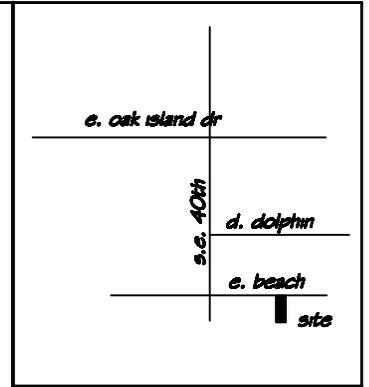
ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.

THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

PROPERTY ADDRESS:
4017 E. BEACH DRIVE
OAK ISLAND, N.C.

PARCEL # 249DGO17

LOT AREA: 7,500 SF. +/-

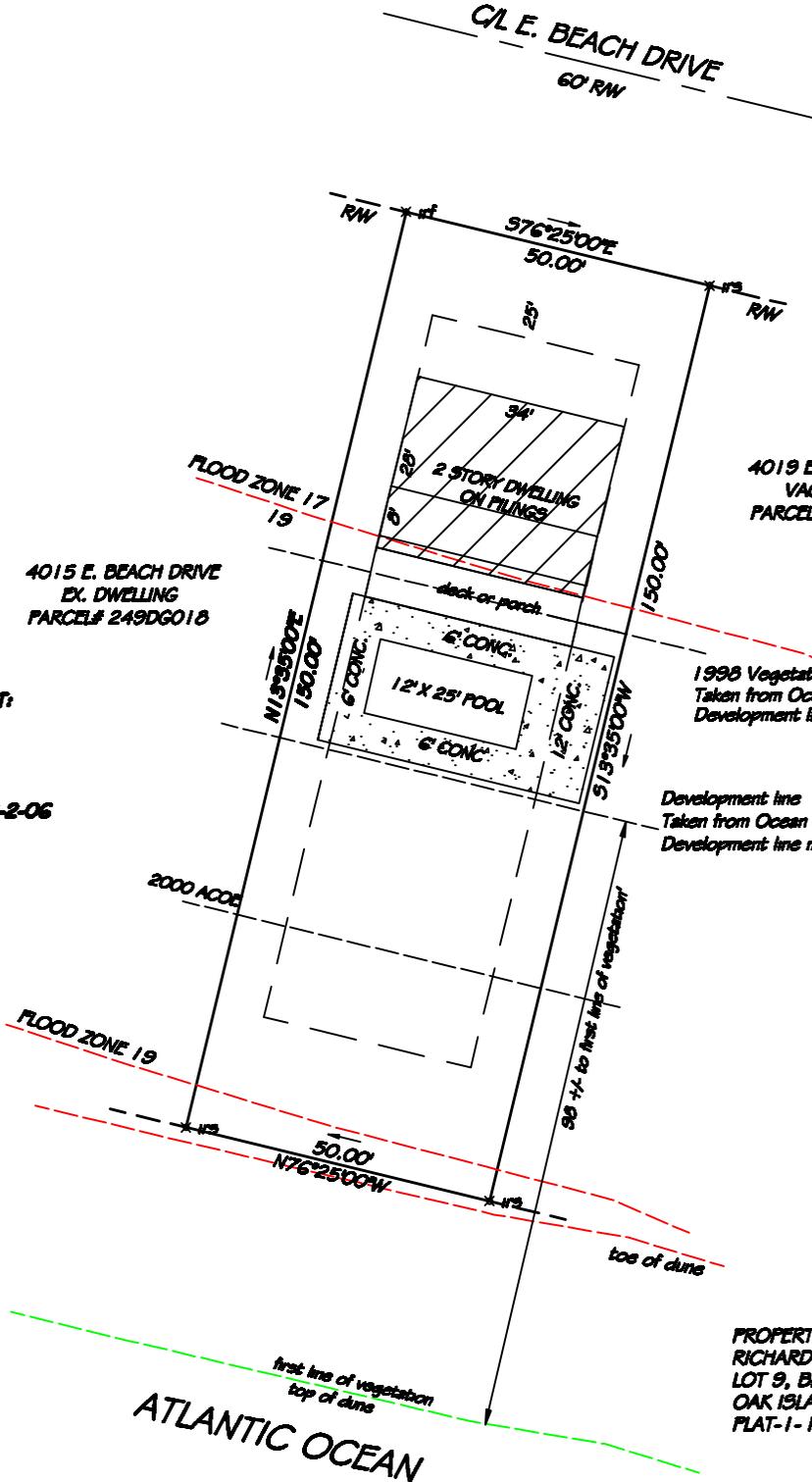


- VICINITY MAP -
(NOT TO SCALE)

LEGEND:

- EIF - EXISTING IRON PIPE
- RW - RIGHT OF WAY
- CL - CENTERLINE ST.
- ISF - IRON STAKE FOUND
- IRF - IRON ROD SET

SETBACKS - R7
FRONT - 15'
REAR - 20'
SIDE - 0'



FLOOD STATEMENT:
FIRM: 370202
PANEL: 2065
PREFIX 'J'
ZONED 'VE 19'
EFFECTIVE DATE: 6-2-06

4015 E. BEACH DRIVE
EX. DWELLING
PARCEL# 249DGO18

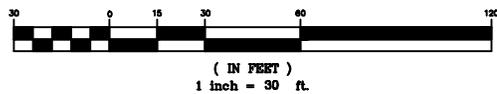
4019 E. BEACH DRIVE
VACANT LOT
PARCEL# 249DGO16

1998 Vegetation Line
Taken from Ocean - Front
Development line map

Development line
Taken from Ocean - Front
Development line map

PROPERTY OWNERS
RICHARD & VALARIE HEASLEY
LOT 9, BLOCK 17, SECT. 2
OAK ISLAND, N.C.
PLAT-1 - PG. 96-99

GRAPHIC SCALE



Island Surveyors, Inc. P.A.

JOEY BROCHURE L-1759
427 Womble St
Oak Island, N.C. 28465
PHONE: 910-250-9192
CELL: 910-523-6122
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Residential & Commercial Site Plan
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email: islandsurveyors@gmail.com

PROJECT # -
2017-000-HEASLEY

SURVEYED BY: JRB
DRAWN BY: JRB
CHECKED BY: JRB
DATE: 06/2017

SCALE: 1" = 30'

SURVEY FOR RICHARD & VALARIE HEASLEY

4017 E. BEACH DRIVE
OAK ISLAND, N.C.

SMITHVILLE TWSF. - BRUNSWICK CO. N.C.

DATE: 06/17 SCALE: 1" = 30'

PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES

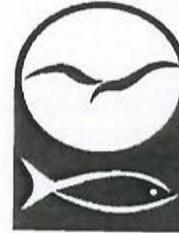
From: [Joey](#)
To: rwheasley@suddenlink.net
Subject: site plan
Date: Thursday, June 08, 2017 10:37:32 PM
Attachments: [4017 e beach drive-8.5x14.pdf](#)

Mr. Heasley, look at this one and let me know what you think, you had one with the house being setback 25', going to plot that for you also

--

Island Surveyors, Inc.
427 Womble St.
Oak Island, N.C. 28465
Joey Brochure, PLS
910-250-9192

CAMA MINOR DEVELOPMENT PERMIT



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

Issued to Sage Smith, authorizing development in the Ocean Hazard (AEC) at 4019 E. Beach Dr., in Oak Island, as requested in the permittee's application, dated 5/12/2017. This permit, issued on 5/31/2017, is subject to compliance with the application and site drawing (where consistent with the permit), all applicable regulations and special conditions and notes set forth below. Any violation of these terms may subject permittee to a fine, imprisonment or civil action, or may cause the permit to be null and void.

This permit authorizes: the construction of a single family residence with a pool and associated development.

- (1) All proposed development and associated construction must be done in accordance with the permitted work plat drawings(s) dated received on 5/12/2017.
- (2) All construction must conform to the N.C. Building Code requirements and all other local, State and Federal regulations, applicable local ordinances and FEMA Flood Regulations.
- (3) Any change or changes in the plans for development, construction, or land use activities will require a re-evaluation and modification of this permit.
- (4) A copy of this permit shall be posted or available on site. Contact this office at (910)278-5024 for a final inspection at completion of work.

(Additional Permit Conditions on Page 2)

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 on the project site and accessible to the permit officer when the project is inspected for compliance. Any maintenance work or project modification not covered under this permit, require further written permit approval. All work must cease when this permit expires on:

DECEMBER 31, 2020

In issuing this permit it is agreed that this project is consistent with the local Land Use Plan and all applicable ordinances. This permit may not be transferred to another party without the written approval of the Division of Coastal Management.

Donna F. Coleman
CAMA LOCAL PERMIT OFFICIAL
4601 E. Oak Island Dr.
Oak Island, NC 28465

PERMITTEE

(Signature required if conditions above apply to permit)

Name: Smith
 Minor Permit # OI 17-27
 Date: 5/31/2017
 Page 2

- (5) The structure must set back a minimum of 60 feet from the first line of stable natural vegetation and extend no farther seaward than the OI Development line", as determined by the DCM, the LPO, or other assigned agent of the DCM.
- (6) The permittee is required to contact the Local Permit Officer (910)201-8047, shortly before he plans to begin construction to arrange a setback measurement that will be effective for sixty (60) days barring a major shoreline change. Construction must begin within sixty (60) days of the determination or the measurement is void and must be redone.
- (7) All buildings constructed within the ocean hazard area shall comply with the NC Building Code, including the Coastal and Flood Plain Construction Standards of the N. C. Building Code, and the Local Flood Damage Prevention Ordinance as required by the National Flood Insurance Program. If any provisions of the building code or a flood damage prevention ordinance are inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (8) All buildings must be elevated on pilings with a diameter of at least 8 inches in diameter if round, or 8 inches to a side if square; and the first floor level of the sills and joists must meet the 100-year flood level elevation.
- (9) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure.
- (10) Dune disturbances will be allowed only to the extent necessary for development and if the dune's protective value is not weakened or reduced. Disturbed dune areas will be immediately stabilized.
- (11) All unconsolidated material resulting from associated grading and landscaping shall be retained on site by effective sedimentation and erosion control measures. Disturbed areas shall be vegetatively stabilized (planted and mulched) within 14 days of construction completion.
- (12) Any structure authorized by this permit shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under CRC rules.

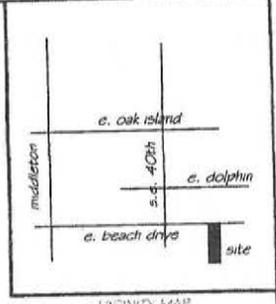
SIGNATURE: _____ DATE: _____
 PERMITTEE

NOTES:

ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.
 THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

PROPERTY ADDRESS:
 4019 E. BEACH DRIVE OAK ISLAND, N.C. 28465
 PARCEL # 249DGO16
 LOT AREA: 7,500 SF. +/-

SURVEYED BY: JRB
 DRAWN BY: JRB
 CHECKED BY: JRB
 DATE: 03/23/2017
 SCALE: 1" = 30'

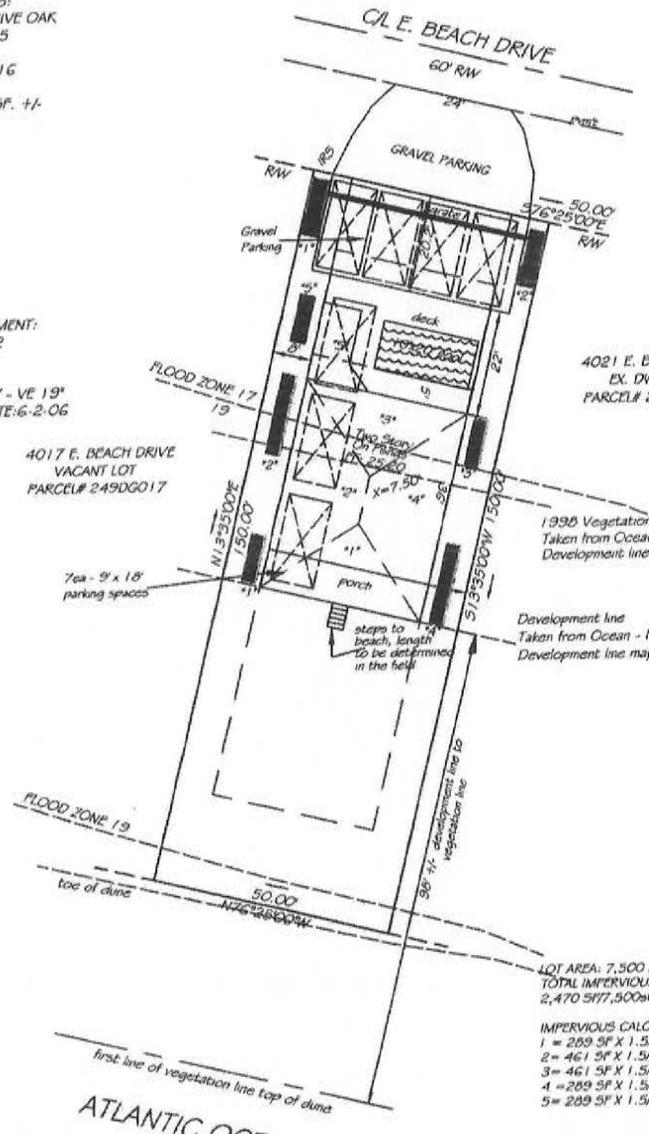


LEGEND:
 EIP - EXISTING IRON PIPE
 RW - RIGHT OF WAY
 CL - CENTERLINE ST.
 ISF - IRON STAKE FOUND
 IRP - IRON ROD SET

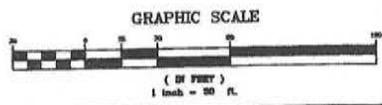
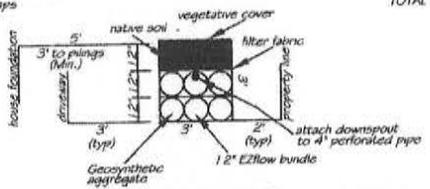
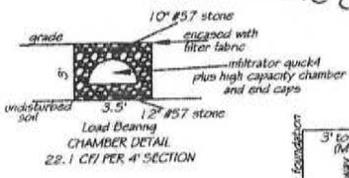
FLOOD STATEMENT:
 FIRM: 370202
 PANEL: 2065
 PREFIX "J"
 ZONED "VE 17 - VE 19"
 EFFECTIVE DATE: 6-2-06

4021 E. BEACH DRIVE
 EX. DWELLING
 PARCEL# 249DGO15

SETBACKS
 FRONT - 15'
 REAR - 20'
 SIDE - 8'

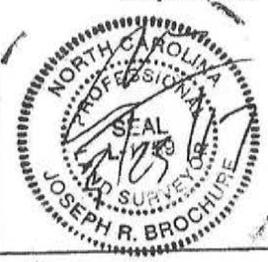


PROPERTY OWNERS
 SAGE SMITH
 LOT 10, BLOCK 17, SECT. 2
 OAK ISLAND, N.C.
 PLAT-1 - PG. 96-99



Island Surveyors, Inc. P.A.
 JOEY BROCHURE L-1759
 427 Womble St
 Oak Island, N.C. 28465
 PHONE: 910-250-9192
 CELL: 910-523-6122
 www.islandsurveyor.com

Residential & Commercial Site Plan
 Lot Surveys & Flood Elev. Certificate
 email: islandsurveyors@gmail.com



SITE PLAN FOR
 SAGE SMITH
 4019 E. BEACH DRIVE
 OAK ISLAND, N.C.
 SMITHVILLE TWP. - BRUNSWICK CO. N.C.
 DATE: 03/23/17 SCALE: 1" = 30'
 PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES



7/07/2017

CERTIFIED MAIL - INSERT CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Rick & Valerie Heasley
 122 S. 7th Avenue
 Paden City, WV 26159

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT
 APPLICATION NUMBER- OI 17-42
 PROJECT ADDRESS- 4017 E. Beach Dr.

Dear Rick & Valerie:

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

This decision is based on my findings that your request violates NCGS 113A-120(a)(8) which requires that all applications be denied which are inconsistent with CAMA guidelines and Local Land Use Plans. You have applied to build a house which is inconsistent with 15 NCAC 7H .0309(a), which states that: The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter and other state and local regulations are met: (9) swimming pools
 In all cases, this development shall be permitted only if it is landward of the vegetation line or static vegetation line, whichever is applicable.. Your application is also inconsistent with our Local Land Use Plan. On page 5-39 of the Land Use Plan, you will find that **I.112** The Town will continue to enforce the dune preservation Ordinance (Chapter 14, Article III of the Town Code)..

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

Respectfully yours,

Donna F. Coleman, LPO
 Town of Oak Island

cc: Brooks Sorgan DCM-Wilmington

STATE OF NORTH CAROLINA

COASTAL RESOURCES COMMISSION

COUNTY OF BRUNSWICK

CRC 16-36

IN THE MATTER OF THE
TOWN OF OAK ISLAND'S
 REQUEST FOR APPROVAL
 OF A DEVELOPMENT LINE

)
)
)
)

FINAL AGENCY DECISION**FACTS**

1. The Town of Oak Island ("Town") is a beachfront town located on a barrier island and on the mainland around bridges leading to the barrier island in Brunswick County, North Carolina. The Town has an approximately nine-mile south facing beach that fronts the Atlantic Ocean.

2. On April 21, 2016, the Planning Board voted to recommend approval of a proposed text amendment to Sec. 14-121 and Sec 14-125 of Town Ordinance No. 16-1018 in order to define an ocean front development line and adopt regulations regarding the use of that line for development of ocean front parcels. The Planning Board found that the proposed text amendments are consistent with the goals, objectives, and policies of the Town's Coastal Area Management Act ("CAMA") Land Use Plan adopted April 13, 2010, and will provide the Town with greater flexibility and regulatory power to authorize development within its jurisdiction on ocean-front parcels.

3. The Planning Board's recommendation to the Town Council that it adopt a development line included the following information:

- (a) There are approximately 525 total ocean front residential structures that are parallel to the proposed development line in the Town.

- (b) There are 167 parcels that are undeveloped along the proposed development line and 129 parcels (142 lots) are identified as currently unbuildable along the ocean-front in the Town.
- (c) Before making a recommendation, the Town's planning staff drew several potential development lines using GIS technology showing the distance in feet from the front property line and calculating how many existing structures were seaward of each proposed development line.
- (d) The Town's planning staff determined that that if the development line was set 85 feet seaward of the front property line, this development line would result in the least number of nonconforming homes (about 85 properties).

4. On June 14, 2016 the Town Council held a duly advertised public hearing and regular meeting. During the public hearing, the Town received several comments from citizens for and against the proposed development line.

5. After the public hearing was closed, the Town Council considered the Planning Board's recommendation and unanimously passed a motion to approve the proposed amendment to Sections 14-121 and 14-125 of Ordinance No. 16-1018 and to request the North Carolina Coastal Resources Commission ("Commission") approve the Town's proposed development line.

6. By e-mail correspondence sent to the Director of the Division of Coastal Management ("DCM") on June 20, 2016, the Town requested the Commission approve the development line adopted by the Town. In support of its request, the Town forwarded the following information:

- (a) Certified copy of approved minutes from June 14, 2016 Oak Island Town Council meeting reflecting adoption of development line (pages 1, 2, 9, 10, and 16);
- (b) Town of Oak Island Ordinance No. 16-1018 with revised Secs. 14-121 and -125;
- (c) Detailed survey of the Town's proposed development line including the static vegetation line and mean high water line;
- (d) Town of Oak Island Planning Board recommendation including development line Review and Adoption (pages 1, 2, 3 and 12).

7. The Commission scheduled and duly noticed the Town's request for the Commission's approval of its development line at its September 14, 2016 regularly scheduled meeting which was held at the New Hanover county Government Complex in Wilmington, North Carolina.

8. During the September 14, 2016 meeting, Jake Vares, Senior Planning Director and Steven Edwards, Development Services Director for the Town of Oak Island presented the Town's request for approval to the Commission. During discussion on the request, the Commission became aware that the survey indicated that along sections of the Town's oceanfront, the proposed development line was drawn waterward of mean high water line(s) established during past beach nourishment projects.

9. The Commission's rule provides that "in no case shall a development line be created or established below the mean high water line." 15A NCAC 07H .0306(a)((3).

10. At the September 14, 2016 meeting, the Commission rejected the development line as submitted and conditionally approved a development line for the Town of Oak Island as long as the revised development line is landward of the mean high water line. In order to receive

the Commission's approval of a proposed revised development line the Commission required the Town to 1) submit a survey showing a revised development line located landward of any existing mean high water lines and 2) submitted a certified copy of the Town of Oak Island Town Council Meeting Minutes showing adoption of a revised development line.

11. At the Commission meeting, the Town agreed to provide the Commission with a revised development line consistent with the Commission's rules.

CONCLUSIONS OF LAW

1. Any local government, group of local governments involved in a regional beach fill project, or qualified owner's association with territorial jurisdiction over an area that is subject to ocean hazard area setbacks pursuant to 15A NCAC 07H .0305 may petition the Commission for a development line for the purposes of siting oceanfront development in accordance with the provisions of 15A NCAC 7J .1301.

2. The Town is required to request approval for its development line from the Commission according to the procedures outlined in 15A NCAC 7J .1300 *et seq.* and in compliance with the requirements in 15A NCAC 07H .0306(2), (3), (6), (7), (8), and (11).

3. The elected body of the Town of Oak Island made a final decision to request a development line during its June 14, 2016 meeting and provided opportunity for the public to provide comments. Because the proposed development line is, at some locations, waterward of the mean high water line, the Town is required to adopt a revised development line that is consistent with the Commission's rules and forward revised survey drawings reflecting the revised line to DCM.

4. DCM is required to review the additional materials submitted by the Town. If DCM determines that the revised development is at all locations landward of all existing mean high water lines, it shall provide written verification to the Town with a shown copy to the Commission confirming that the conditions established by the Commission for approval of the Town's development line have been met.

DECISION

For the reasons stated herein, the Town of Oak Island's request for approval of a development line is conditionally granted as long as the following steps are successfully completed:

1. The Town shall submit drawings showing a revised development line located landward of any existing mean high water lines;
2. The Town shall submit a certified copy of the Town of Oak Island Town Council Meeting Minutes showing adoption of a revised development line; and
3. DCM shall forward to the Commission a copy of the supplemental information provided by the Town along with its review of the supplemental information. If the Town's revised development line meets all the requirements of the Commission's rules (i.e. is located landward of any existing mean high water line), DCM shall provide written confirmation to the Commission and the Town that the conditions established by this Final Agency Decision have been met.

This is the 23rd day of September 2016.

Frank D. Gorham III

Frank D. Gorham, III, Chairman
N.C. Coastal Resources Commission

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the attached **Final Agency Decision** by the means specified below:

Method of Service

Steven Edwards
Development Services Director
Town of Oak Island
4601 E. Oak Island
Oak Island, NC 28465

CERTIFIED MAIL RETURN RECEIPT REQUESTED
and electronically: SEdwards@ci.oak-island.nc.us

Jacob Vares
Senior Planning Director
Development Services Department
Town of Oak Island
4601 E. Oak Island Drive
Oak Island, NC 28465

CERTIFIED MAIL RETURN RECEIPT REQUESTED
and electronically: planner@ci.oak-island.nc.us

Braxton Davis, Director
Mike Lopazanski, Assist. Director
Ken Richardson, Specialist
Angela Willis, Assist. to Director,
Division of Coastal Management
400 Commerce Ave.
Morehead City, NC 28557-3421

electronically: Braxton.Davis@ncdenr.gov
electronically: Mike.Lopazanski@ncdenr.gov
electronically: Ken.Richardson@ncdenr.gov
electronically: Angela.Willis@ncdenr.gov

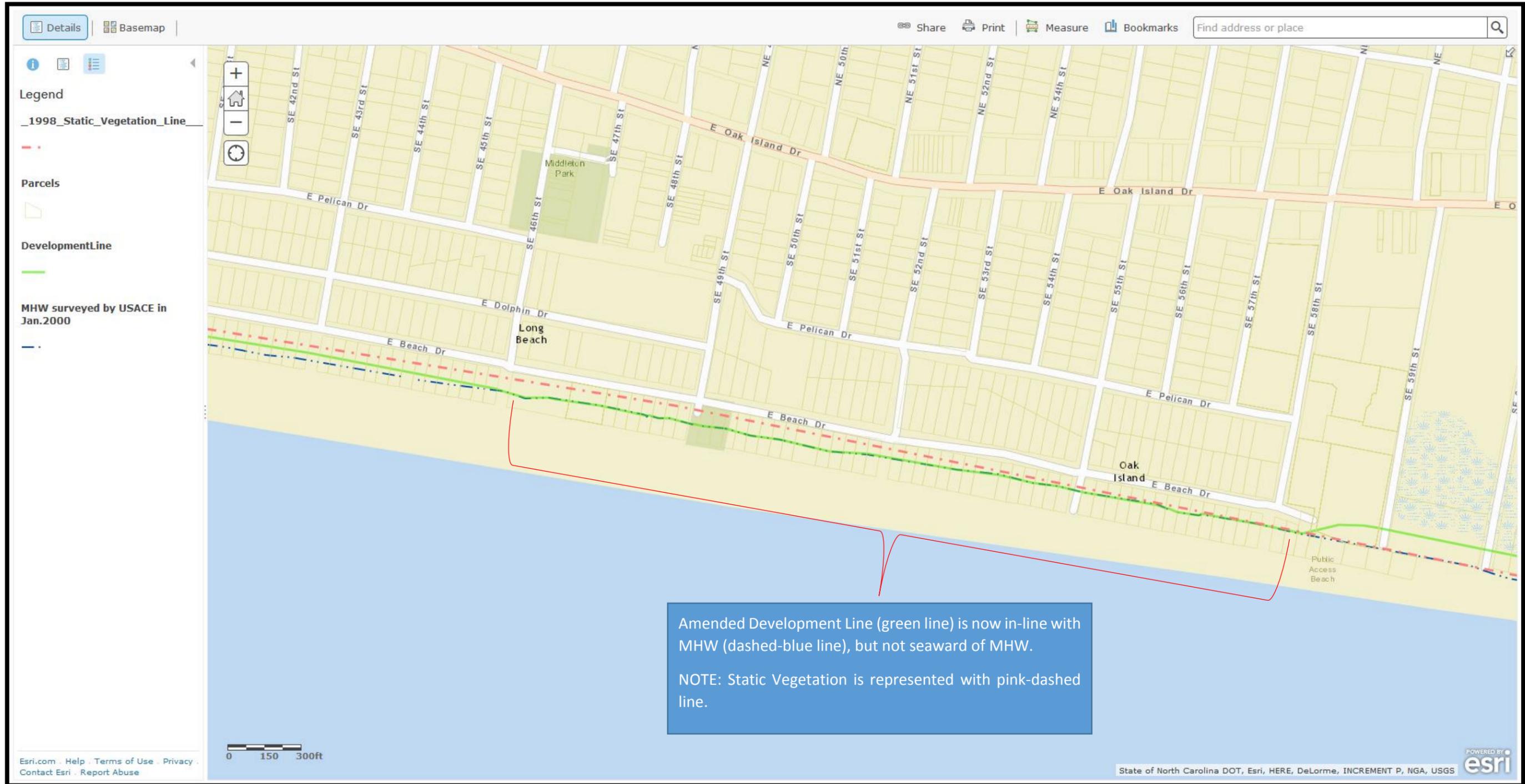
This is the 23rd day of September 2016.

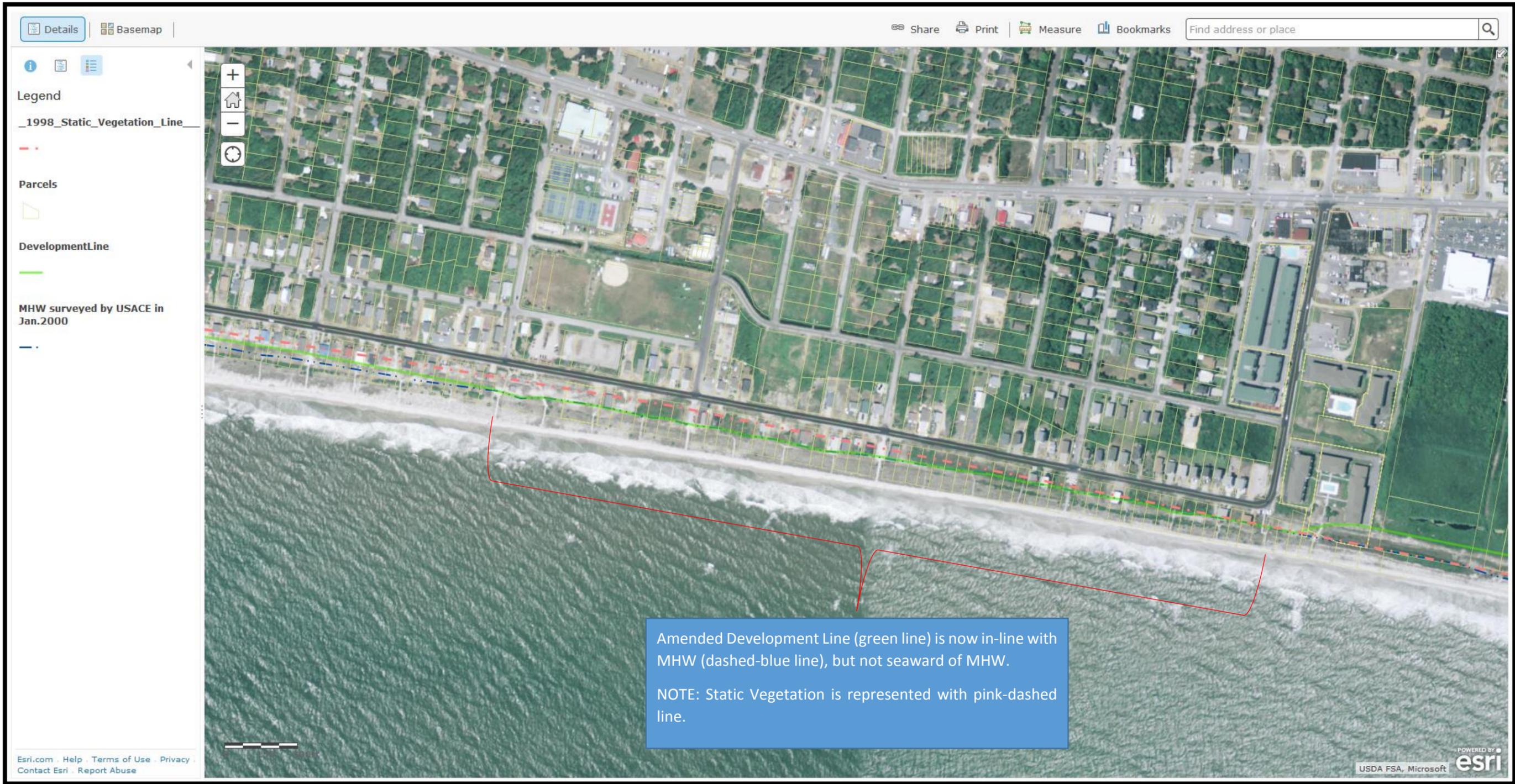


 Mary L. Lucasse
 Special Deputy Attorney General
 Post Office Box 629
 Raleigh, NC 27603-0629
 Counsel to the Commission

Town of Oak Island

Amended Development Line (section between SE 46th Street & SE 58th Street). DVL is now in-line with MHW, not seaward of MHW.







Town of Oak Island

BOARD OF ADJUSTMENTS

Council Chambers

Oak Island Town Hall

10:00am

June 29, 2017

Call to Order:

Approval of Minutes

Old Business: (none)

New Business:

- (1) Appeal
- (2) Variance

Other Business:

- (1) Board Member Reports
- (2) Staff Reports -- next meeting date selection

Adjournment:

**TOWN OF OAK ISLAND
BOARD OF ADJUSTMENT
AGENDA ITEM MEMO**

Agenda Item: New Business Item No. 2

Date: June 16, 2017



Issue: Variance Application

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Estimated Time for Discussion: 25 Minutes

Subject Summary:

The variance request you will be hearing is a quasi-judicial decision so it must be conducted in a way to insure procedural and substantive due process. Anyone wanting to provide testimony must be sworn in. As a quasi-judicial hearing the decision makers must be fair and impartial and you must base your decision only on the competent evidence you receive. If anyone has a direct or potential financial interest in this proposed project then they should recuse themselves. A 4/5th vote is required to be granted a variance. Conditions can be applied but they must be proportional and directly applicable to the applicant's variance situation. In other words they should be designed in such a way to assist the applicant come into better and closer conformance with the towns zoning regulations. All of the evidence and testimony heard is supposed to be substantive and competent in nature. Each case is decided on a site by site basis. The decision has to be based on the specific site and not the owner or other locations they may own or have issues with. The Board of Adjustment is to look at the circumstances of the property, not the circumstances of the property owner.

At the end of the hearing a motion to adopt a finding of facts document has to be adopted and signed by the chair once a decision has been officially made, regardless if the variance is approved or denied. Findings of Fact are essentially an accepted record of the exhibits, evidence presented, and a formal recording of the decision made at the hearing. The motion to adopt the findings of facts can be made in conjunction with the motion to approve or deny the application or as a separate motion afterwards. The finding of fact document will be provided at the time of the hearing.

General Statute (GS) 160A-388. (d) Codifies the evaluative criteria one is required to use when deciding a variance request. The four standards are:

"(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved."

Be sure to use these General Statute requirements when hearing the case. If approval is granted, the case needs to comply with all of the G.S. standards. Furthermore, variances are not allowed to grant a change in permitted uses.

The applicant is not applying for relief from a town's ordinances but rather from a state regulation that does not allow swimming pools to be seaward of the 1998 Static Vegetation line. The 1998 Static Vegetation line was created when the town did a large-scale beach renourishment project was done around 1999 – 2000 after Hurricane Floyd. The town appealed to the CRC (Coastal Resources Commission) to look at the pre-hurricane vegetation line, using aerial photography that existed before Floyd.

CAMA regulations do not allow pools seaward of the 1998 Static Vegetation line but are allowed seaward of the recently town adopted Development Line. The swimming pool appears to be 10 feet past the 1998 Static Vegetation line at its most seaward point. After the Oak Island Board of Adjustment decision the applicant can then and will apply for a variance to the NC Coastal Resources Commission (CRC) to place the swimming pool seaward of the 1998 Static Vegetation line setback. The Oak Island Board of Adjustment cannot grant a variance to CAMA (Coastal Area Management Act) regulations because those our state rules and the board and town does not have the authority to usurp state regulations. The applicants end goal is to apply and obtain a variance from the CRC and in order to accomplish this he/she has to proceed through the Town of Oak Island variance application process first in order to show the CRC that all possible options have been exhausted. Official notification of an Oak Island variance request approval or denial has to be provided to the CRC before he/she can go before the CRC for obtain a variance from the state.

The Town of Oak Island has an interactive map online on its website that shows the relevant ocean-front lines. That map can be found here: <https://www.arcgis.com/home/webmap/viewer.html?webmap=2bbcbad57598493387b5ba7934e2a965&extent=-78.208,33.9129,-78.204,33.9148>. One can search or zoom into any address to see where those lines lay, including the 1998 Static Vegetation line runs through it. The important lines on the attached surveys are the Mean High Water Line, the first line of stable vegetation, the Development Line, and the 1998 Static Vegetation line. All of these lines are color coded in order to make it easier to identify and read the survey.

The applicant needs to or may have already applied for CAMA minor permit to build on this lot. The CAMA minor permit would be denied because the proposed swimming pool would be seaward of the 1998 static vegetation line, but the applicant/property owner still has to go through the process.

The Oak Island Board of Adjustment cannot grant a variance to CAMA (Coastal Area Management Act) regulations because those our state rules and the board and town does not have the authority to usurp state regulations. The applicants end goal is to apply and obtain a variance from the CRC and in order to accomplish this he/she has to proceed through the Town of Oak Island variance application process first in order to show the CRC that all possible options have been exhausted.

The attached documentation contains the applicant's justification narrative, a general map of the area, site-plans, photos, the property report card, and the state evaluative criteria checklist. The property is currently in a Residential-7 zoning district which has a rear yard setback of 20ft, a side yard setback of 8ft and a front yard setback of 15ft, because it is an ocean front property. Official certified letters have been sent to the adjacent property owners and a sign, required by the Town zoning ordinance, has been placed at the site detailing the hearing date, time and location, per the zoning ordinance requirements (Sec.18-334c). It is for the Board of Adjustment to determine if the attached variance application meets the outlined criteria in the General Statutes. The hearing should not be closed until after the vote has occurred because if something comes up during deliberation then the applicant or opponents cannot submit information that may be relevant to the discussion/deliberation. I suggest at the end of the meeting the state criteria checklist be reviewed and each General Statute standard be assessed before a vote is taken. The motion when the vote occurs needs to specifically state why or why not the General Statute criteria is or is not met.

Attachments: Variance Application form, applicant justification narrative, photos, surveys, site area map, property report card, property report card, General Statute Evaluative Criteria handout

Action Needed: approve, deny, or approve with conditions

Suggested Motion: Applicant does meet all of the general statute mandated evaluative criteria or the applicant does not meet all of the general statute mandated evaluative criteria specifically _____ because _____.

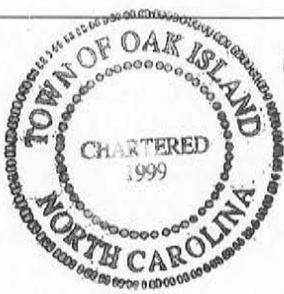
Funds Needed: \$0.00

Follow Up Action Needed: Issue official notice to the applicant.

Attachments

VARIANCE APPLICATION

TOWN OF OAK ISLAND
Planning Department
4601 E. Oak Island Drive
Oak Island, NC 28465



rec'd
6-13-17
JA



Fee \$ paid-54.

Submittal Information and Procedures:

The applicant will submit to the Development Services staff the application form and all necessary documentation prior to the Board of Adjustment hearing date.

Supplementary information is considered a required part of the application. Applications will not be considered accepted for review unless all required information is provided.

A fee in accordance with the town's adopted fee schedule must accompany the application.

The applicant is expected to attend the hearing to present evidence and answer questions of the Board. The applicant must be prepared to be cross examined concerning evidence or testimony provided. The absence of the applicant is grounds to warrant deferral of action by the Board of Adjustment.

Section A: Applicant Information

Name: Richard W. Heasley & Valerie L. Heasley

Mailing Address: 122 South 7th Ave
Paden City WV. 26159

Phone Number: Home (304) 337-9123 CELL (304) 771-2673

Email: rwhasley@suddenlink.net

Property Owner Information (if different from the applicant):

Name(s): _____

Address: _____

Phone Number: _____

Email: _____

Section B: Property Information

Address of site:

4017 E. Beach Dr.
Oak Island NC, 28465

Property Identification Number: 249DG017Lot/Block/Section: LOT 9 / BLOCK 17 / SECTION 2Zoning District: Smithville Twp - Brunswick Co. N.C.Required setbacks: Front: 15' Side: 8' Rear: 65'Total Site Area: 7500 sq/ftFlood Zone: VE 19/17**Section C: Hearing Type (Please Circle One)**

- Variance
 Appeal
 Interpretation

Section D: Required Justifications/Attachments

If you checked item A. above, please attach an explanation of how you intend to prove that the Board can reasonably find all of the following five (5) items to be true:

1. There is unnecessary hardship resulting from strict application of the ordinance.
2. The hardship of which the applicant suffers is unique to the subject property in question and is not suffered by neighboring properties.
3. The hardship results from conditions peculiar to the property.
4. The hardship suffered is not self-imposed.
5. The variance request is consistent with the spirit and intent of the ordinance.

If you check items B or C above, please attach a justification narrative of the details of your appeal or request for interpretation.

Any attachments must be clear and legible and contain only factual information pertinent to the hearing.

Section E: Supplemental Information

Copies of the site plan (preferably 11"x17"). The site plan must be clear and legible. See Section F. below for the minimum required information to be contained on the site plan.

List of names of owners, their addresses and tax parcel numbers of the properties within one hundred (100) feet of the subject property including those separated by a street right of way.

Section F: Required Site Plan Data

- Title Box including the project name, applicant name, and address of property
- The present zoning classification
- Property lines and dimensions
- The names of the owners of record of the adjacent properties
- The location and names of all adjacent street rights of way
- The total area of the property
- The location of all existing buildings on the property
- All existing easements, reservations, or rights of way

Section G: Certification

In filling this application to the Board of Adjustment, I hereby certify that all of the information presented in the application is accurate to the best of my knowledge, information, and belief.

Michael W. Heasley

6/11/17

Signature of Applicant(s)

Date

Michael W. Heasley

Signature of Applicant (if jointly applying)

Section H: Addendum to Application

I have received, read, and fully understand Chapter 18, Article 2, Division 13, Section 18-334, Zoning Board of Adjustment as it pertains to my application. I have also read and understand the application to the Board of Adjustment. The items I did not understand, if any, have been explained to my satisfaction by an employee of the Town of Oak Island Development Services Department.

I understand the Board of Adjustment, being quasi-judicial in nature, will receive only competent evidence concerning my application. I understand that I have the right to cross examine witnesses presented and that I may be cross examined on matters pertaining to the evidence and testimony that I present.

I further understand that the decision of the Board of Adjustment are subject to review in superior court by proceedings in the nature of certiorari and that I have only thirty (30) days from the date of the filing of the Board's decision in the office of the clerk to the Board of Adjustment or the date that the decision is served upon be or any other person who has requested a copy of such decision, whichever is later to file for such review.

Signature of Applicant(s)

Date

Michael W. Heasley

Signature of Applicant (if jointly applying)

Appointment of Authorized Agent

I, _____, the owner of the property subject to the Application to the Town of Oak Island Board of Adjustment, do hereby appoint _____, as my authorized agent regarding this application, to provide testimony and evidence and respond to testimony and evidence on my behalf and to represent me regarding this application. If chosen to have a third party representation at the evidentiary hearing, representation must be a registered attorney.

Property Owner Signature

Date

Authorized Agent Signature

Date

VARIANCE

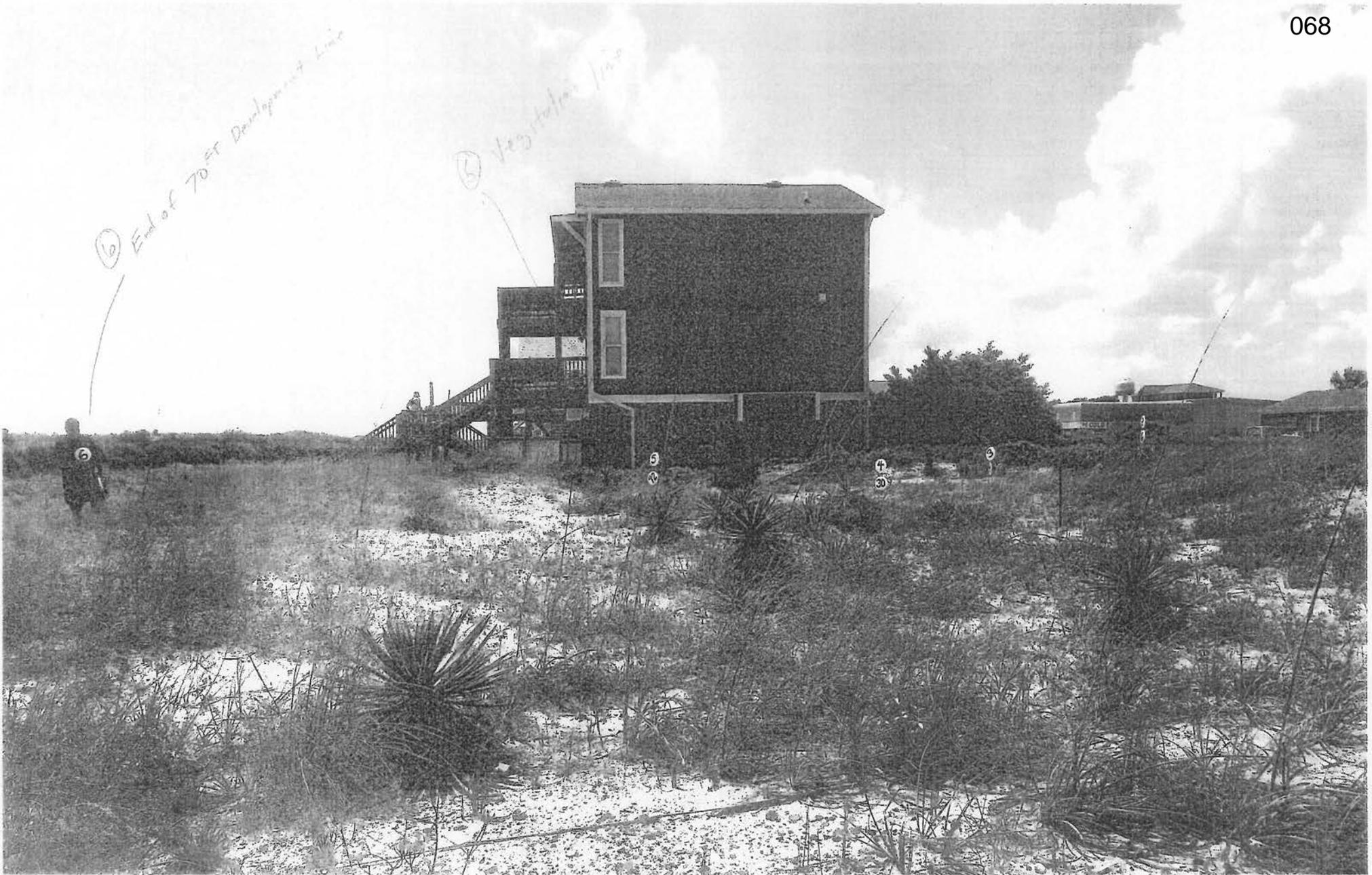
DEAR BOARD MEMBERS

1. The strict application of the limited pool line will cause great monetary and personal hardship because we will not be able to build our dream beach house and pool within our budget on the lot we purchased. We hope to build a 5 bedroom, 3 ½ bath beach house with pool and porches ocean side to enjoy the views. We plan to use it as a rental most of the year in order to recoup our investment and to generate retirement income. However, it's more than a rental investment to us. We also hope to enjoy it a few times a year making memories with friends and family becoming part of the community after retirement. The rental management company and builder both say this size house with a pool oceanside is in high demand for rentals. Most renter's families (like ours) have at least a few members squeamish who prefer a pool to the ocean. The current rule sets the pool in the center of the building space making it impossible.
2. The building footprint is 34 ft. wide and 70 ft. long. We need more than a 15ft. set back to handle 5 vehicles and build the house large enough to accommodate families -like our own 4 grown children and their expanding families (3 grandchildren) and a pool. A ground pool is more economical and assessible for those with handicaps and the elderly (we hope my wife's parents in their 80s can visit) and makes it safer and easier for families, especially with children going back and forth from the ocean to the pool. We also intend to use the pool for health reasons because we suffer from chronic arthritis and joint pain, a dip in the pool in the evening without having to worry about sea creatures would be wonderful.
3. The 1998 vegetation line is no longer protective but causes a hardship for us by restricting our footprint. We were shocked and dumbfounded to find a 1998 line that no longer seems relevant prevents us from being able to put a pool past the center of the buildable area. Especially when we were first attracted to the property by the impressive dunes and mature vegetation. The dunes on the lot are over 8-10 ft. high and at least 30 to 40 ft. deep.
4. The hardship is not self-imposed, we just need to be able to build a reasonable house that suits our needs and is well within the buildable footprint.
5. We believe this request is in the spirit of the ordinance since the property now has an exceptionally large dune to protect it a good distance from the building area. The home we wish to build is not out of the ordinary, but what anyone would expect to enjoy such a beautiful setting. We have tried every possible shift and configuration and cannot find another way. We cannot leave out porches, parking, or make the house 16ft. deep! - and still have a rentable, or even usable home.

We have been dreaming of living on the ocean for a long time and after searching up and down the coast choice Oak Island to be our dream destination. We have fallen in love with the area for its small-town atmosphere, kind, friendly people and the beauty all around. We hope to become both part of this wonderful community and economy.

Thank you,
Rick and Valerie Heasley
06/12/17

A handwritten signature in black ink, appearing to read "Rick Heasley", written in a cursive style.





⑤ End of 12 Ft Pool @ 42 Ft Ves. Line

④ End of 6 Ft CONCRETE SURROUND OF POOL

③ Edge of Deck

② End of House 16 Ft deep with current restriction without variance

① 15' SETBACK

5
2

4
30

3
21

2
16

1
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8





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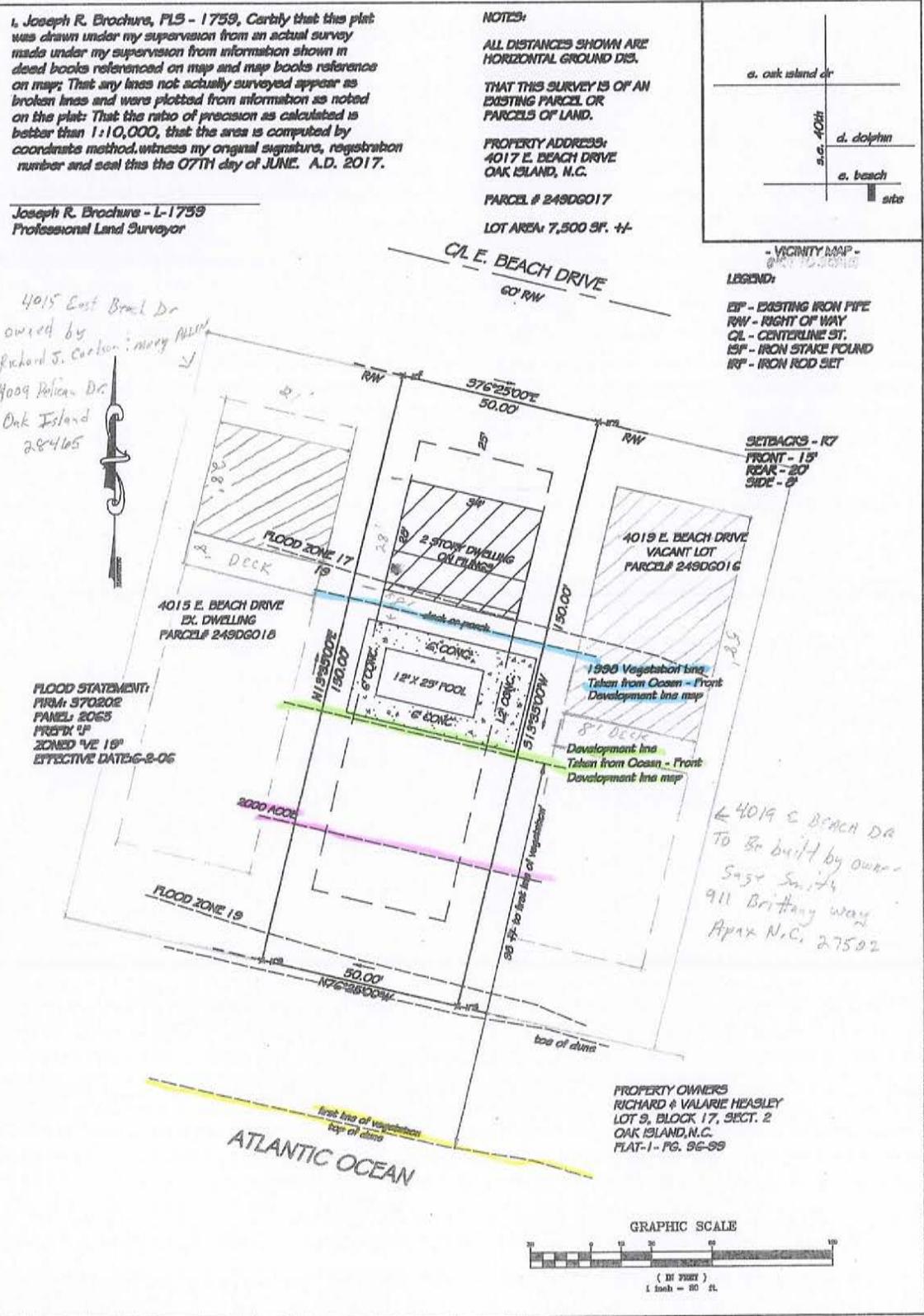
42

4

30







Island Surveyors, Inc. P.A.
 JOEY BROCHURE L-1759
 427 Womble St
 Oak Island, N.C. 28465
 PHONE: 910-250-9192
 CELL: 910-523-6122
 www.islandsurveyor.com

Residential & Commercial Site Plan
 Lot Surveys & Flood Elev. Certificates
 email: islandsurveyors@gmail.com

PROJECT # -
 2017-000-HEASLEY

SURVEYED BY: JRB
 DRAWN BY: JRB
 CHECKED BY: JRB
 DATE: 05/2017

SCALE: 1" = 30'

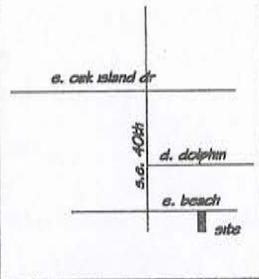
SURVEY FOR
RICHARD & VALARIE HEASLEY
 4017 E. BEACH DRIVE
 OAK ISLAND, N.C.
 SMITHVILLE TWP. - BRUNSWICK CO. N.C.
 DATE: 06/6/17 SCALE: 1" = 30'

PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES

I, Joseph R. Brochure, PLS - 1759, Certify that this plat was drawn under my supervision from an actual survey made under my supervision from information shown in deed books referenced on map and map books references on map; That any lines not actually surveyed appear as broken lines and were plotted from information as noted on the plat; That the ratio of precision as calculated is better than 1:10,000, that the area is computed by coordinate method, witness my original signature, registration number and seal this the 07TH day of JUNE, A.D. 2017.

Joseph R. Brochure - L-1759
Professional Land Surveyor

NOTES:
ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.
THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.
PROPERTY ADDRESS:
4017 E. BEACH DRIVE
OAK ISLAND, N.C.
PARCEL # 249DGO17
LOT AREA: 7,500 SF. +/-

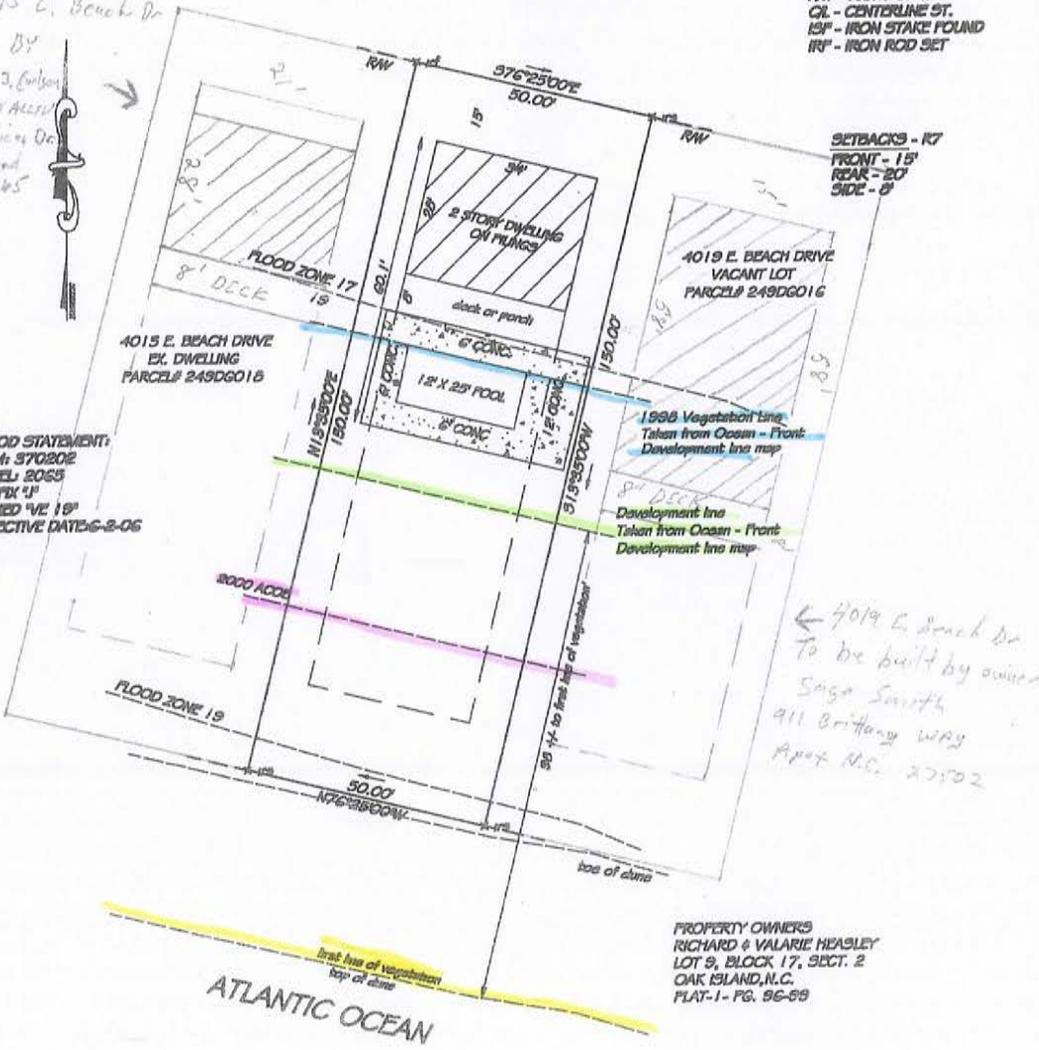


LEGEND:
EIF - EXISTING IRON PIPE
RW - RIGHT OF WAY
CL - CENTERLINE ST.
ISF - IRON STAKE FOUND
IRF - IRON ROD SET

4015 E. Beach Dr.
OWNED BY
RICHARD J. HEASLEY
AND VALARIE HEASLEY
4009 Pelican Dr.
Oak Island
28465

FLOOD STATEMENT:
FIRM: 376202
PARCEL: 2065
PREFIX: 1P
ZONED: VE 19
EFFECTIVE DATES: 8-06

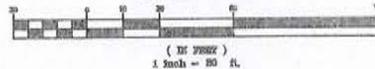
SETBACKS - R7
FRONT - 15'
REAR - 20'
SIDE - 8'



← 4019 E. Beach Dr.
To be built by owner
Sara Smith
911 Brittany way
Appt N.C. 27902

PROPERTY OWNERS
RICHARD & VALARIE HEASLEY
LOT 9, BLOCK 17, SECT. 2
OAK ISLAND, N.C.
PLAT-1 - PG. 96-99

GRAPHIC SCALE



Island Surveyors, Inc. P.A.

JOEY BROCHURE L-1759
427 Womble St
Oak Island, N.C. 28465
PHONE: 910-250-9192
CELL: 910-523-6122
www.islandsurveyor.com

Residential & Commercial Site Plan
Lot Surveys & Flood Elev. Certificates
email: islandsurveyors@gmail.com

PROJECT # -
2017-000-HEASLEY
SURVEYED BY: JRB
DRAWN BY: JRB
CHECKED BY: JRB
DATE: 06/06/2017
SCALE: 1" = 30'

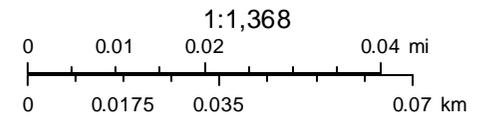
SURVEY FOR
RICHARD & VALARIE HEASLEY
4017 E. BEACH DRIVE
OAK ISLAND, N.C.
SMITHVILLE TWP. - BRUNSWICK CO. N.C.
DATE: 06/06/17 SCALE: 1" = 30'

PRELIMINARY: NOT FOR RECORDATION CONVEYANCES OR SALES



June 14, 2017

- | | | | | |
|---|--|--|--|---|
| ■ Addresses | — US Hwy | — Minor | □ Parcel | ■ Green: Band_2 |
| Roads | — NC Hwy | Parcels | □ County Boundary | ■ Blue: Band_3 |
| — Interstate | — State Road | □ Condo | ■ Red: Band_1 | |



BRUNSWICK COUNTY										6/14/2017 4:01:25 PM											
CROWE LINDA W ET VIR										CROWE PHILLIP E											
80006655										Return/Appeal Notes: Parcel: 249DG017											
BRUNSWICK COUNTY (100), DOSHER HOSP TAX (100), OAK ISLAND (100), OAK ISLAND FIRE (10)										PLAT: UNIQ ID 128163 ID NO: 206507697604											
Reval Year: 2015 Tax Year: 2017										CARD NO. 1 of 1											
L-9 B-17 S-2 LB 1/96-99										1.000 LT SRC=											
Appraised by A2 on 12/01/2011 306F OAK ISLAND-MAINLAND-SOUTH										TW-03 CI-14 FR-08 EX- AT- LAST ACTION 20150120											
CONSTRUCTION DETAIL		MARKET VALUE					DEPRECIATION					CORRELATION OF VALUE									
TOTAL POINT VALUE		USE	MOD	Eff. Area	QUAL	BASE RATE	RCN	EYB	AYB	CREDENCE TO											
BUILDING ADJUSTMENTS		98	00							% GOOD											
TOTAL ADJUSTMENT FACTOR		TYPE: VACANT LAND																			
TOTAL QUALITY INDEX		STYLE:																			
DEPR. BUILDING VALUE - CARD		0																			
DEPR. OB/XF VALUE - CARD		0																			
MARKET LAND VALUE - CARD		25,000																			
TOTAL MARKET VALUE - CARD		25,000																			
TOTAL APPRAISED VALUE - CARD		25,000																			
TOTAL APPRAISED VALUE - PARCEL		25,000																			
TOTAL PRESENT USE VALUE - PARCEL		0																			
TOTAL VALUE DEFERRED - PARCEL		0																			
TOTAL TAXABLE VALUE - PARCEL \$		25,000																			
PRIOR																					
BUILDING VALUE		0																			
OBXF VALUE		0																			
LAND VALUE		25,000																			
PRESENT USE VALUE		0																			
DEFERRED VALUE		0																			
TOTAL VALUE		25,000																			
PERMIT																					
CODE		DATE		NOTE		NUMBER		AMOUNT													
ROUT: WTRSHD:																					
SALES DATA																					
OFF. RECORD	DATE	DEED				INDICATE SALES PRICE															
BOOK	PAGE	MOYR	TYPE	Q	UV	I	PRICE														
03873	0623	2	2017	GW*	Q	V	203000														
03392	0835	4	2013	WD*	C	V	0														
02009	0572	9	2004	WD	U	V	0														
01180	0448	10	1997	WD	U	V	0														
00838	0738	4	1991	WD	U	V	4500														
HEATED AREA																					
NOTES																					
SUBAREA																					
TYPE	GS AREA	%	RPL CS	CODE	QUALITY	DESCRIPTION	COUNT	LTH	WTH	UNITS	UNIT PRICE	ORIG % COND	BLDG#	SIZE FACT	AY	EYB	ANN DEP RATE	% OVR	COND	OB/XF DEPR. VALUE	
FIREPLACE		TOTAL OB/XF VALUE																			
SUBAREA TOTALS																					
BUILDING DIMENSIONS																					
LAND INFORMATION																					
HIGHEST AND BEST USE	USE CODE	LOCAL ZONING	FRON TAGE	DEPTH	DEPTH / SIZE	LND MOD	COND FACT	OTHER ADJUSTMENTS AND NOTES RF AC LC TO OT			ROAD TYPE	LAND UNIT PRICE	TOTAL LAND UNITS	UNT TYP	TOTAL ADJST	ADJUSTED UNIT PRICE	LAND VALUE	OVERRIDE VALUE	LAND NOTES		
ERO CAMA	9604	R7	50	150	1.0000	0	0.1000	CAMA			PS	250,000.00	1.000	LT	0.100	25,000.00	25000		0		
TOTAL MARKET LAND DATA		25,000																			
TOTAL PRESENT USE DATA																					

Notice of Intent

August 21, 2017

Dear Mr. Richard Carlson

This is to inform you that I have applied for a variance to construct a pool seaward of the '98 static vegetation line on my property at 4017 E. Beach Drive and will likely be heard at the September 27-28, 2017 CRC meeting. I am enclosing a drawing of my intentions. My building setback will be either 15' to 20'. If you have any questions you can contact DCM District Manager Debbie Wilson at the Wilmington office.

Thank you.

Sincerely,

Rick Heasley

122 S. 7th Ave.
Paden City, WV 26159

August 21, 2017

Dear Mr. Sage Smith:

This is to inform you that I have applied for a variance to construct a pool seaward of the '98 static vegetation line on my property at 4017 E. Beach Drive and will likely be heard at the September 27-28, 2017 CRC meeting. I am enclosing a drawing of my intentions. My building setback will be either 15' to 20'. If you have any questions you can contact DCM District Manager Debbie Wilson at the Wilmington office.

Thank you.

Sincerely,

Rick Heasley

122 S. 7th Ave.
Paden City, WV 26159

7015 0640 0002 0136 3918

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OFFICIAL USE

Certified Mail Fee	\$3.75	0769 01 Postmark Here 08/22/2017
Extra Services & Fees (check box, add fees as appropriate)	\$0.00	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.47	
Total Postage and Fees	\$4.22	

Sent to
 Mr. Richard Carlson & Mary Allen
 Street and Apt. No., or PO Box No.
 4009 Pelican Dr.
 City, State, ZIP+4®
 Oak Island NC 28465

PS Form 3800, April 2015 PSN 7520-02-000-9007 See Reverse for Instructions

7015 0640 0002 0136 3918

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OFFICIAL USE

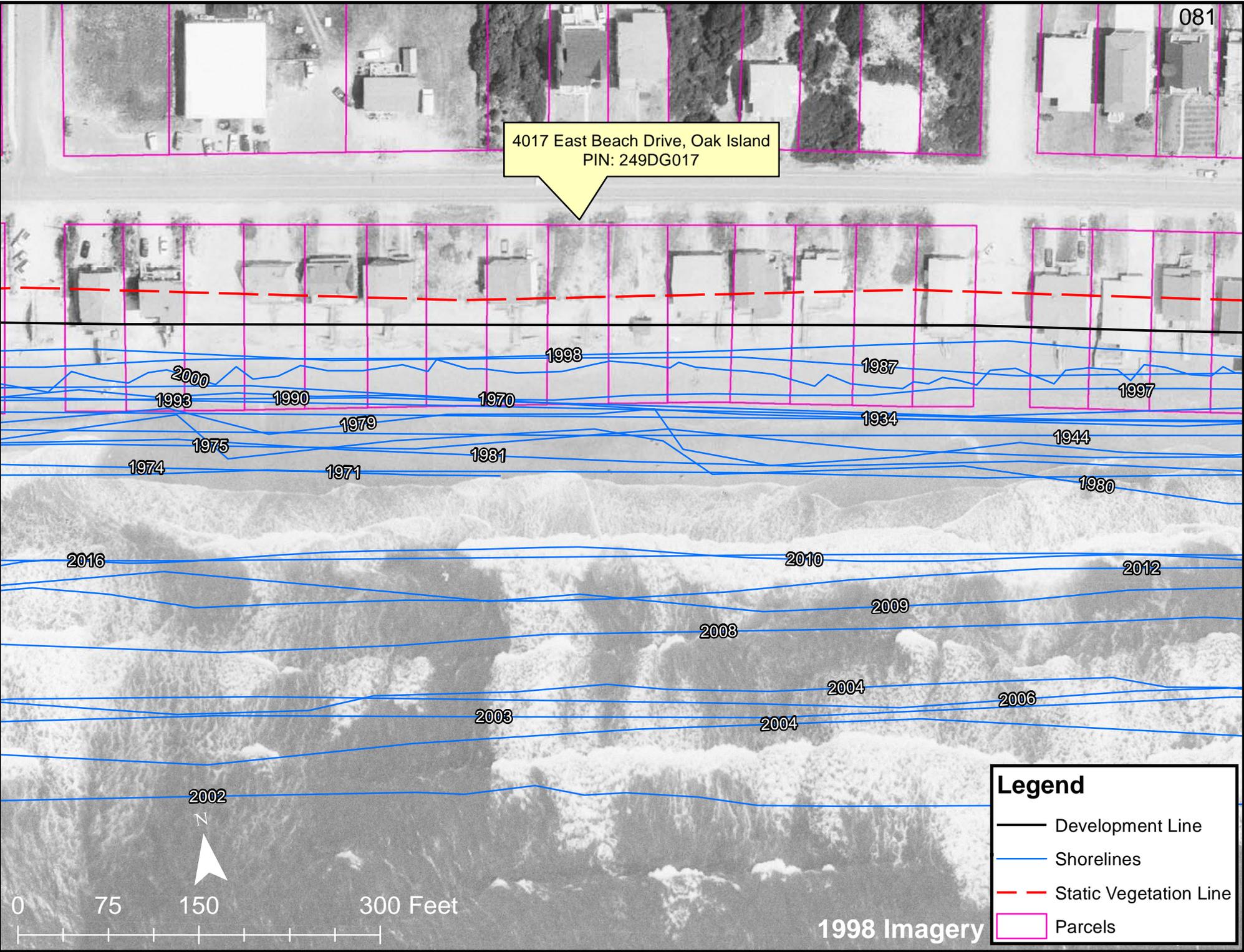
Certified Mail Fee	\$3.75	0769 01 Postmark Here 08/22/2017
Extra Services & Fees (check box, add fees as appropriate)	\$0.00	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.45	
Total Postage and Fees	\$4.20	

Sent to
 Mr. Sage Smith
 Street and Apt. No., or PO Box No.
 911 Brittleway Way
 City, State, ZIP+4®
 Apex, NC 27502

PS Form 3800, April 2015 PSN 7520-02-000-9007 See Reverse for Instructions

081

4017 East Beach Drive, Oak Island
PIN: 249DG017



Legend

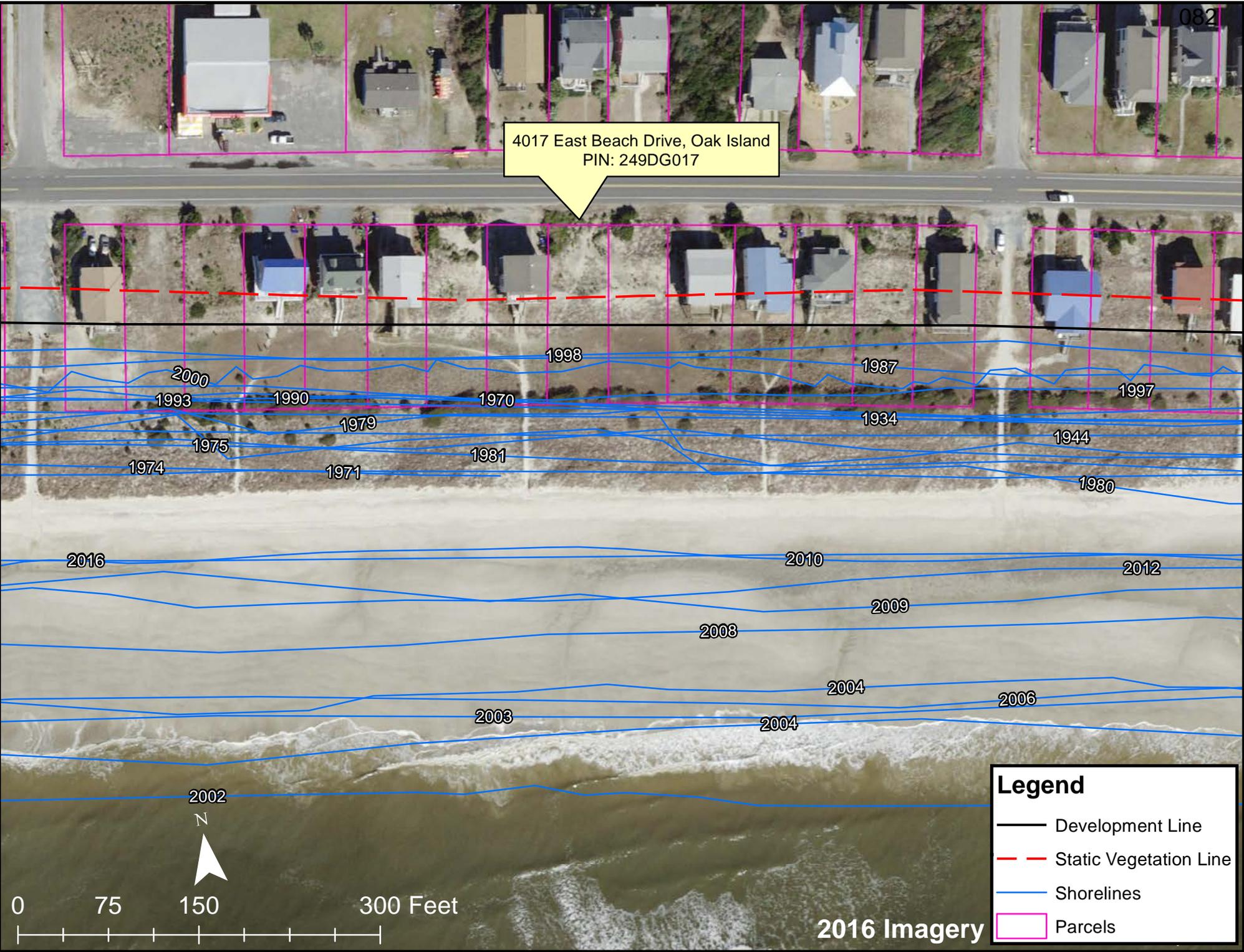
- Development Line
- Shorelines
- - - Static Vegetation Line
- ▭ Parcels



1998 Imagery

082

4017 East Beach Drive, Oak Island
PIN: 249DG017



Legend

- Development Line
- - - Static Vegetation Line
- Shorelines
- ▭ Parcels

2016 Imagery

0 75 150 300 Feet



I, Joseph R. Brochure, PLS - 1759, Certify that this plat was drawn under my supervision from an actual survey made under my supervision from information shown in deed books referenced on map and map books reference on map; That any lines not actually surveyed appear as broken lines and were plotted from information as noted on the plat: That the ratio of precision as calculated is better than 1/10,000, that the area is computed by coordinate method. witness my original signature, registration number and seal this the 30TH day of OCT. A.D. 2017.

Joseph R. Brochure - L-1759
Professional Land Surveyor



NOTES:

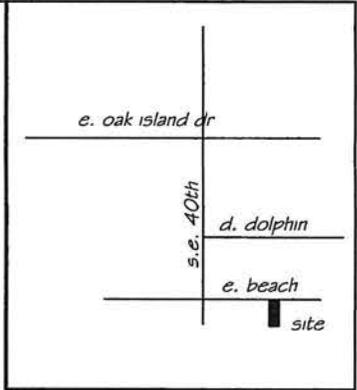
ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DIS.

THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND.

PROPERTY ADDRESS:
4017 E. BEACH DRIVE
OAK ISLAND, N.C.

PARCEL # 249DG017

LOT AREA: 7,500 SF. +/-

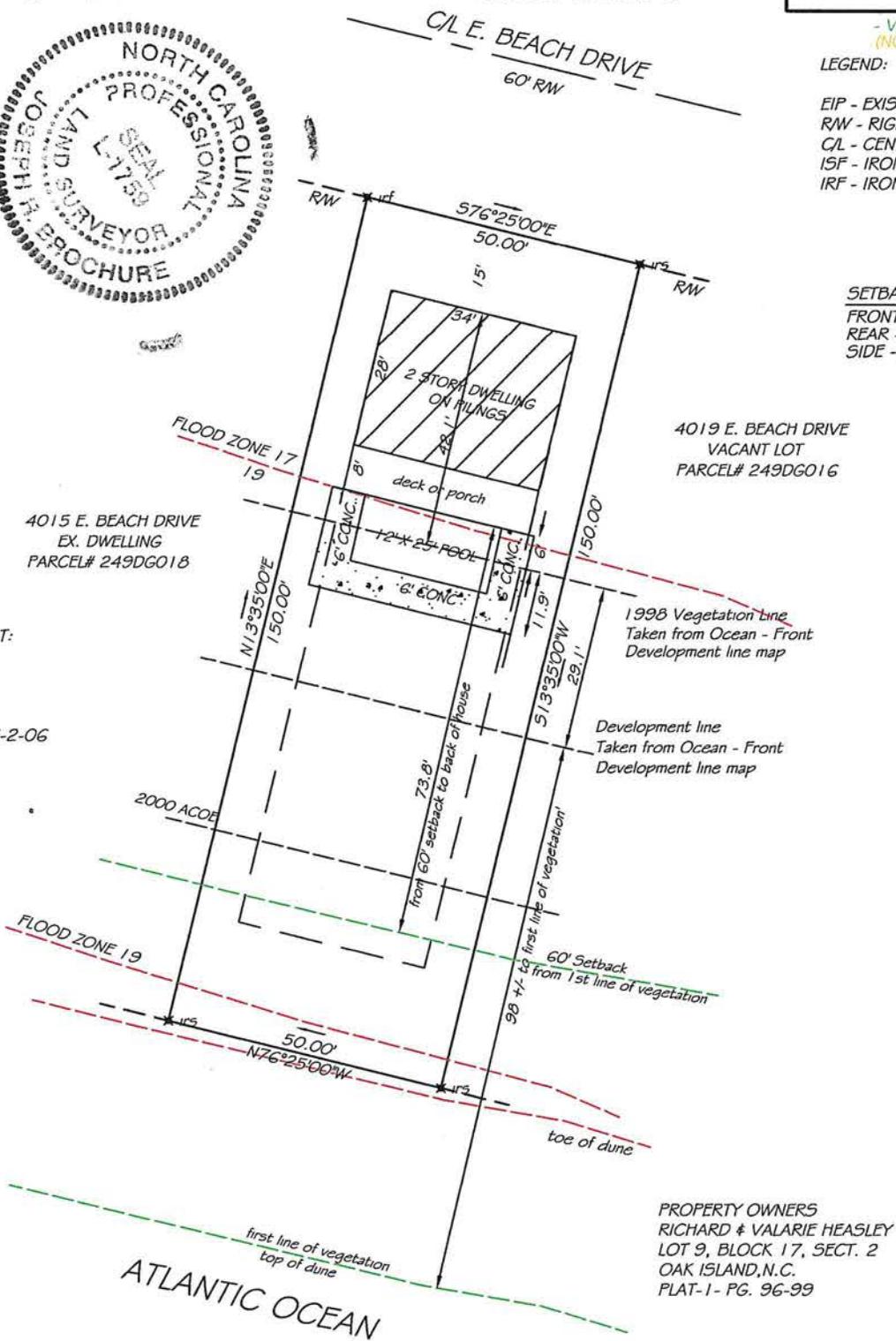


- VICINITY MAP -
(NOT TO SCALE)

LEGEND:

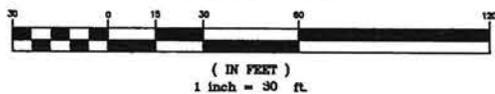
- EIP - EXISTING IRON PIPE
- RW - RIGHT OF WAY
- C/L - CENTERLINE ST.
- ISF - IRON STAKE FOUND
- IRF - IRON ROD SET

SETBACKS - R7
FRONT - 15'
REAR - 20'
SIDE - 8'



FLOOD STATEMENT:
FIRM: 370202
PANEL: 2065
PREFIX "J"
ZONED "VE 19"
EFFECTIVE DATE: 6-2-06

GRAPHIC SCALE



Island
Surveyors, Inc. P.A.

JOEY BROCHURE L-1759
427 Womble St
Oak Island, N.C. 28465
PHONE: 910-250-9192
CELL: 910-523-6122
www.islandsurveyor.com

Residential & Commercial Site Plan
Lot Surveys & Flood Elev. Certificate
email: islandsurveyors@gmail.com

PROJECT # -
2017-000-HEASLEY

SURVEYED BY: JRB
DRAWN BY: JRB
CHECKED BY: JRB
DATE: 06/06/2017

SCALE: 1" = 30'

PRELIMINARY SITE PLAN

FOR
VARIANCE

RICHARD & VALARIE HEASLEY

4017 E. BEACH DRIVE
OAK ISLAND, N.C.

SMITHVILLE TWS. - BRUNSWICK CO. N.C.

DATE: 10/30/17 SCALE: 1" = 30'

PRELIMINARY: "NOT FOR RECORDATION CONVEYANCES OR SALES"

Notice of Intent

October 17, 2017

Dear Mr. Richard Carlson

This is to inform you that I have applied for a variance to construct a pool seaward of the '98 static vegetation line on my property at 4017 E. Beach Drive. It was filed as a CAMA MINOR PERMIT in early July 2017 I am enclosing a drawing of my intentions. My building setback will be 15' If you have any questions you can contact local permit officer Donna Coleman for the town of oak island 4601 E. Oak Island Oak Island NC

Thank you.

Sincerely,

Rick Heasley

122 S.7th Ave.

Paden City, WV 26159

Notice Of Intent

October 17, 2017

Dear Mr. Sage Smith:

This is to inform you that I have applied for a variance to construct a pool seaward of the '98 static vegetation line on my property at 4017 E. Beach Drive. It was filed as a CAMA MINOR PERMIT in early July 2017. I am enclosing a drawing of my intentions. My building setback will be 15'. If you have any questions you can contact local permit officer Donna Coleman for the town of Oak Island 4601 E. Oak Island Oak Island NC

Thank you,

Sincerely,
Rick Heasley
122 S 7th Ave.
Paden City WV 26159

PADEN CITY
 213 W MAIN ST
 PADEN CITY
 WV
 26159-9998
 5561680769
 (800)275-8777

10/18/2017 10:12 AM

Product Description	Sale Qty	Final Price
---------------------	----------	-------------

First-Class Mail Letter (Domestic) (OAK ISLAND, NC 28465) (Weight: 0 Lb 0.50 Oz) (Expected Delivery Day) (Saturday 10/21/2017)	1	\$0.49
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Certified (@@USPS Certified Mail #) (70150640000201384506)	1	\$3.35
--	---	--------

Return Receipt (@USPS Return Receipt #) (9550940222216193651107)	1	\$2.75
--	---	--------

First-Class Mail Letter (Domestic) (APEX, NC 27502) (Weight: 0 Lb 0.50 Oz) (Expected Delivery Day) (Saturday 10/21/2017)	1	\$0.49
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Certified (@@USPS Certified Mail #) (70150640000201384490)	1	\$3.35
--	---	--------

Return Receipt (@USPS Return Receipt #) (9590940222216193651091)	1	\$2.75
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Total		\$13.18
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Cash	\$20.00
Change	(\$6.82)

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data Rates may apply.

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OAK ISLAND, NC 28465

OFFICIAL USE

Certified Mail Fee	\$3.35	0769 01 Postmark Here
Extra Services & Fees (check box, add fee as appropriate)	\$2.75	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	10/18/2017
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.49	
Total Postage and Fees	\$6.59	

Sent To
 Street and Apt. No., or PO Box No.
 City, State, ZIP+4®

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

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APEX, NC 27502

OFFICIAL USE

Certified Mail Fee	\$3.35	0769 01 Postmark Here
Extra Services & Fees (check box, add fee as appropriate)	\$2.75	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	10/18/2017
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.49	
Total Postage and Fees	\$6.59	

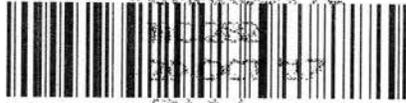
Sent To
 Street and Apt. No., or PO Box No.
 City, State, ZIP+4®

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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>M. L. Allen</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to: <i>Mr. Richard Carlson 4009 Pelican Dr. Oak Island NC, 28465</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9402 2221 6193 6511 07	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label) 7015 0640 0002 0138 4506</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>[Signature]</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to: <i>Mr. Sage Smith 911 Brittlely Way Apex NC, 27502</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
 9590 9402 2221 6193 6510 91	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label) 7015 0640 0002 0138 4490</p>	
PS Form 3811, July 2015 PSN 7530-02-000-9053	Domestic Return Receipt

USPS TRACKING#



9590 9402 2221 6193 6511 07

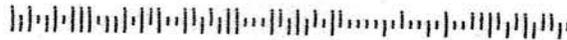


First-Class Mail
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USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Rick Heasley
122 S 7th Ave
Paden City WV, 26159



USPS TRACKING#



9590 9402 2221 6193 6510 91

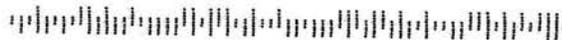


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Rick Heasley
122 S 7th Ave.
Paden City WV, 26159





Rick & Valerie Heasley Variance Request
4017 East Beach Dr., Oak Island, Brunswick County
February 13, 2018



Department of Environmental Quality



Heasley Variance Request



Google earth
 Data SIO, NOAA, U.S. Navy, NGA, GEBCO
 © 2017 Google
 Google Earth Imagery 10/2016

Department of Environmental Quality



Heasley Variance Request



Google earth Google Earth Imagery 10/2016

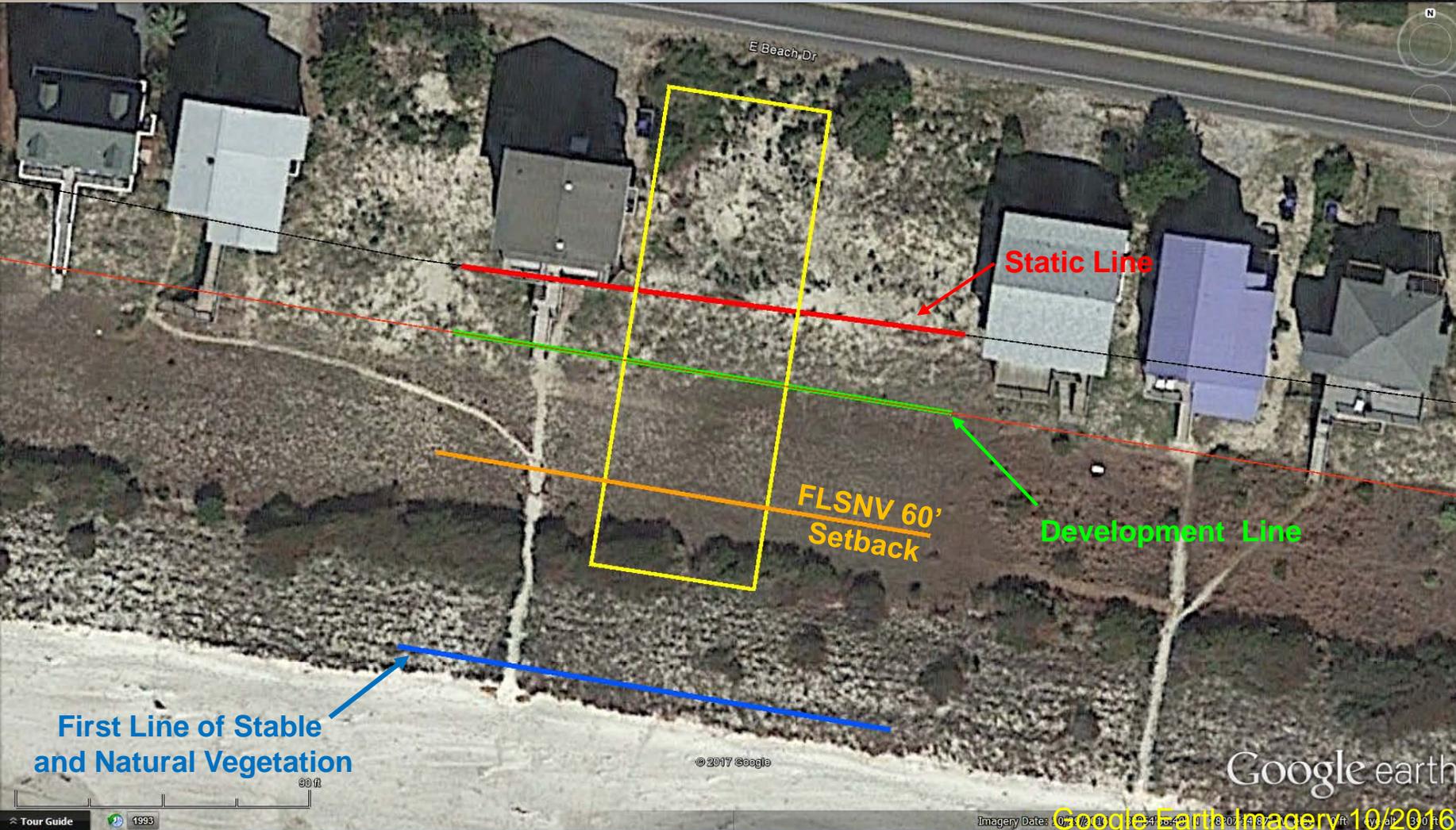
Department of Environmental Quality



Heasley Variance Request



Heasley Variance Request



FLSNV measured July 26, 2017 by Brooks Surgan (DCM)



Heasley Variance Request



View of Petitioner's property looking South

Photo taken by DCM Staff 7/26/17



Heasley Variance Request

095



View of Petitioner's property
looking North

Photo taken by DCM Staff 7/26/17

Thexton Variance Request

096



View of Petitioner's property
looking West

Photo taken by DCM Staff 7/26/17



Heasley Variance Request

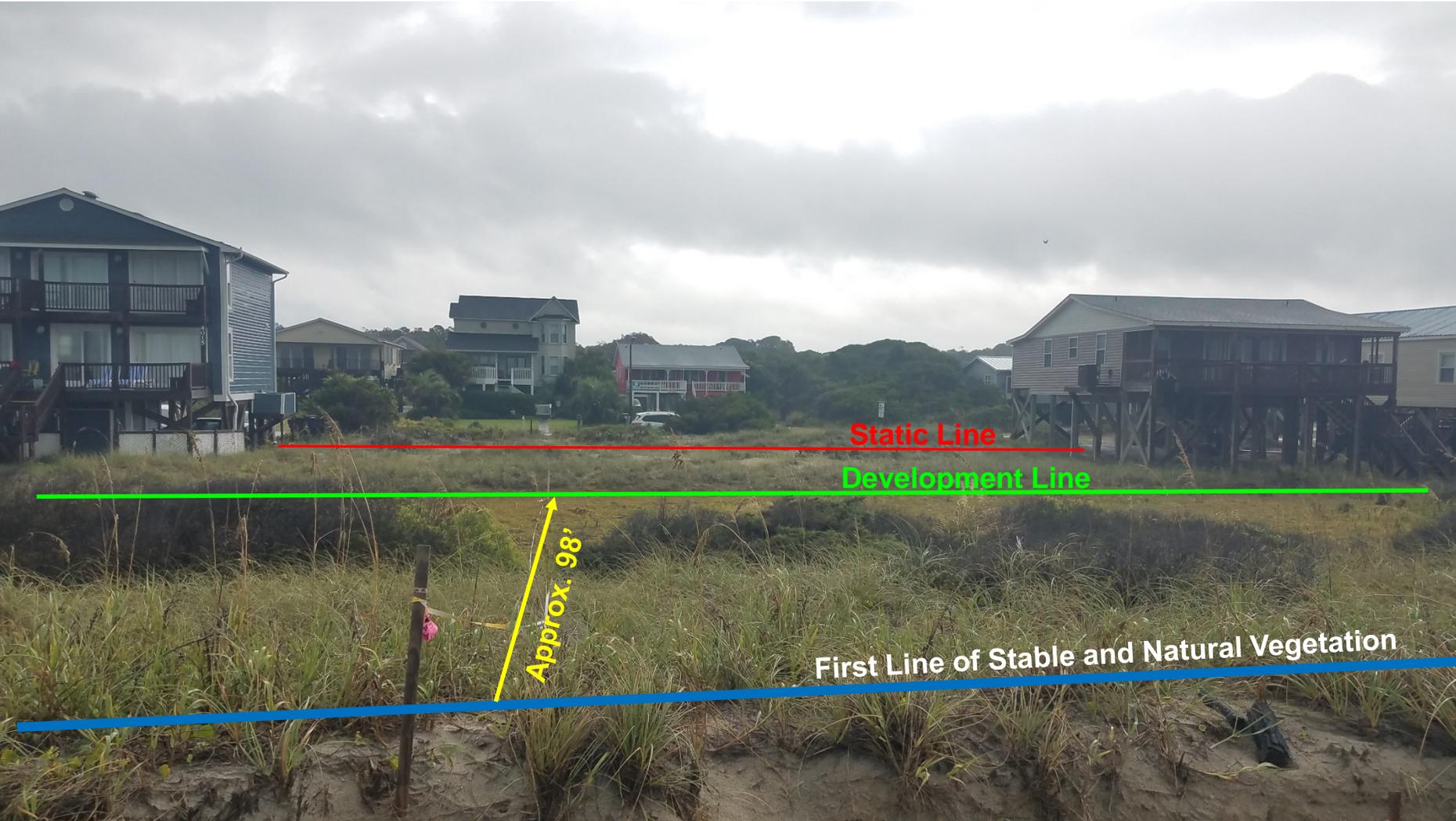
097



View of Petitioner's property
looking Northeast

Photo taken by DCM Staff 7/26/17

Heasley Variance Request



View of Petitioner's Property looking South

Photo taken by DCM Staff 7/26/17



Heasley Variance Request

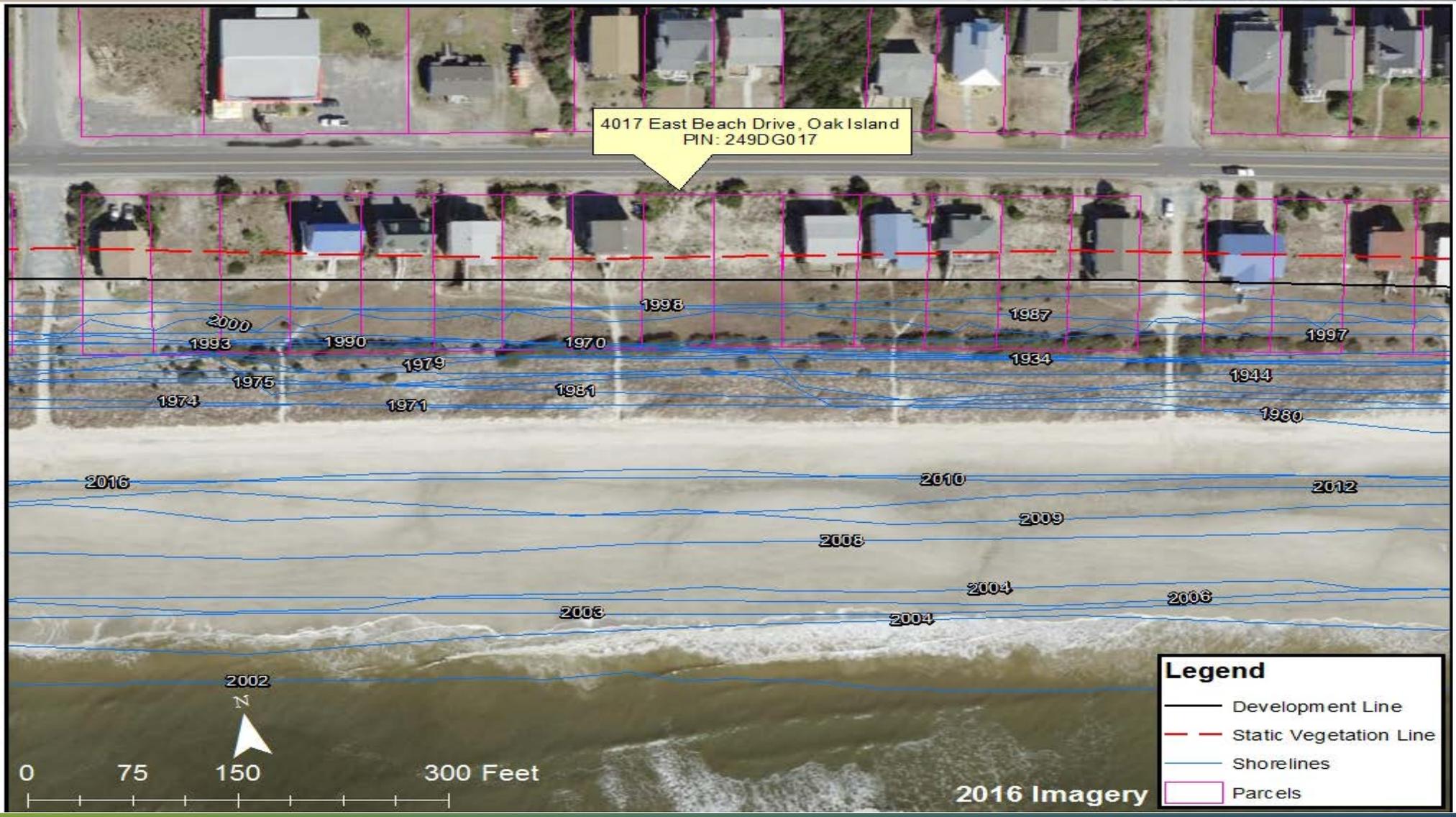


View of Petitioner's Property looking South

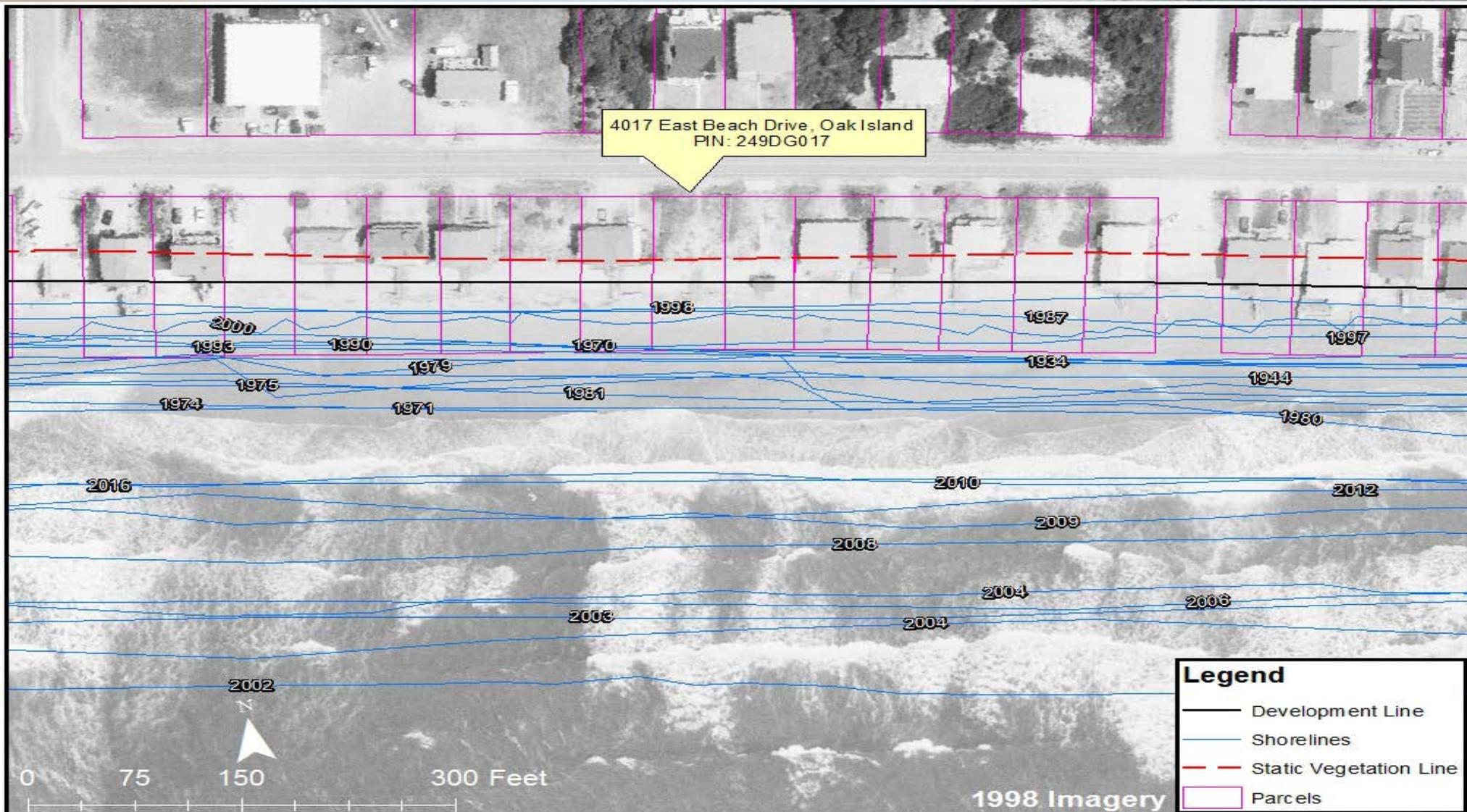
Photo taken by DCM Staff 7/26/17



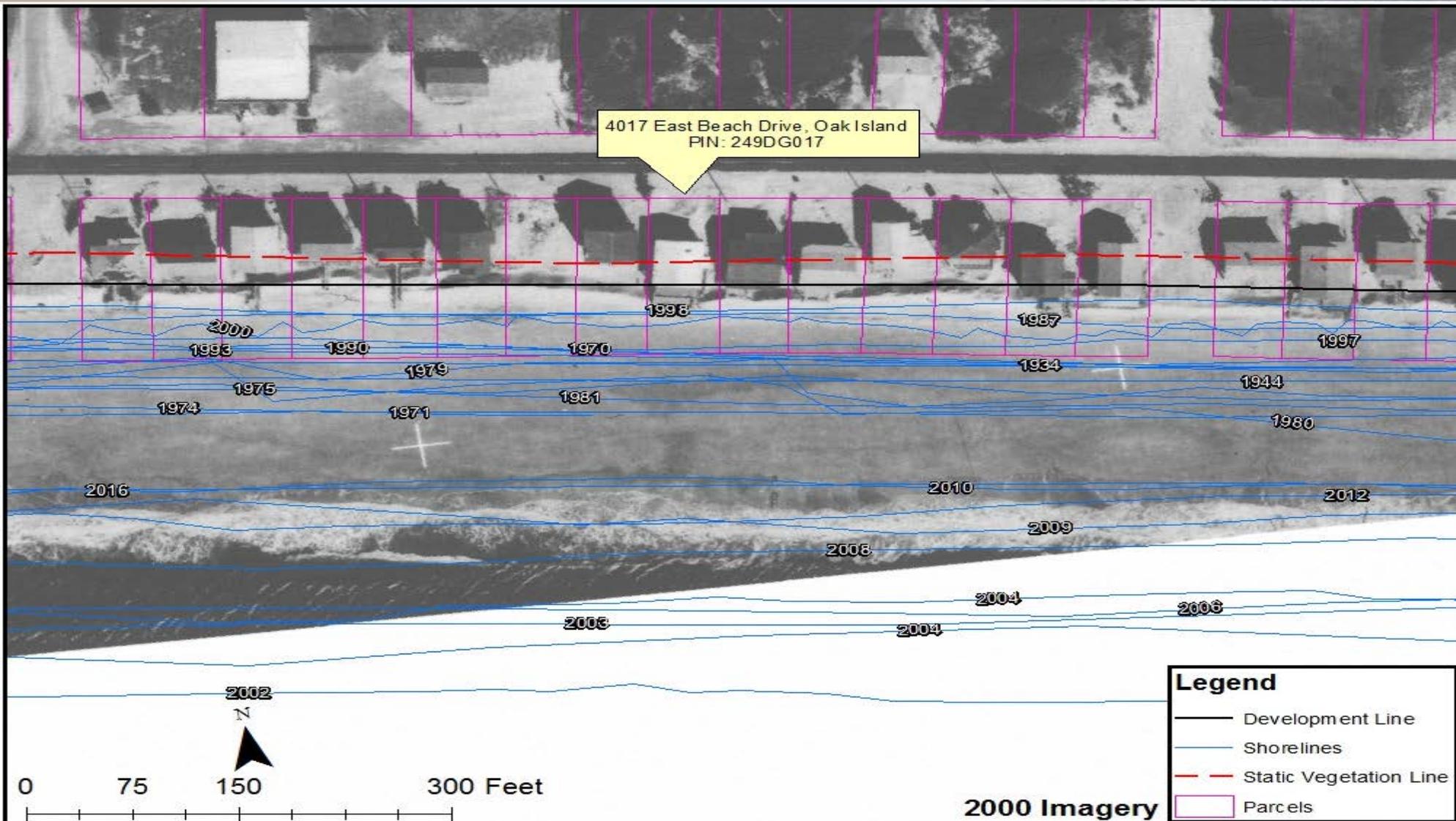
Heasley Variance Request



Heasley Variance Request



Heasley Variance Request



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

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

- (A) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;
- (B) that such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property;
- (C) that such hardships did not result from actions taken by the petitioner; and
- (D) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.

