



CRC-25-28

August 19, 2025

MEMORANDUM

TO: Coastal Resources Commission
FROM: Ken Richardson, *Shoreline Management Specialist*
SUBJECT: Adoption of Rule Amendments to 15A NCAC 07H .0309 Use Standards for Ocean Hazard Areas Exceptions

15A NCAC 07H .0309(b) outlines exceptions within the Ocean Hazard AEC (OHA) for proposed developments that cannot meet the erosion rate-based construction setback required under 15A NCAC 07H .0306(a). Currently, this exception applies only to lots created before June 1, 1979, and limits total floor area to no greater than 2,000 square feet and a maximum footprint of 1,000 square feet. Additionally, structures must be set back as far as feasible on the lot (with a minimum setback of 60 feet) and no farther oceanward than the landward-most adjacent structure.

At your February 2025 meeting, the Commission approved amendments to 07H .0309(b) that remove the 1,000 square foot footprint limit and the lot creation date requirement while increasing the maximum structure size to 2,500 square feet regardless of footprint. All other existing requirements under 15A NCAC 07H .0309(b) remain unchanged. These amendments will extend the exception to all oceanfront and inlet areas, except for the Unvegetated Beach Area of Environmental Concern. This change allows proposed developments that cannot meet the minimum setback for a larger structure to potentially qualify for an exception, provided they meet the other outlined conditions. The amendment addresses concerns following the repeal of 07H .0104, simplifies compliance by eliminating the need to track past erosion rates, and removes the requirement to verify lot creation dates during permit reviews.

At your April 2025 meeting, the Commission approved the fiscal analysis, subsequently followed by a public hearing scheduled on July 8th at DCM's Headquarter Office in Morehead City. The period for public comments closed on August 15th.

The Division has received seven public comments (2 from same person):

- 4 comments support the proposed rule amendments, noting that they would allow



development on lots currently restricted under existing regulations.

- 1 not supportive of the amendments as currently written, recommending that the CRC retain the current footprint (1,000 sq ft) and overall size limit (2,000 sq ft). This commenter also expressed concerns about increased risks from permitting larger structures in high-hazard areas, the potential for lot subdivision that could place additional structures at risk and suggested keeping a date-based stipulation to help prevent future subdivision.
- 1 not supportive of the amendments as proposed, and raised concerns about allowing permanent structures in high-hazard areas, noting that they are vulnerable to storm damage and can create debris hazards suggesting that rules should include removal requirements.
- 1 not supportive of the rule amendment.

Commission Action:

The Commission can consider adopting the proposed amendments to 15A NCAC 07H .0309. If adopted, the amendments will move forward to the Rule Review Commission (RRC) for final consideration before becoming effective. If approved by the RRC the earliest possible effective date will be November 1st.

Attachment A: Rule Amendments to 15A NCAC 07H .0309 Use Standards for Ocean Hazard Areas: Exceptions

Attachment B: Public Comments



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252.515.5400

ATTACHMENT A: Rule Amendments

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 this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) driveways and parking areas with clay, packed sand, or gravel;
- (3) elevated decks not exceeding a footprint of 500 ft². Existing decks exceeding a footprint of 500 ft² may be replaced with no enlargement beyond their original dimensions;
- (4) beach accessways consistent with Rule .0308(c) of this Section;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 ft² or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 ft² or less;
- (7) temporary amusement stands consistent with Section .1900 of this Subchapter;
- (8) sand fences;
- (9) swimming pools; and
- (10) fill not associated with dune creation that is obtained from an upland source and is of the same general characteristics as the sand in the area in which it is to be placed.

In all cases, this development shall be permitted only if it is landward of the vegetation line or pre-project 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; is not essential to the continued existence or use of an associated principal development; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the ~~oceanfront~~ **Ocean Hazard Area** setback requirements of Rule .0306(a) of this Section would preclude placement of a structure ~~on a lot existing as of June 1, 1979, the structure shall be permitted seaward of the applicable setback line~~ in Ocean Erodible Areas, State Ports Inlet Management Areas, and Inlet Hazard Areas, but not Unvegetated Beach ~~Areas~~ **Areas**, the structure shall be permitted seaward of the applicable setback line if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance ~~possible~~ on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line, measurement line, or pre-project vegetation line, whichever is applicable;
- (3) The development is not located on or oceanward of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Section;
 - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;
 - (B) The ~~footprint of the structure shall be no more than 1,000~~ , and the total floor area of the structure shall be no more than ~~2,000~~ **2,500** ft². For the purpose of this Section, roof-covered decks and porches that are structurally attached shall be included in the calculation of footprint;
 - (C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases, other material may be used; and
 - (D) No portion of a building's total floor area, including elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, may extend oceanward of the total floor area of the landward-most habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent building or structure exists, or the geometry or orientation of a lot or shoreline precludes the placement of a building in line with the landward most adjacent structure of similar use, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either



direction. If no structures exist within this distance, the proposed structure shall meet the applicable setback from the Vegetation Line but shall not be held to the landward-most adjacent structure or an average line of structures. The ocean hazard setback shall extend landward of the vegetation line, static vegetation line or measurement line, whichever is applicable, a distance no less than 60 feet.

- (5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.
- (c) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:
 - (1) piers providing public access; and
 - (2) maintenance and replacement of existing state-owned bridges, and causeways and accessways to such bridges.
- (d) Replacement or construction of a pier house associated with an ocean pier shall be permitted if each of the following conditions is met:
 - (1) The ocean pier provides public access for fishing and other recreational purposes whether on a commercial, public, or nonprofit basis;
 - (2) Commercial, non-water dependent uses of the ocean pier and associated pier house shall be limited to restaurants and retail services. Residential uses, lodging, and parking areas shall be prohibited;
 - (3) The pier house shall be limited to a maximum of two stories;
 - (4) A new pier house shall not exceed a footprint of 5,000 ft² and shall be located landward of mean high water;
 - (5) A replacement pier house may be rebuilt not to exceed its most recent footprint or a footprint of 5,000 ft², whichever is larger;
 - (6) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
 - (7) If the pier has been destroyed or rendered unusable, replacement or expansion of the associated pier house shall be permitted only if the pier is being replaced and returned to its original function.
- (e) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small-scale small-scale erosion control measures that do not interfere with natural oceanfront processes, shall be permitted in the Ocean Hazard Area along those portions of shoreline that exhibit features characteristic of an Estuarine Shoreline. Such features include the presence of wetland vegetation, and lower wave energy and erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small-scale small-scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200, and 15A NCAC 07K .0203.
- (f) Transmission lines necessary to transmit electricity from an offshore energy-producing facility may be permitted provided that each of the following conditions is met:
 - (1) The transmission lines are buried under the ocean beach, nearshore area, and primary and frontal dunes, all as defined in Rule .0305 of this Section, in such a manner so as to ensure that the placement of the transmission lines involves no alteration or removal of the primary or frontal dunes; and
 - (2) The design and placement of the transmission lines shall be performed in a manner so as not to endanger the public or the public's use of the beach.
- (g) Existing stormwater outfalls as of the last amended date of this rule within the Ocean Hazard AEC that are owned or maintained by a State agency or local government, may be extended oceanward subject to the provisions contained within 15A NCAC 07J .0200. Outfalls may be extended below mean low water and may be maintained in accordance with 15A NCAC 07K .0103. Shortening or lengthening of outfall structures within the authorized dimensions, in response to changes in beach width, is considered maintenance under 15A NCAC 07K .0103. Outfall extensions may be marked with signage and shall not prevent pedestrian or vehicular access along the beach. This Paragraph does not apply to existing stormwater outfalls that are not owned or maintained by a State agency or local government.

*History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124;
Eff. February 2, 1981;*



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Amended Eff. April 1, 2020; June 1, 2010; February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987;

Readopted Eff. December 1, 2020;

Amended Eff. August 1, 2022.



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ATTACHMENT B: Public Comments

Received: Monday, July 28, 2025, at 1:15 PM, Mr. Donald McCoy

Public Comment on Proposed Rule Changes: Support for Revising 15A NCAC 07H .0309(b)

My name is Donald McCoy, and I own an oceanfront lot in Avon, NC that has been rendered unbuildable due to changes in setback requirements following a local beach renourishment project. I purchased the lot in September 2021, prior to the start of the renourishment project. Before my purchase, I conducted thorough due diligence, including engaging with the local CAMA officer. In August 2021—just weeks before the sale—the officer formally established the First Line of Stable Natural Vegetation (FLSNV), which was then used to determine the setback for the lot. Based on this setback, a site plan was developed for a house plan I had selected.

However, shortly after the FLSNV was established, a Static Line was drawn that overrode the previous setback. I was not informed of this change until I applied for a CAMA permit and it was denied. Since that initial denial, I have explored every avenue available to obtain a permit and make use of this property in good faith.

In July 2024, I submitted a second CAMA permit application for a 1,996-square-foot single-family dwelling, attempting to meet the criteria for the "small structure exception" under 15A NCAC 07H .0309. While I believe I complied with all requirements, my application was denied in August 2024 solely due to the lot not having been platted prior to June 1, 1979. I subsequently applied for a variance, which was denied by the CRC in November 2024.

The current rule revision under consideration is my only remaining option to obtain reasonable use of my property. I want to emphasize that I did not purchase this lot in haste or with a speculative mindset. At the time of purchase, I followed every appropriate step to ensure the property was buildable and compliant with state and local regulations. I had no knowledge of the Static Line or the extent to which the beach renourishment project would affect setback rules.

For these reasons, I respectfully urge the committee to adopt the proposed rule revision. It would allow me, and others in similar situations, a path to responsible and reasonable use of our property—based on sound planning, due diligence, and trust in the permitting process.

Thank you for your time and consideration.

Sincerely,
Donald McCoy



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Received: Monday, July 28, 2025, at 12:13 PM, Mr. Robert Petty

Public Comment on Proposed Rule Changes: Support for Revising 15A NCAC 07H .0309(b)

I urge the Coastal Resources Commission (CRC) to adopt the proposed changes to 15A NCAC 07H .0309(b), commonly referred to as the "small structure exception rule." This rule currently outlines specific conditions under which exceptions may be granted to the Ocean Hazard Area of Environmental Concern (OHA AEC) setback requirements defined in 15A NCAC 07H .0306.

However, the existing language restricts the application of the exception to lots that were platted before June 1, 1979. This has created a significant barrier for property owners of lots that were legally created after that date but still face unique hardship in meeting the standard setback requirements. As a result, this limitation has unintentionally excluded certain lots from reasonable use and development, despite posing minimal additional risk to coastal resources or public safety.

The proposed rule changes would allow for a more equitable and practical application of the exception. It would also bring the rule into alignment with the evolving realities of coastal development while still maintaining necessary environmental protections.

I respectfully request that the CRC adopt the proposed changes to 15A NCAC 07H .0309(b) to ensure fair access to the exception for all qualifying properties, regardless of plat date.

Thank you for your consideration.

Sincerely,
Robert Petty



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Received: Wednesday, August 6, 2025, at 3:54 PM, Mr. Tad Scott

I am the owner of three parcels located in North Topsail Beach, specifically, 1108, 1112, and 1116 New River Inlet Road, which would benefit from the Proposed Amendments to Use Standards for Ocean Hazard Area Exceptions. Each lot is relatively large for an oceanfront property, measuring 0.417, 0.424, and 0.432 acres, respectively. At present, the oceanfront setback requirements outlined in 15A NCAC 07H .0306(a), current Rule 15A NCAC 07H .0309(b) cannot be met on these lots. However, with the proposed amendment, I would be able to comply with a minimum setback of 60 feet (*reference his Figures 1 and 2 below*).

This amendment would not only offer advantages to myself and other property owners but also generate additional revenue for our local city and county governments through increased property taxes resulting from the construction of new homes.

Furthermore, the development of modest homes (2,500 square feet or smaller) on lots of this size is likely to have minimal environmental impact. As indicated by the attached aerial photographs, vegetation and dunes on my properties have remained stable over the past decade.

Thank you for your time and consideration.

Tad Scott
Scott Homes
Broker, *REALTOR*®
(919)360-6754

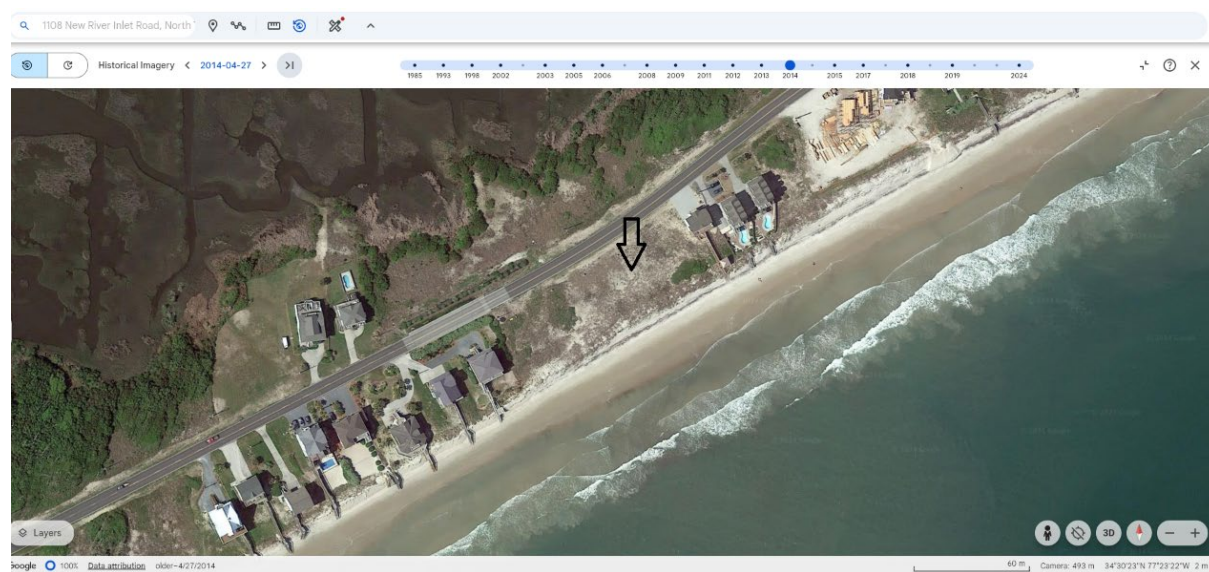


Figure 1. Tad Scott's property: aerial image 4/27/2014



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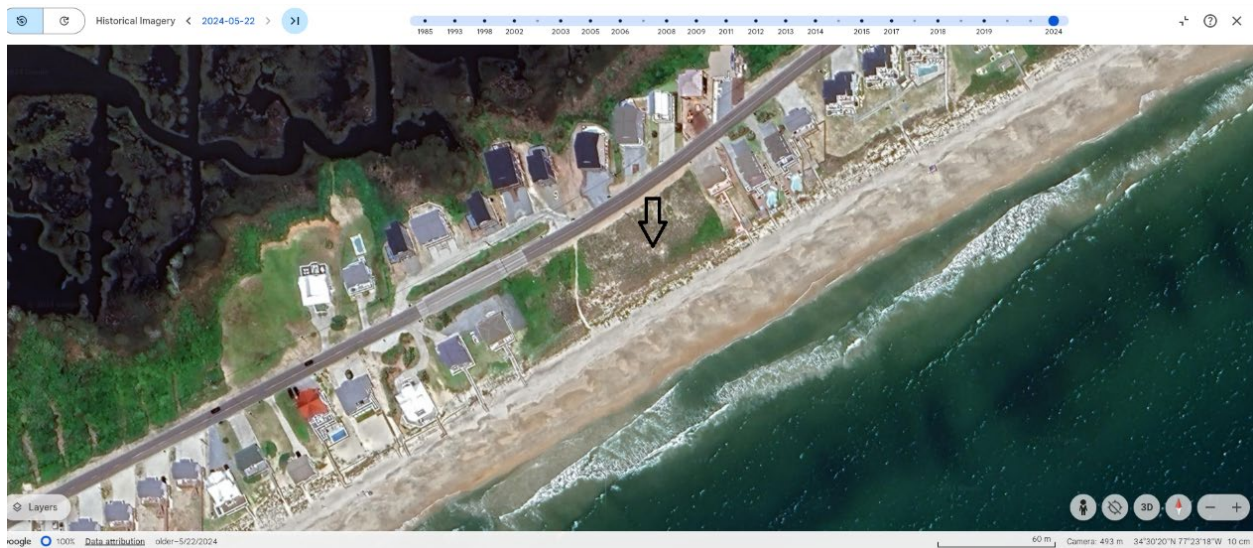


Figure 2. Tad Scott's property: aerial image 5/2/2024

Received: Thursday, August 7, 2025, at 9:42 AM, Mr. Spencer Rogers

233 Marsh Hen Drive
Wilmington, NC 28409
August 7, 2025

Tancred Miller
400 Commerce Avenue
Morehead City, NC 28557
via: crcrulemaking@deq.nc.gov

Re: Comments on proposed amendments to OHA: Exceptions
(15A NCAC 07H .0309(b))

Tancred,

Please consider the following comments on the proposed changes to the OHA: Exceptions.

The sections of the present OHA building setback exception were originally adopted in 1979, soon after the original oceanfront setback rules were implemented. The intention at that time was to allow some owners of lots where buildings were otherwise totally prohibited to construct limited-sized buildings compared to those that could meet the full setback requirement. The exception applies only to the highest risk, erosion-threatened building lots in North Carolina, where locations landward of the 30-year erosion setback cannot be met for buildings up to 5000 square feet in building area. Given the time since those limits were written, it may not be clear why some of the provisions were included. The following describes the intended purpose of those restrictions when drafted, which remain valid at this time.

The rule was to only apply to existing lots where a new building would be at least 60' landward of the vegetation line and as far landward as feasible on the lot. Those provisions were intended to delay the anticipated erosion from placing the house on the beach or undermining the foundation for as long as the local conditions allowed. Given the high risk and expected short lifetime of the building, the size of the building was reduced from 5000 square feet to 2000 sf, still a modest size house. Less obvious in intent, the footprint of the house was limited to 1000 sf to maximize the expected lifetime of the house and at least delay future erosion from placing it on the active beach or in the surf. The effect of the footprint is



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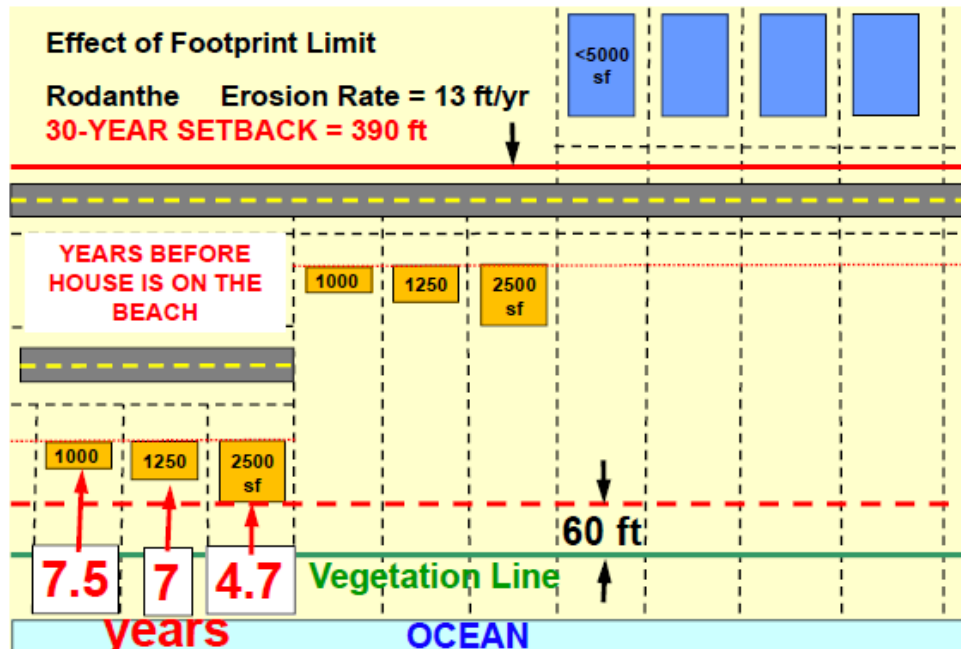


Figure 1. Expected lifetime of setback exception structures with various footprint and lot sizes. Streets and property lines are shown as dashed lines with property line setbacks.

shown in Figure 1 based on the presently effective erosion rate factors for northern Rodanthe.

The proposed rule removes the 1000 sf footprint limit and increases the total building size limit from 2000 to 2500 sf. On the smallest lots under the proposed rule the expected lifetime before erosion would move the beach under the house is 4.7 years. On the same lot, the present rule extends the expected lifetime to 7.5 years before sitting on the beach. The existing rule extends the lifetime before sitting on the beach by 2.8 years or 60% longer than the proposed rule. On deeper lots, the advantage in years remains the same but the percentage extension is lower.

The size limits presumed a 2-story house, which in most communities is more difficult to move than a single story, due to local power lines. Buildings constructed under the exemption were expected to be more likely to require housemoving compared to buildings meeting the full setback. However, the longer lifetime provided by the footprint limit was thought to

be a reasonable tradeoff for the added difficulty to eventually move the building.

The June 1, 1979 or earlier, subdivision date in the existing rule has been reported to be a problem to determine for the field staff. The rule was written to relax the restrictions for owners of existing lots at that time that could not meet the full setback requirements. The purpose of limiting the exemption to existing lot dimensions at that time was to prevent deep lots from being subdivided seaward of the full setback requirement, allowing multiple buildings to be constructed under the exemption. Examples of subdividing deep lots to add multiple exemption buildings are shown in Figure 2. The 1979 date appears to have successfully prevented the potential problem since it was implemented. However, the date could be revised to a more recent date, such as the effective date of the rule change, that would be easier for the field staff to enforce, but still prevent new lots, seaward of the full setbacks, from qualifying under the exemption.

Several years after the oceanfront setbacks were implemented a building siting study I conducted found that there is a strong preference for

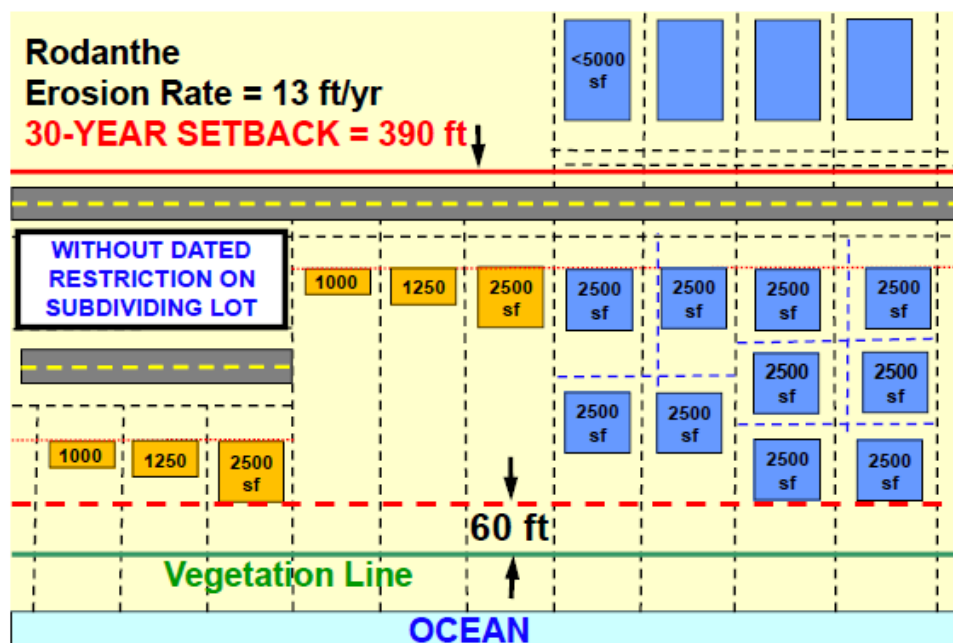


Figure 2. Examples of subdividing deep lots to enable multiple buildings (in blue) to qualify for the setback exemption.

builders/owners to locate new houses as far seaward as allowed under the rules. It has always seemed irrational, but the problem is real rather than theoretical. There are multiple examples in Rodanthe where owners of exemption lots have built houses with erosion rates up to 15 ft/yr.

Examples include four houses constructed under the exemption, two rows deep, near the end of Sea Haven Drive 2004 to 2007. The first seaward house was constructed in 2004 at the minimum setback, 60 feet from the vegetation line, 75' from the landward property, according to DCM staff, to allow for a replacement drain field. Setback factor at the time of construction was 13.5 feet/year. The erosion placed the house on the vegetation line in 2005. The house and 2007 shoreline condition are shown Figure 3. The house collapsed in 2008, 4 years after construction (Figure 4.)

The second oceanfront exception house was constructed in 2007 (Figure 3, piling). The house was threatened by 2008 (Figure 4). Sandbags were installed to protect the pool and house by 2009. By 2013, 6 years after construction, the house was entirely located on the active beach. The house was moved in 2013 approximately 300 feet south to another setback exemption lot with a setback of ~100 feet. The local setback factor is now 10 feet per year.



Figure 3. House and shoreline condition in 2007.



Figure 4. *Collapsed exception house in 2008, 4 years after construction.*

Based on the original goals of the building setback exemption described above, I recommend retaining the 1000 sf footprint and 2000 sf floor area as reasonable modest-sized house at high risk of sitting on the beach, in the surf or requiring relocation. If the floor area increase is implemented, retaining the footprint limit, resulting in 3-story buildings is recommended over allowing buildings closer to the ocean on these high erosion risk lots.

The present rule limiting the exception to lots existing as of June 1, 1979 appears to have been effective in preventing deep lots meeting the ocean setbacks from being subdivided to allow multiple exemption buildings farther seaward. If subdivision dates are becoming difficult to determine a more recent date could be applied as long as the old and new subdivision dates overlap, up to the effective date of any revised rule.

Please consider these comments when taking final action on the proposed rule.

Sincerely,

Spencer Rogers
Co-Vice Chairman
NC Coastal Resources Advisory Council



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Received: Friday, August 15, 2025, Mr. Grady McCallie



**North Carolina
Conservation
Network**

234 Fayetteville Street
5th Floor
Raleigh, NC 27601
919.857.4699

August 15, 2025

Tancred Miller, Director
NC Division of Coastal Management
1307 Mail Service Center
Raleigh, NC 27699-1307
crrulemaking@deq.nc.gov

Re: Comments on proposed amendments to 15A NCAC 07H .0209; .0309.

Dear Director Miller:

Thank you for the chance to offer comments on the Coastal Resource Commission's (CRC) proposed amendments to urban waterfront rules, 15A NCAC 07H .0209; .0309. We appreciate the intent of the proposal, and write to urge the Division of Coastal Management (DCM) and the CRC to add text to the proposed rule to ensure that it achieves the goal of giving urban waterfront businesses greater flexibility without harming the local environment and without increasing trash and debris resulting from coastal storms.

The NC Conservation Network (NCCN) is a statewide environmental advocacy group that works to build a healthier, more climate resilient future for North Carolina. We rarely comment on CRC rules but are engaging with this proposal specifically because of its implications for resilience to coastal storms.

We appreciate the purpose of the existing urban waterfront rule. Urban waterfronts are important economically and culturally, and there's a real pleasure in being able to enjoy a dinner or drink on a waterfront dock, in the shade or shielded from wind or rain, but next to and above the water. At the same time, building new construction over protected waters threatens water quality and guarantees greater losses to wind and storm surge and greater post-disaster cleanup costs. Allowing new structures in places where they will be destroyed also increases the chance of debris being blown or washed inland where it can damage other structures.

The rule attempts a thoughtful compromise, allowing temporary but not permanent enclosures and climate control equipment on a new dock or boardwalk. Yet, a temporary structure isn't much different than a permanent structure if it is left in place when a major storm comes – materials torn loose from the dock by wind and waves will batter other structures and become trash. So the rule needs not just to require that the non-permanent walls and heaters and fans be removable, but that they actually be removed ahead of storms. The proposed language does not do that.

There are likely multiple ways to address this. We suggest the following addition to the proposed rule:



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- (iii) New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:
 - (I) shall provide for enhanced public access to the shoreline;
 - (II) may be roofed, ~~but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind;~~ but solid walls and permanent windows are prohibited. Non-permanent enclosures shall be limited to materials that are consistent with this rule and shall be non-permanent and attached to the structure in a manner that allows removal.
 - (III) the decks and boardwalks shall not have permanent or attached heating or air conditioning.
 - (IV) non-permanent materials shall be temporarily removed and safely stored when the National Weather Service issues a tropical storm watch, hurricane watch, or storm surge watch for a geographic area covering the structure.(with the rest of the subsequent criteria renumbered accordingly).

We recognize that what we're recommending here goes beyond design criteria; the requirement for periodic removal is an operational management practice. That's not common in these rules, but there are other examples: current 07H .0209(g)(4)(B)(iii)(VII) requires an owner to obtain a written agreement when transferring property, long after the design phase. Existing .0209(g)(4)(B)(iii)(X) includes a broad prohibition on significant adverse impacts that is presumably implemented on an operational basis. Other use standards in .0209 allow several activities at specific times or seasons and not at others.

We are submitting this letter on the last day of the public comment period; we were startled this week to receive the agenda for the upcoming August 27 CRC meeting with final adoption of this rule as an agenda item, and to read in the draft hearing officer's report dated August 4 that no written comments were received. We appreciate the CRC and DCM's desire to move forward with the proposed rule, and do not seek to slow the process. At the same time, it would be good to ensure that the new rule achieves the impact it is aiming for. If ensuring the removal of temporary materials before a storm hits can be accomplished through programmatic elements without adjusting the text, we would consider that a successful outcome for this rule as well.

Thank you for considering these comments.

Sincerely,

Grady McCallie
Policy Director
919-802-7592



Received: Sunday, August 17, 2025, Ms. Katie Coyle & Mr. Tad Scott

----- Forwarded message -----

From: **Katie Coyle** <kcoyle@howardstallings.com>

Date: Thu, Aug 14, 2025 at 8:15 PM

Subject: RE: [External] checking in

To: Tad Scott <tadscotthomes@gmail.com>

To: North Carolina Coastal Resources Commission

Re: Support for Proposed Amendments to 15A NCAC 07H .0309(b) – Ocean Hazard Area Exception

Dear Commissioners:

I am writing in strong support of the proposed amendments to 15A NCAC 07H .0309(b) that would remove the requirement that a lot must have been platted prior to June 1, 1979, in order to qualify for the Ocean Hazard Area Exception.

I own three large oceanfront lots that were platted after June 1, 1979. These lots meet all other conditions for responsible coastal development, including the 60-foot minimum setback, location landward of the frontal dune toe, and presence of healthy, well-established vegetation. I have architectural plans for modest single-family homes that would meet every current design and siting requirement other than the pre-1979 plat date. Under the current rule, these lots are unbuildable—despite their size, environmental stability, and ability to support a safe, code-compliant structure.

The proposed amendment will:

1. **Eliminate an arbitrary date restriction** that no longer reflects current conditions or best practices in coastal management. The date bears no relationship to whether a lot can safely accommodate a structure while protecting coastal resources.
2. **Promote fairness and consistency** by making the exception available to all qualifying lots, regardless of plat date, so long as they meet the same environmental and setback standards.
3. **Support responsible development and economic benefit** by allowing construction of modest-sized homes (up to 2,500 square feet) in harmony with surrounding properties. In my case, this would allow use of land that has remained vacant for decades, generating property tax revenue and supporting the local economy through construction jobs and ongoing spending by residents and visitors.
4. **Maintain environmental safeguards** by keeping in place the 60-foot setback, frontal dune protection, alignment with neighboring structures, and compliance with all other CAMA and local requirements.

In short, this change would allow owners like me—whose lots meet all environmental and safety criteria—to responsibly develop property that is currently unusable due only to a historical technicality. I urge the Commission to approve the proposed amendments.



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Thank you for your consideration.

Sincerely,
Lincoln "Tad" Scott

Kathleen Coyle

Howard Stallings Law Firm
1323 Commerce Drive, New Bern, NC 28562
Phone: (252) 633-3006 | Fax: (252) 633-3097

From: G. Donovan <g2donovan@gmail.com>
Sent: Tuesday, August 19, 2025 2:59 PM
To: SVC_DEQ.DCMComments <DCMComments@deq.nc.gov>
Subject: [External] Public Comment to CRC and DEQ: Proposed Amendments to OHA: Exceptions (15A NCAC 07H .0309(b)).

Dear CRC Chairperson, Mr. Ken Richardson and Committee Members,

Thank you for this chance to comment on the proposed amendments that impact updated NC erosion rates. Please note that I am in total agreement with Spencer Rogers in expressing my concerns about passing these proposed amendments.

I am a homeowner and permanent resident of Oak Island, who has 13 years experience observing weather-related erosion and flood activity here, including a half dozen major hurricanes. In addition, I've studied GIS aerial mapping for the past 15 years in my neighborhood. From all my personal experience, research and reading that includes studies by Drs. Rogers, and Gavin Smith of NCSU, I'm convinced that it would NOT be in the best interest of NC's coastal environment to pass the amendments.

Dr. Rogers gave vivid examples of Rodanthe's structures crumbling into the ocean as a warning to the construction of housing so close to the shore. You must be familiar with the Lockwood Folly area near the west end of Oak Island, where sandbagging is already common and erosion has carved into homes with every storm. I've included a picture of a home across the street from me near Oak Island's East 58th St. Beach Access that still has this sandbagging. Isaias caused massive damage in 2020 to this and all the other properties on OI due to a 9.5 ft. storm surge flood that went as far back as 3 rows of homes. Also note the aerial photo post-Isaias where the shoreline was totally gouged out, and the road damaged. This was not a one-off. Hurricane Floyd in 1999 was even more destructive to OI.



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I've seen three beach nourishment projects completed, then promptly erased by storms just in the past decade. I've sustained over \$40,000 in flooding damage in 2020 just from Isaias--and I live on second row. From GIS aerial mapping, my area of the beach has eroded over 56 feet in 15 years. With the new setback development line, 60 feet is now being measured seaward to the TOP of the major dune. Two years ago, unbuildable oceanfront lots with conservative, common-sense set-backs were suddenly made "buildable" for purely economic reasons. This, despite OI's history of severe erosion, and flooding, considering the dune could be leveled in the next storm (as happened 3 times in the past 10 years).

It is foolhardy to allow these rules to stand, let alone weaken them further. Even professional engineers Moffatt & Nichol have noted since 2018 that Oak Island's erosion rates are substantially higher than the 2 ft./yr. multiplier. This should not be a "one size fits all" solution for Oak Island, and specific eroded "hotspots" throughout North Carolina's coast. Oak Island should have regulations that more accurately reflect erosion statistics specific to our island.

The practice of relying on increasingly expensive beach nourishment where engineers are now forced to go 30 miles offshore for the correct type of sand is not sustainable or realistic. Developers are actually building huge 3-story, 41' tall 2,900 sqft. rental homes on narrow AEC beachfront wetlands in anticipation of future nourishment that hasn't happened yet--just prior to peak hurricane season. This is reckless, dangerous, and doesn't make sense in my opinion.

The state of North Carolina owes it to tax-paying citizens who live on the shore, and millions of annual tourists, to ensure a safe environment with common sense regulations to preserve and protect our natural resources.

We shouldn't have to fear storm surge catastrophe to our homes and infrastructure every summer due to inadequate planning.

Thank you for your consideration.

Sincerely,

G. Donovan

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