

Public hearings for all rules started at 5:00 pm Thursday, November 29th as the City Hotel & Bistro in Greenville, NC.

15A NCAC 7H .0306 – General Use Standards for Ocean Hazard Areas

Charles Baldwin (Rountree, Losee & Baldwin, LLP representing Village of Bald Head Island) and **Stephen Coggins** (Rountree, Losee & Baldwin, LLP representing Village of Bald Head Island) stated that, “A unique perspective on the setback line is being brought by the Village because, as a municipality, we have an obligation to protect its citizens and their safety.” There are two provisions in particular that will overnight threaten the Village’s ability to carry out its function to its citizens. There is a separate rule in the setbacks regarding transportation infrastructure and utilities. He stated that he has heard some talk that transportation and utilities are exempted from this rule. That is not what this rule says. The rule says that with respect to roads and particularly roads with more than 5,000 square feet the setback must be 60 times the erosion rate. With respect to utilities, it must be 30 times the erosion rate. This has caught the attention of the Village because if this rule is adopted, overnight all of the infrastructure in one area (slides were shown) would be rendered non-conforming. There should be a grandfathering provision. An illustration was shown which indicated that 30,432 linear feet of right-of-ways would fall within the erosion setback in the proposed rule. The water and sewer infrastructure and lift stations would be rendered non-conforming. Total square foot living space will include roof-covered porches. The way the rule is read it is unclear if the requirement for the roof covering, since it follows the language for walkways and then structurally-attached parking, it is unclear if a roof is required to be included in the living space. “Building” is not defined. “Structure” is not defined. “Structurally attached” is not defined. “Parking” is not defined. This is a big deal because the municipalities have extremely detailed zoning and subdivision regulations that specifically define these terms. To avoid impossible situations of determining what this meaning is, regarding the total square footage, it should be made consistent after surveying all of the local governments within the CRC’s twenty-county jurisdiction as to how to define the terms. The devil is in the details. There would be houses that are now conforming that would be rendered non-conforming overnight. Lots that are now buildable would be rendered unbuildable because of whether or not to include roof-covered porches, driveways, walkways or parking. The buildings that would be affected by this kind of footage are critical to the safety of the people of Bald Head Island. It is not a question of value or dollars; they are essential to whether someone could get on or off of the island in a particular event. We want the uniqueness of the Village to be taken into consideration. A request was made for grandfathering language. (Written comments have been submitted.)

Tom Burns, resident of Oak Island, stated that he made comments during .0305.

Bobby Roberson, City of Washington, signed up for public hearing but was not present when called upon by the Chairman.

Meyressa Schoonmaker, Oak Island property owner, stated that for the provision of .0306 she is not in favor of changing the exemption of the static line. Under (a) building

or other structures less than 5,000 square feet: She stated that she recalls reading that at one time that would be 2,000 square feet rather than 5,000 square feet. She stated that the CRC review this option again. She said that one local politician said, "that if it would fit the lot then why put additional restrictions?" She said that she feels that this is not in the best interest of the beachfront and that this is not in the best interest of the Town. When looking at the figures of this rule (a through j) it looks like the numbers were just pulled out of the air. She wonders if someone had some statistical information from which they determined if it was a certain size then it needed to be a certain distance back from the water. She said she gets the feeling that it did not come from any particular information but rather that someone was trying to come up with a grid that progressively changed it. She noted that on this particular issue, there are three main purposes for setback justifications (1) prevent building from interfering with recreational use of the beach, (2) to provide storm protection for the buildings and the community infrastructure and (3) to avoid the need for expensive erosion management. We are already into the erosion management; hopefully we can keep in mind the other aspects of the other justifications for the setbacks. The turtle project for Oak Island, which has been successful and has been a boom for the beach, the citizens of Oak Island also paid for the beachfront nourishment and were glad to do it, but Ms. Schoonmaker stated that she will not do it for there to be full scale development on the beachfront. (Written comments have been submitted.)

Rosemarie Gabriele, Wrightsville Beach resident, said that what is written up in these amendments would knock out a parking lot that is beside her house that hundreds of beach goers use on a daily basis. She stated that the other parking lot on the other end of the North side would probably be taken out as well if we were to look at the figures. She stated that being a resident, she knows that the ocean moves in and moves out. She feels that there was not a lot of forward thinking about what has transpired in the past and we need to catch up. She stated that the CRC has an awesome responsibility and she knows that all that stands in between the ocean and her house is the CRC. She agrees that something needs to be done, but it needs to go further than this amendment. She stated that this would take out tens of thousands of homes in North Carolina. There are not a lot of people in North Carolina that understood about this meeting. She stated that the CRC needed to do a better job in getting that communication out, because the Charlotte Coliseum should be filled and not one little room. She said that she hopes that her house would not be taken away from her because of these rules or a natural disaster. This State and everybody involved in it needs to make a total commitment to renourishment. Something needs to be done for the fairness of everybody. She felt that a grandfather clause was needed.

Susan Bulluck spoke on behalf of the SunSpree Hotel and the Blockade Runner Hotel (both located on the Wrightsville Beach oceanfront). She thanked the CRC for the work and effort put into the proposed rules. She is here to ask the CRC to table this set of regulations and the static line regulations. She is asking because they have worked very hard to be a good steward of our oceanfront property. Bertha came through in 1996. The membrane roof on the old building had a gap; they did not know that the gap existed. A new membrane roof was needed to meet the environmental requirements of updating the

facility. September 26, Fran came through. They did not take sea surge and did not take heavy damage from water coming through the building, however the membrane roof blew off and they were the victims of unintended consequences. The Town had earlier put up a rule that no one was allowed on the Island after a hurricane until a thorough assessment had been done. Hurricane Fran ended within 24 hours, but what occurred was 16 inches of rain during the next three days and that is what took out the old Holiday Inn. It is an example of a good rule which in application had unintended consequences. All of the rules were followed, but what this set of rules would do is wipe us out unless a grandfather clause is included. We want to work with the CRC and want to be part of the solution. We want a rule that works not only to help the CRC protect what exists, but also in the future to provide prevention. We cannot live with these rules. A memo from Mr. Mack Pearsall (part owner and representative of the collective ownership of the Holiday Inn SunSpree at Wrightsville Beach) was read to the CRC. Ms. Bullock continued by saying that if this proposed regulation is passed as is, it will immediately impact thirty percent of the tax value of Wrightsville Beach making it non-conforming. It will then impact its insurability and in our current economy we don't see the fact that this would be an asset to our State by removing thirty percent of our tax evaluation. We want to work together and would ask that you stay this, not vote it down, but to table it so that industry and the communities can work with you in building a grandfather clause that works for everyone. (Written comments have been submitted by Sam Pearsall, whom Ms. Bullock represents.)

Grier Fleischauer, resident of Topsail Beach, stated that modifications to this regulation need to be done. It seems that in recent years no part of the country has escaped natural disasters that threaten life and property. In the coastal areas hurricanes and storms have reshaped the coastline and in some instances forced the retreat of homes from prior stable land. Mr. Fleischauer stated that his proposed modification to the use standards of the ocean and inlet hazard zone recognizes the dynamic nature of the dune system in the velocity zone and its function as a buffer of the destructive forces of moving water. The foremost concern for CAMA in this regard should be the protection of the integrity of those landforms, which minimize the impact of storms and floods on property. This is where our coastal dune system plays an important part. Beaches, dunes, barrier beaches and coastal banks are made up of unconsolidated sediment materials, which change in form when subject to wave action. In doing so, they dissipate some of the energy of moving water and reduce its more destructive actions. Setbacks as determined by CAMA regulations from coastal banks recognizes that construction in these areas risk disturbing and/or altering the dune system's ability to function as they should. In the case of a dune system in a velocity zone, the primary feature that allows them to function is their unconsolidated nature. Unconsolidated sediment, such as sand, gives way when acted upon by moving water but in doing so dissipate the water's energy. The allowance of hard structures in these unconsolidated sediments can cause significant reduction in their function. When hard structures such as septic tanks, peat moss septic systems, stormwater management systems, or other hardened structures like sandbags are placed in the dune system of velocity zones they change the natural flow and energy dissipation and will cause substantial scouring and erosion down current from the structure, which otherwise would not have taken place. Another obvious concern is that the contents of

any septic system should be kept from the possibility of spilling onto the surface or surface waters and therefore presenting a public health hazard. These hardened structures should be prohibited in the dune system. Since the intent of the mission of CAMA as stated in .0303 is to mitigate the loss of life and property to these forces, these proposed rule changes would help to protect the unconsolidated nature of the dune system and the public well being. What I am proposing is under paragraph (b) of .0306 an additional paragraph should be added. "Such that no development shall be allowed that permits the installation of septic tanks, peat moss septic systems, composting type systems, stormwater management systems or any other similar type hardened structure in a velocity zone that is part of a coastal beach, barrier beach or dune system defined as any part of the primary dune, frontal or secondary dune." On another topic, modifications to cantilevering regulations, it was a pretty good regulation to begin with but over the course of time exemptions were allowed. The CRC stated that if no primary or frontal dune exists in the AEC or landward of the lot on which development is proposed, the development shall be landward of the erosion setback line. A simple addition to this rule could be to add that any impervious roof area into the setback is not allowed.

Adam Papp, homeowner in Emerald Isle, stated that he is a stakeholder as he has property that is in the affected area. He stated that he is in complete support of the beach renourishment program that it is in place. He thanked the CRC and DCM staff for taking this head on. He further stated that his house is over 30 years old. The big concern is the time lapse and being able to update his house. Not being able to replace a structure or rebuild in case of a disaster does place an undue burden on homeowners. Mr. Papp requested that the CRC look at the recommendations regarding some of the limitations regarding size and footprint. Five thousand or below is the setback guideline but there are sections in .0306 which say it is two thousand square feet. This does not encourage people to replace or update their structures. A good solid approach needs to be taken to encourage people to use the latest building codes to protect their property and make sure they have good sound structures in these areas. (Written comments provided.)

Jim Bailey, Anchorage Marina in Atlantic Beach, stated that he has a couple of concerns primarily with the graduated oceanfront setback proposals. The Town of Atlantic Beach has been working for a number of years on redeveloping their Circle area, many plans have been made, lots of property has been assembled by several different individuals that will be severely impacted if these graduated rules are put into place. The CRC has to do something in these proposed rules to take into account people who have projects underway, they have not applied for any CAMA permits because that is the last thing you do. If property is purchased under one set of rules it may not be able to be developed under this new set as they are proposed. Something needs to be done to grandfather existing structures. To make them non-conforming will be burdensome and will lead to a lot of economic problems. He stated that he also has a question as to why graduated setbacks are based on the size of the roof-covered area? This sounds like zoning under another name. He stated that he would be against the changes to the proposed setback rule.

Debbie Smith, Mayor of Ocean Isle Beach, stated that in general the Town does support these graduated setbacks based on structure size. Like Bald Head Island, she is concerned with the roads and utilities. These are generally continuous structures and she fears that they will always be considered large structures and will always require a much larger setback. Most of our coastal communities are already designed with specific land plans, our roads are in place, and our right-of-ways have been acquired. She stated that she hopes the CRC would consider some other restriction for roads and utilities. It will prevent the CRC from listening to numerous additional variances. She stated that she would encourage the CRC to look at that provision. She would also like to see a grandfather clause for the large structures that exist today and also for single-family homes. Reconstruction on the same footprint is allowed in the rules now and other AEC's, she would like to allow for reconstruction in the ocean hazard area. Deeming these structures non-rebuildable in case of a fire or other loss would affect the value of the property, it will affect the tax base of the municipalities and in our depressed housing market it is important to protect the tax bases. She stated that she has seen lenders fail to make loans on non-rebuildable units. She has several concerns in regard to the square foot limitation. Two thousand square feet limitation on total square footage is unrealistic. The average size home in the United States in 2004 was between 2,350 and 2,500 square feet. The average home in 1970 was 1,500 square feet. A 2,000 square foot limitation that includes covered porches, will take the standard house size back 37 years. A sixty-foot setback under the draft rule language proposed today allows a structure up to 5,000 square feet in a non-renourished area of our beaches. She employed to CRC to consider a more reasonable square footage of allowance somewhere around 3,000 square feet, as 2,000 square feet is very restrictive and people are going to have covered porches. (Written comments provided.)

Dara Royal, Town of Oak Island, stated that generally speaking the Town of Oak Island supports the static line exception concept and is encouraged by the willingness of the CRC to embrace this concept. Also, we appreciate Staff's efforts to work with the various stakeholder groups throughout this process. It is important to recognize that while the proposed rules eliminate some existing inequities that impact homeowners on the coast, they do not allow development to advance towards the ocean. The following comments seek to clarify certain aspects of the rules to ensure certainty and avoid potential unintended consequences. We would like for the rulemaking process to proceed expeditiously and believe these comments will not compromise that goal. The section on long-term commitment: the rules require that the local government or community provide evidence of a long-term commitment to maintain the beach. The criteria for the long-term commitment under these rules should be identical to those set forth in the procedural rules which have been proposed separately. Also these rules should recognize that a plan satisfying the USACE requirements for a design construction and maintenance of a hurricane protection project also satisfies all the criteria for the long-term commitment under the proposed rules. Additional development conditions in the rule: The rules limit of total floor area of a building to 2,000 square feet. The total floor area limitation set forth in the rules appears to be inconsistent with similar restrictions established elsewhere in the oceanfront development rules. In the regulatory provisions setting forth conditions under which development may occur oceanward of applicable setback lines, the footprint

of the structure must be limited to 1,000 square feet or ten percent of the lot size, whichever is greater. It seems appropriate to apply this same approach in the context of the static line exception. The proposed rules also provide that no portion of a building's floor area may extend oceanward of the landward-most adjacent building. The adjacent structure limitation will be difficult to implement and will result in considerable inequities in terms of the location of a structure on a lot. The Town recognizes and acknowledges a construction line must be established, however local conditions make a one size fits all solution impractical and unworkable. A possible solution would be the local government and DCM could work together to formulate an average line of construction that represents the general trend of oceanfront development oceanward of which development would not be allowed. The definition of total floor area: The rules define the total floor area as a total square footage of living space plus all roof-covered porches, walkways, and structurally attached parking. Including roof-covered porches in the total floor area calculation is a disincentive to construct such porches. In order to encourage architectural diversity and maintain the character of our beach communities, roof-covered porches should not be considered in the total floor area calculation. Redevelopment of existing structures: 2,000 square foot limit applies to all structures including existing ones. This rule is a disincentive to redevelop existing structures to higher base flood elevations and better coastal construction standards because owners with older structures that exceed the 2,000 square foot limit would be unlikely to redevelop them. The current regulatory provision that establishes conditions for non-conforming development in 7J .0211 provide that replacement of non-conforming development shall be allowed if a structure will not be enlarged beyond its original dimensions. This approach seems consistent with the intent of the static line exception and would encourage redevelopment built to standards that would significantly reduce storm damages. The graduated setback concept: In general the Town supports the graduated setback concept, however as applied to transportation structures and utility lines the concept may be problematic. By defining and regulating transportation structures in terms of square footage, the rules treat transportation structures in an impractical manner. As roads and utility lines are set in rights-of-way, it seems reasonable that the setback distance would be the same for both. The Town advocates the sixty-foot setback for transportation structures and utility lines. An express exception should be made for utility lines that cannot meet the sixty foot setback requirement but that nevertheless are necessary in order to service oceanfront development in the interest of public health and safety. Existing roads and utility lines: Existing roads and utility lines should be expressly exempt from the setback requirements as set forth in the rules. (Written comments received.)

Bud Cooper, member of a LLC which has a project underway in Atlantic Beach, stated he has a concern about the applicability of these rules to the project and also the known and unforeseen consequences that these rule changes could create. There is a concern about the premise that one size fits all. The proposed rule establishes a graduated setback based on the size of the structure and published erosion rate for a particular section of oceanfront shoreline. While this approach may be appropriate for areas along the coast that have relatively low erosion rates, it unfairly creates greater financial impacts on property owners as well as local governments in areas that have higher erosion rates. We

would suggest amending the rule to develop a cap on the setback for larger structures in areas presently experiencing a rate of erosion higher than the State's average. This would be consistent with the framework of the present large structure rule. In 1983, the CRC recognized the same inherent problems and modified the noticed rule after hearing comments from seven different public hearings. The CRC's approach at that time was to double the existing setback for all parts of the coast which had an average annual erosion rate of equal to or less than the average for the entire coast. The average erosion rate for the coast at that time was 3 ½ feet per year. For areas with erosion rates higher than the state average an additional setback was added to the existing small structure setback and was used for the sighting of large structures. That setback increase was computed by multiplying the average erosion rate of 3.5 by 30, which came up to 105 feet. A similar type provision should be incorporated into the currently proposed rule. This would help minimize instances in which a taking of property rights might otherwise occur. In order to achieve the goal of increasing the setbacks of large structures, the geographic coverage of the ocean hazard areas of environmental concern will be increased in most areas. This will increase the regulatory jurisdiction of CAMA and perhaps have unforeseen consequences for local governments and the regulated public. To our knowledge, there has apparently been no analysis of what these consequences could entail. The proposed setback rules should not be adopted until additional public hearings are held that would address the potential impacts of the resulting AEC expansion. This would allow the CRC and the public to understand in context the impacts of increasing the large structure setback in the different geographical areas of the coast. If and when the proposed increase to the large structure setback is approved by the CRC a provision should be included in the rule that would grandfather projects that are actively being pursued at the local, state or federal level from the more stringent setback requirements. Larger types of projects require significant amounts of up-front planning, design and coordination with local governments before they are able to apply for CAMA permits. In these cases a considerable amount of time and money have already been invested well before a CAMA permit has been applied for. We have been working on our project for three years. In many cases a property owner may have already acquired vested rights in a project through local permit and zoning approval before submitting a CAMA permit application. Projects that have submitted plans to a local jurisdiction or permit applications to other state or federal agencies should be grandfathered if and when the proposed setback rule changes are adopted. In order to provide fair treatment for projects that are currently being actively developed, the CRC should also delay the effective date for the implementation of the new rule for one year after its adoption. This would allow those projects that have already expended significant time and money in the pre-CAMA application phase the opportunity to apply for and obtain CAMA permits under the rules existing at the time the projects were developed. We also feel that the complete prohibition of cantilevering any portion of a structure within the setback is not based on sound science or engineering practices. A one-size fits all approach is not appropriate. Allowing a small amount of structure to be cantilevered into the setback but not harm the structural integrity of a building or increase its vulnerability to erosion, cantilevering can allow some property owners the use of their property and limit the takings issue. Relatively recent cantilevering of significant distances, primarily for single-family dwellings, should not preclude legitimate cantilevering that does not threaten the integrity

of the structure or pose other hazards. He requests that the CRC study this matter further to determine those instances in which cantilevering is appropriate including cantilevering of decks and other non-habitable structures. (Written comments received.)

David Hill, property owner in Ocean Isle Beach, stated that his property is in a renourishment area and that his family has owned this lot for many years. He stated that he has five sons and goes to this lot and wants to be able to build a house on it. The two thousand square foot limitation does not seem to be fair. Thanks to the effort of the CRC and Ocean Isle Beach, we have over two hundred feet of vegetation in front of our lot and around 500 feet from the high tide mark to our lot line. Restricting us to such a small house would not seem fair having that much land in front of us. He stated that he would like the CRC to reconsider the figure of 2,000 feet and especially the part about the porches. Mr. Hill stated that he would need all of the 2,000 square feet house with no covered porches as he would need the bedroom space. With this much land, he feels he should not be restricted to 2,000 square feet.

Steve Ambrose, Emerald Isle property owner, stated that his property is in a section of the beach, which would be affected by the new rule. He is extremely pleased with the new proposal, which allows for lots in this section to be rebuilt. This is a positive move, which will allow a lot of the older structures to be brought up to code and made safer for residences and their guests. There is one section of the proposal, which he would respectfully ask the CRC to reconsider. This section is (a).7.d regarding the redevelopment and the size of the structures. What he would propose is the total floor area of the building be raised to somewhere in the neighborhood of 3,500 square feet based on a number of factors. Since the initial Emerald Isle beach fill project which occurred in 2003, the majority of the lots in this section of the beach have continued to build up the beach and the dune structure and have grown and established very stable vegetation lines. On the lot that he is on, the dune structure and the vegetation structure is in the neighborhood of 90 to 100 feet and in some sections of the beach it is even larger than that. The beach fill projects have continued to allow the ocean side to build up as well and has sustained itself through two hurricanes over the past two years. Since these houses have survived for thirty plus years through all of the hurricanes, the downside risk of building larger structures would be a minimal risk to people and property. The size of the structure will fit well into the current limitations for sixty-foot setbacks which show that a house can now be 5,000 square feet. The proposed limit of 3,500 square feet would be consistent with the size of other single-family homes and duplexes in our stretch of Emerald Isle and other Towns that have been represented. Please allow the residents of N.C. and other states to enjoy our seashore and also contribute significantly to the Town base and the economy of N.C. In conclusion, we are very supportive of these rule changes and hope the CRC will consider increasing the size limit on the house, which may be redeveloped or developed from scratch to 3,500 square feet. (Written comments received.)

Jerry Hardesty yielded his spot to Ann Bowman. **Ann Bowan**, Home Owner Association Management Company owner in Carolina Beach and has 16 associations which have buildings on the oceanfront. She would like a clear grandfather clause that

could be structured in a way that if a property has a known history of being endangered by the ocean that they could not be grandfathered. However, that doesn't seem to suit any of the buildings that she is here to talk about. She stated that she is here to talk about a 24-unit structure that is three stories high. All the lots on the north end of Carolina Beach are 125 feet in depth. Carolina Beach has a known history of doing beach renourishment. Carolina Beach has just recently redone all of its zoning wording for non-conforming structures. It says that they can rebuild in cases of 50 percent or more destruction, but only if they can meet the CAMA requirements, use their present footprint and allowed to exceed the new height requirements that exist in the residential areas but only if it is required because of the flood zone. The one building that she is most concerned about is a Place at the Beach. It is a three-story "L" shaped building and is located on four lots. Further north of Carolina Beach Avenue, the erosion is more severe. The north end has had more renourishment. There is not a lot of beach to work with from about the 1500 block to the 1700 block where two of the buildings she is talking about are located. South of this, where most of the buildings are, she is concerned if the CRC goes through with the proposed graduated setback lines it will be considered a taking of land by the owners. If you own commercial oceanfront property, the state wind and hail program has just instituted a 41% increase in their wind and hail insurance rates. Then take into consideration the fact that the federal government is now stopping the renourishment funds and the fact that reassessment has occurred in her county and the ordinance for non-conforming uses has been re-written, these owners feel like someone is trying to push them off of the ocean. They wish that somebody would tell them that they don't want any oceanfront dwellers. She stated that she appreciates the work that the CRC has done. She said that she supported the rules for stormwater and has no problem with the stormwater rule changes, but she has a lot of problem with the homeowners land becoming unbuildable which will make it unsellable which will not diminish the lenders requirement for insurance on the property, but will make insurance almost unobtainable. The entire north end of Carolina Beach would be considered to be undevelopable. She is concerned about the tax base of the Town and asks the CRC to table this issue and think it through carefully. She stated that a one floor 2,000 square foot building has no difference in the ocean coming on it than a three story 6,000 square foot building other than the wind and hail insurance. There is no reason to set the square footage variations.

Frank Rush, Town Manager of Emerald Isle, stated that the Town of Emerald Isle supports the proposed rule change pertaining to the static line exception, however, with one minor modification. This modification pertains to the size of the structure. Currently the rule is proposed with at 2,000 square foot size limit that would be allowed if the static line is removed. In Emerald Isle there is a total of 171 properties that are negatively affected by the static line and are non-conforming. Of those 171 properties, 160 of them have existing homes on them. The main goal of supporting this rule change is to allow those homes the ability to be reconstructed if they are damaged by a fire or a storm. Also, this would encourage redevelopment that might occur so that old housing stock can be replaced with newer housing stock and improve the aesthetics of our community. The 3,000 square foot limit that the Town suggests is based on the fact that of the 160 structures in Emerald Isle, 143 of those are 3,000 square feet or less. Eighty-six of those are 2,000 square feet or less. For a lot of reasons already mentioned by other speakers,

our community feels that 2,000 square feet is a very small house in this day and age and would ask the CRC to consider something larger. (Written comments received.)

Jim Stephenson, N.C. Coastal Federation, stated that there are parts of this rule that some like and other parts that others like. The static line is an important provision of coastal rules. It has been in effect for some time and was put into place to set a line that makes it clear where the beach was and where the vegetation was prior to beach nourishment. That also means that the high water mark was also much higher and the ocean was at the doorsteps at some of the dwellings that are under consideration in the rule. We do support the graduated setback and the provisions of the rule which incorporate greater setbacks for development. The rule that deals with the static vegetation line, the CRC should know that there are a number of towns that support the static vegetation line without change. Some communities who have expressed this include Atlantic Beach and Pine Knoll Shores. The concern of creating exceptions to the static vegetation line clearly means there would be significantly more development significantly closer to the ocean than would otherwise be allowable under the rule. We recognize that the rule does include a number of exceptions and tests that beach towns would be required to meet. We feel that those tests are by and large appropriate but at the same time, the Commission has to ask itself whether it makes sense to approve exceptions to the static vegetation line in an era of rapidly increasing sea level rise and in an era of potentially more intense hurricanes. I think in part the fact that we have not had a intense hurricane hit the N.C. coast in several years may put us into a lull of thinking that everything is o.k. and we can put structures as close to the ocean as the structures that are remaining there now. We think that may be a mistake and deserves serious consideration by the Commission. It is also ironic that some beach towns are requesting permission to build the houses closer to the ocean and at the same time are expressing concerns that other portions of their towns are in dire straits of erosion that they need the radical step of considering hardened structures. When beach renourishment is constructed, it is important to note that there is a survey conducted and the highest point of the beach renourishment becomes under state control. Homes should not be built on state land and a prohibition should be included if appropriate. Another concern is if there are more structures then there will be more of a call for beach renourishment, which will cost more money and go deeper into the tax payer's pockets. There is an economic impact associated with putting structures closer to the beach.

Harry Simmons, Executive Director of NCBIWA, stated that on the past two rules there would be written comments submitted. He stated that there is no intent to march towards the ocean. He stated that we are not looking to put houses on state property in any way, shape or form. (Written comments received.)

Hiram Williams, home builder/realtor/property owner on Topsail Island, stated that if they would be so lucky to have beach nourishment on Topsail Island it would throw every structure over 2,000 square feet (including covered porches and parking structures) and make them non-complying. If Topsail Island was renourished and a static vegetation line was established and there were homes within the AEC and it is larger than 2,000 square feet would they would be non-complying. If we go back to 5,000 square feet and

take away the residential exemptions, personally he would not have been able to build the last three oceanfront homes that he built on Topsail. Homes are growing, the value of the property is growing and it is not good business to take a lot that you paid a million dollars for and put a small house on it. It would be difficult to move a 4,000 square foot single story house. A 5,000 square foot, three-story home on piles would be difficult to move. Moving is not a reason to change the residential exemption. He stated that it should be larger. If you have a large home (6,000 or 7,000 foot house) and it burned, then you couldn't put it back. There needs to be some grandfathering. He stated that he knows there has been some abuse of cantilevering, but he was able to build a home that was cantilevered and the CRC is starting to play with the rights of use of real property. That is one of the basic rights of Americans to use their property. For the utilities and road issues, if we lose our infrastructures and we can't put them back then everybody is in trouble including the municipalities. Beach nourishment is vital to our beaches. There are places on Topsail Island that he built houses thirty years ago that have more beachfront in front of them than they had thirty years ago. If you take the right away to use my property, then you need to pay me for it.

Doug Brady, beachfront property owner in Pine Knoll Shores, stated that he would like to see the CRC slow down on this. He has heard a lot of comments that bring up a lot of questions. The one thing that concerns him as a developer is the definitions and how firm they are. Is the parking under a building considered floor area? He stated that he is not sure how clear the definitions are and when you are doing construction, they need to be clear and not up to interpretation. He said that he is surprised at the number of people that are not here. Most of the municipalities may agree with these rules, but he is not sure if a lot of the property owners know about these rules. He stated that he would encourage more public hearings and more broad based distribution of these rules. In terms of development, in the changing rule environment you work to get to a stage and then the rules change overnight and you have to go back to the drawing board. Beachfront property owners in a lot of the municipalities pay a disproportionate amount of taxes for beach nourishment. If rules or regulations are implemented that may impact the loss of those through a non-conforming use or if you diminish people wanting to rebuild, the municipalities will lose the tax base that helps nourish the beaches for all the citizens.

Parker Overton of Greenville stated that he grew up boating on the Pamlico River. He said that he has owned property on the Pamlico River, in Washington on the water and owns land on Figure Eight Island. His next-door neighbor has a house that is less than 5,000 square feet and he has sandbags in front of it. He stated that his house is more than 7,000 square feet and he also has sandbags. He was told he has to take his sandbags up by May 2008. His next-door neighbor could only keep his bags for two years because his house is less than 5,000 square feet. He has heard people talk about their commercial properties and people that have 16,000 or 20,000 square feet for rentals. This is a very serious issue. There are unhappy people. He stated that he is also a pilot and anyone that tells you that sand migrates from north to south is wrong. If that was true all the sand would be in Miami and it isn't there. There are beaches with jetties that are about three foot high and stair-stepped down the beach that have saved people's property. Right now

his house at Figure Eight cannot be sold, but he has to pay a \$7,000 per year bill. He is still assessed \$6,000 per year. These people are property owners and tax payers.

Written comments will be accepted until December 31, 2007, for this rule.