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ROY COOPER Governor MICHAEL S. REGAN

Secretary

WILLIAM F. LANE General Counsel

TO:	The Coastal Resources Commission
FROM:	Christine A. Goebel, DEQ Assistant General Counsel
DATE:	February 5, 2021 (for the February 18, 2021 CRC Meeting)
RE:	Variance Request by the Town of Carolina Beach (CRC-VR-21-01)

Petitioner is the Town of Carolina Beach, which owns much of the dry sand beach under and waterward of the existing boardwalk. Since 2017, the Town, through the group Ocean Cure, Inc. has installed beach mats in the summer months which allow wheelchair access along and across the dry sand beach. Following a July 2020 DCM Notice of Regulatory Requirements, the Town filed a CAMA Minor Permit application in September of 2020 seeking authorization in order to continue to place the approximately 2,958 square feet of beach mats each May – September. On October 6, 2020, DCM denied Petitioner's CAMA Minor Permit application as the proposed development does not comply with 15A NCAC 7H .0306(a)(2) and 15A NCAC 7H .0308(c)(5) which require the beach mats to be placed behind the development line, behind the oceanfront setback, and behind a line 6' seaward of the waterward toe of the frontal dune. Petitioner now seeks a variance in order to continue placing the beach mats as proposed in their permit application.

The following additional information is attached to this memorandum:

Attachment A:	Relevant Rules
Attachment B:	Stipulated Facts
Attachment C:	Petitioner's Positions and Staff's Responses to Variance Criteria
Attachment D:	Petitioner's Variance Request Materials
Attachment E:	Stipulated Exhibits including powerpoint
cc(w/enc.):	C. Noel Fox, Petitioner's Counsel, electronically Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



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#### **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 180 feet landward from the first line of stable and 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 "North Carolina 2019 Oceanfront Setback Factors & Long-Term Average Annual Erosion Rate Update Study" and approved by the Coastal Resources Commission on February 28, 2019 (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 .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 is 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 (a)(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 land or oceanward of the mean high water line or perpetual property easement line, whichever is more restrictive.

#### 15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

(c) Structural Accessways:

(1) Structural accessways shall be permitted across primary or frontal dunes so long as they are designed and constructed in a manner that entails negligible alteration of the primary or frontal dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.

(2) An accessway shall be considered to entail negligible alteration of primary or frontal dunes provided that:

(A) The accessway is exclusively for pedestrian use;

(B) The accessway is a maximum of six feet in width;

(C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the dune. Where this is deemed by the Division of Coastal Management to be impossible due to any more restrictive local, state, and/or federal building requirements, the structure shall touch the dune only to the necessary; and

(D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.

(3) An accessway that does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers are not prohibited provided all other applicable standards of this Rule are met.

(4) In order to preserve the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") may be provided for off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 15 feet in width and may be constructed of wooden sections fastened together, or other materials approved by the Division, over the length

of the affected dune area. Installation of a Hatteras ramp shall be done in a manner that will preserve the dune's function as a protective barrier against flooding and erosion by not reducing the volume of the dune.

(5) Structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach. Structural accessways are not restricted by the requirement to be landward of the FLSNV as described in .0309(a) of this Section.

#### **STIPULATED FACTS**

#### ATTACHMENT B

- 1. Petitioner, The Town of Carolina Beach ("Town"), is a North Carolina municipal body politic organized and existing in Carolina Beach, New Hanover County, North Carolina. The Town is represented by its Town Attorney, Charlotte Noel Fox.
- 2. To protect oceanfront property owners and other citizens and residents from damaging erosion and property loss, in and about 1962, the Town of Carolina Beach began working with the U.S. Army Corps of Engineers and State officials to obtain public funding for, and thereafter carry out long term beach re-nourishment activities along the Town's shorefront, including within the area of where the impermanent seasonal access decking ("beach mats") is installed. The proposed location where the beach mats are to be installed (the "site") is shown on the Town's site plan dated September 23, 2020, attached as Stipulated Exhibit 4.
- 3. The Carolina Beach Building Line Act was passed by the General Assembly in 1963. The 1963 Session Law granted the Town title to the land between the building line and the low water mark of the Atlantic Ocean subject to public trust rights. The 1963 Session Law also provides that no building or structure shall be built and erected on the made and built-up land lying East of "the building line" and further provides that all made and constructed land lying East of "the building line" shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine...." A copy of the 1963 Session Law, the 1963 building line map, and the Development Line map are attached as Stipulated Exhibits 1, 2, & 3.
- 4. The proposed site is within the Ocean Erodible Area of Environmental Concern, and per GS 113A-118, any development at the Site requires authorization through a CAMA Permit.
- 5. The site is adjacent to the Atlantic Ocean, the waters of which at this location are classified as SB waters by the Environmental Management Commission. The Commission's average annual erosion rate applicable at the site is 2 feet per year.
- 6. The Town's Parks and Recreation Director Eric Jelinski, states that the town owns 10 beach wheelchairs available for reservation for free. The Town's chairs are in highest demand in the summer and must be transported by the person making the reservation. The person in the chair cannot self-propel this type of chair. This affidavit is attached as Stipulated Exhibit 7.
- 7. The Town's Central Business District has two large hotels adjacent to the location of the proposed impermanent seasonal access decking, as shown on Stipulated Exhibit 6.
- 8. The Pleasure Island Sea Turtle Project is a North Carolina non-profit corporation which monitors sea turtle nests laid on the ocean beach in the Town. According to an affidavit by Nancy Busovne, President of the Pleasure Island Sea Turtle Project, in fifteen years, only

two nests have been laid in proximity to the site. None have been laid since the construction of the Hampton Inn Hotel was completed in 2016 Ms. Busovne's affidavit is attached as Stipulated Exhibit 8.

- 9. The total floor area of the proposed beach mats is 2958 square feet, and consists of a 18.5' by 132.5' mat, which is connected to the town's boardwalk by two 6.2' by 50'-56' accessways. The proposed configuration and site are shown overlain on 2016 aerial photography on the Town's site plan drawing submitted as part of its CAMA permit, attached as Stipulated Exhibit 4. The parties agree that this drawing incorrectly describes the waterward edge of the mats to be "a minimum of 20' *waterward* of the high water line" instead of reading "a minimum of 20' *landward* of high water."
- 10. The Town proposes to have the beach mats installed during the months of May through September each year. The usual sea turtle moratorium for North Carolina is May 1 November 1, which is when sea turtles are nesting and hatching. According to WRC staff, for Carolina Beach, the earliest turtle nest on record is May 3, 2008 and the latest nest is August 23, 2013.
- 11. According to a statement by Kevin Murphy, President of Ocean Cure, the non-profit which purchased, installs, maintains and removes the mats with permission of the Town, the beach mats are able to be removed in the event of weather events which result in higher than normal tides. Mr. Murphy's statement is attached as Stipulated Exhibit 9.
- 12. The beach mats connect to existing ADA compliant ramps which provide access from the Town's existing wooden boardwalk. The location of these ramps are shown on Stipulated Exhibit 6.
- 13. The beach mats do not cross over any dune, as the frontal dune is located just landward of the FLSNV and landward of the proposed site.
- 14. The location of the first line of stable and natural vegetation ("FLSNV") as of 2016 is shown on the Town's site plan, attached as Stipulated Exhibit 4.
- 15. The Town of Carolina Beach adopted a development line in September 2016 (See Stipulated Exhibit 3). The development line is identical to the 1963 Building Line (See Stipulated Exhibits 2 and 3). The Development Line/Building Line's location is shown overlain on 2016 aerial imagery on Stipulated Exhibit 6.
- 16. Prior to the adoption of the development line, in accordance with 15A NCAC 07J.1200 *et seq.*, the Town had a static line exception approval from the Commission since August 2009. The static line exception was last renewed by the Commission in February 2020. In the area of the site, the static line is located generally along the boardwalk, and is located waterward of the development/building line.
- 17. 15A NCAC 07H. 0306 sets forth general use standards for Ocean Hazard Areas, including ocean erosion setbacks.

- 18. 15A NCAC 07H .0306(a)(2) prohibits development seaward of the development line.
- 19. 15A NCAC 07H .0308(c)(5) prohibits structural accessways being constructed more than six feet seaward of the waterward toe of the frontal or primary dune. There is a frontal dune landward of both the FLSNV and the site.
- 20. In 2017, Ocean Cure first installed the beach mats with the permission of the Town, and has installed them every summer since without obtaining a CAMA permit.
- 21. On May 9, 2019, DCM communicated with the Town and the North Carolina Wildlife Resources Commission ("WRC") indicating to the Town that the beach mats needed to be removed from the beach nightly to avoid sea turtle impacts. A copy of this email is attached as Stipulated Exhibit 14. The beach mats were not removed nightly by the Town or Ocean Cure.
- 22. In May of 2020, representatives from the Town, DCM, WRC, and the US Fish and Wildlife Service ("FWS') communicated regarding the removal of mats. A copy of this email chain is attached as Stipulated Exhibit 15.
- 23. On June 9, 2020, DCM District Manager Tara MacPherson met with Town officials and discussed the placement of the mats and the need to obtain a CAMA permit. Photos of the beach mats taken that day and Ms. MacPherson's notes are attached as Stipulated Exhibit 16.
- 24. On July 27, 2020, DCM issued a Notice of Regulatory Requirements enforcement letter to the Town, a copy of which is attached as Stipulated Exhibit 17. The Notice indicated that the beach mats were "development" within the Ocean Hazard AEC and were placed without authorization pursuant to the Coastal Area Management Act. The Notice explained how to seek a permit and variance in order to have authorization from DCM.
- 25. On or about September 16, 2020, the Town applied to DCM for a CAMA Minor development permit (Permit Application Number CB20-15) requesting approval of the installation of the beach mats. A copy of the minor permit application is attached as Stipulated Exhibit 18.
- 26. As part of the CAMA minor permit process, DCM required public notice be placed in the Wilmington Star News, and DCM also issued a press release. That notice included a comment email, from which DCM received 42 comments, copies of which are attached as Stipulated Exhibit 13.
- 27. Also as part of the CAMA minor permit process, the Town sent notice to the "adjacent riparian owners" which in this case were determined to be the four parcels located landward of the site. These owners are Mikez Holdings, LLC, Urcowa Investments, LLC, Carolina Smokehouse Holdings, LLC, and Carolina Beach Land Holdings, LLC. Copies of the notice letters and certified mailing information are attached as Stipulated Exhibit 19.

- 28. On October 6, 2020 the Division of Coastal Management ("DCM") denied the CAMA Minor Permit Application because 1) the proposed development extended seaward of the ocean hazard setback as determined by the applicable development line, and 2) the proposed development extends more than six feet seaward of the waterward toe of the frontal or primary dune. A copy of the denial letter is attached as Stipulated Exhibit 20.
- 29. The parties agree and stipulate that the possible grant of this variance and subsequent issuance of a CAMA minor permit does not eliminate the need for the Town to obtain other necessary approvals/permits and/or coordinate with federal agencies regarding other applicable laws.
- 30. As part of the variance process, 15A NCAC 7J .0701(c)(7) requires that notice of the variance petition "be sent certified mail, return receipt requested to the adjacent property owners and persons who submitted written comments to the Division of Coastal Management.... during the permit review process and copies of the documents that the certified mail notices were received or that deliveries were attempted;" Petitioner has provided such notice to the adjacent property owners, as evidenced by the certified mail information, copies of which are attached as Stipulated Exhibit 21.
- 31. The Town emailed all of the individuals who submitted comments during the permit review process and advised them of the Town's intention to petition for a variance, and to ascertain whether any of them desired to be notified by US Mail when the Town's petition was filed. Six individuals requested written notification and were provided such notice as evidenced by the certified mail information, copies of which are attached as Stipulated Exhibit 22. All of the comments received in anticipation of this variance hearing are attached as Stipulated Exhibit 23.
- 32. The Town stipulates that the proposed beach mats are inconsistent with those rules listed in the denial letter, per 15A NCAC 7J .0701(c)(6).
- The parties stipulate to the photographs in the Powerpoint attached as Stipulated Exhibit
   The Powerpoint also contains those photographs from the Town labeled Stipulated
   Exhibits 5 & 12.

#### **STIPULATED EXHIBITS**

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- 1. 1963 Session Law
- 2. Building Line Map recorded in Map Book 8, Page 52
- 3. Development Line Map recorded in Map Book 62, Page 145
- 4. Schematic dated September 23, 2020, drawn by Town, showing proposed installation of impermanent seasonal access decking overlain on a 2016 aerial photo
- 5. 2016 Aerial Photograph showing access decking installed and width of beach
- 6. Schematic dated January 5, 2021 showing the Hotels, Public Parking and ADA accessible Boardwalk in proximity to the proposed impermanent seasonal access decking
- 7. Affidavit of Eric Jelinski, Town of Carolina Beach Parks and Recreation Director
- 8. Affidavit of Nancy Busovne, Permit Holder for Town of Carolina Beach Sea Turtle Project
- 9. Letter from Ocean Cure President Kevin Murphy detailing setup and maintenance of beach mats
- 10. Letters of Support from Non-Profits:
  - a. Life Rolls ON
  - b. Veterans and Athletes United
  - c. Paralyzed Veterans of America
  - d. Access of Wilmington, Inc.
  - e. Ocean Cure
  - f. Pleasure Island Sea Turtle Project
  - g. MoreLife
- 11. Letters of Support from Local Businesses
  - a. Courtyard Marriot Carolina Beach Oceanfront
  - b. Carolina Beach Physical Therapy
  - c. Brightmore Retirement Community
  - d. Hampton Inn & Suites by Hilton Carolina Beach
- 12. Photographs of the beach mats in use (Exhibits 12A-12S)
- 13. Comments received by the Division of Coastal Management during permit review
- 14. May 2019 email with DCM, WRC, Town
- 15. May 2020 email with Town, DCM, WRC, FWS
- 16. Tara MacPherson's 2020 site visit photos and notes
- 17. July 2020 DCM Notice of Regulatory Requirements letter to Town
- 18. Town's CAMA Minor Permit Application
- 19. Adjacent Riparian Owner Notice x4 during permit review
- 20. October 6, 2020 CAMA Permit denial letter
- 21. Adjacent Riparian Owner Notice x4 re: variance request
- 22. Permit Commenters notice re: variance request
- 23. Comments in response to Town's variance request
- 24. Powerpoint (includes part/all of Exhibits 5, 12, 16)

#### **PETITIONERS' and STAFF'S POSITIONS**

#### ATTACHMENT C

# I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

#### Petitioners' Position: Yes.

Strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) prevents the Town from constructing a public park amenity as expressly contemplated by the Legislature in 1963 Session Law 511. This law – one of only two of its kind – was enacted by the General Assembly in recognition of, and response to, major shoreline erosion threats then impacting the Town's ocean beaches. The governing 1963 Session Law (See Proposed Stipulated Exhibits) provides that, in exchange for the Town receiving title to lands raised by the Corps' long term beach nourishment project, the Town will limit use of such raised lands to public street, road and park purposes. The Town's impermanent seasonal access decking ensures that the Town's ocean beaches are accessible to all visitors and citizens regardless of physical ability.

In 2014, the Town reconstructed its existing wooden Boardwalk located within its Central Business District. There are two (2) hotels within the Central Business District that offer ADA compliant rooms and amenities, one of which has direct access to the wooden Boardwalk. The wooden Boardwalk is handicap accessible and includes two ramps that allow access to the dry sand beach (See Proposed Stipulated Exhibits). In 2017, after receiving numerous accolades from the disabled public about the wooden Boardwalk, the Town installed the impermanent seasonal access decking to further facilitate access to and over the dry and wet sand beach.

CAMA recognizes the importance of the public's ability to enjoy the recreational aspects of the public beach. Strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) limits that recognition to only the non physically disabled public. Failure of the Commission to approve the Town's impermanent seasonal access decking would render a significant hardship to the Town's long term efforts to afford the physically disabled public with convenient and safe access to the dry and wet sand public beach.

Specifically, strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) prevents the Town from installing the impermanent seasonal access decking which effectively denies persons with disabilities the convenient access to the dry and wet sand beaches. Further, strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) undermines the Town's significant efforts to provide all visitors and residents, regardless of physical disabilities, with improved beach access in compliance with the express provisions of the governing 1963 Session Law and the express purpose of the CAMA.

#### Staff's Position: Yes.

Staff agrees that strict application of the Commission's rule prohibiting development oceanward of the ocean hazard setback line or development line, and extending more than six feet seaward of the waterward toe of the frontal or primary dune causes Petitioner unnecessary hardships.

In creating the Coastal Area Management Act (CAMA), the legislature recognized the importance of preserving and protecting the public's opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the shorelines of the State. Included among the stated goals of CAMA are (1) insuring the orderly and balanced use and preservation of coastal resources on behalf of the people of North Carolina and the nation and (2) the establishment of policies, guidelines, and standards for economic development, recreation and tourist facilities, preservation and enhancement of the historic and cultural aspects of the coastal area. See N.C.G.S. §113A-102(a) and (b). The Commission's rules also recognize the need to balance protecting the coastal lands and waters of the State with common law and statutory rights of access to the public trust areas.

The proposed location of the beach mats on the uniquely town-owned public beach within the Central Business District and waterward of the vegetation line and primary dune has, and will, facilitate public access along the beach and to the ocean for those who require wheelchair access. While the nearby boardwalk is wheelchair accessible, accommodating wheelchairs onto and along the dry sand beach and to the ocean was limited to those who could operate and transport the Town's beach-wheelchairs across the dry sand beach. Accordingly, strict application of the oceanfront erosion setback will cause the Town unnecessary hardships in providing access to the disabled where the location of accessways are limited to six feet beyond the seaward toe of the the primary or frontal dune. This will prevent a structure intended to be located on the dry sand beach specifically to allow improved access to the public trust beach by disabled visitors.

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

#### Petitioner's Position: Yes.

See discussion regarding factor I above. The property upon which the impermanent seasonal access decking is located is unique public property. This property was raised from the tides of the Atlantic Ocean by taxpayer funded beach nourishment efforts first undertaken by the Corps in the mid-1960's, and uniquely was deeded to the Town by the North Carolina General Assembly pursuant to the provisions of the governing 1963 Session Law. The 1963 Session Law balances public and private property rights by recognizing that the Corps' publicly funded beach nourishment project extinguished the common law littoral rights of the impacted oceanfront property owners, by deeding the raised lands to the Town, by requiring the Town to use those raised lands for public street and public park purposes.

Further, the ocean beach where the impermanent seasonal access decking is installed has been routinely renourished since the mid 1960's which has resulted in a stable and wide dry sand beach which, without the impermanent seasonal access decking, makes it exceptionally difficult for the disabled public to access the wet sand beach. Further, without the impermanent seasonal access decking, the dry and wet sand public beach is largely inaccessible to the disabled public. And while the Town's ten (10) beach wheelchairs are in high demand (See Proposed Stipulated Exhibits), those wheelchairs require planning, personal vehicles for transport, a transfer from a personal wheelchair, and someone to push the wheelchair (See Proposed Stipulated Exhibits). The impermanent seasonal access decking, connected to the Boardwalk's ADA compliant accessways, ensures the disabled public has a convenient means of independently and spontaneously accessing the public beach by allowing a person in any wheelchair to access the public beach without having to make a reservation for a beach wheelchair or arranging for assistance from another person.

#### Staff's Position: Yes.

Petitioner's hardship is caused by conditions peculiar to Petitioner's property. The hardship results from a combination of the Town's unique ownership of the historically-maintined dry sand beach identified by the General Assembly for public access purposes and the provision of enhanced handicap access to this unique feature.

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

#### Petitioners' Position: No.

See responses above for discussion of the relevant hardships, the unique nature of the Town's public property and the provisions of the governing 1963 Session Law requiring the Town to use such areas for public park uses. There is a unique hardship to the Town's disabled citizens and visitors in that the impermanent seasonal access decking is consistent with the legislative goals of CAMA but inconsistent with 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5). The impermanent seasonal access decking is not development that interferes with legal access to, or use of, public resources. Contrarily, the impermanent seasonal access decking affords all Town citizens and visitors, regardless of age, physical ability or access to a beach wheelchair, to access the public beach (See Proposed Stipulated Exhibits).

#### Staff's Position: No.

Staff agrees that allowing this configuration and area of beach mats to extend onto the dry sand beach waterward of the setback, the development line and the FLSNV will not cause adverse impacts for public use of the public trust beach, and will enhance access for the disabled public. This proposed use and location is not in conflict with the Commission's general policy of keeping the dry sand beach clear of structures in order to preserve public access. Staff agrees that making public beach access more accessible to individuals with disabilities is a laudable goal and is in keeping with the legislature's mandate to provide and preserve *all* of the public's opportunity to enjoy the physical, aesthetic, cultural and recreational qualities of the shorelines of the State.

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.

See responses to factors I, II, and III above.

The Commission's regulations are intended, in part, to limit private property owners from infringing upon the public's right to access and to preserve public trust rights.

(d)(1) The variance requested by the Town will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission. 15A NCAC 07H. 0203 states that:

It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of ABC's, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values...Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to the lands and waters of the coastal area.

The impermanent seasonal access decking is entirely consistent with spirit, purpose, and intent of the rules. Specifically, the CAMA calls for the public's right to enjoy the shorelines of the State to be preserved. Denying access to the states shorelines to those who are disabled is inconsistent with the spirit, purpose, and intent of the rules. The potential biological impact from installation of the impermanent seasonal access decking is minimal due to the monitoring of the tides and weather and the location in which the impermanent seasonal access decking is installed (See Proposed Stipulated Exhibits). Finally, the potential biological impact is outweighed by the significant benefit to the disabled.

(d)(2) The variance requested by the Town will secure the public safety and welfare.

The proposed impermanent seasonal access decking will allow the disabled public the ability to, in their own wheelchair and without the need to reserve a beach wheelchair, gain access to the dry sand beach. The proposed impermanent seasonal access decking facilitates organizations supporting those with disabilities holding special events and camps which provide recreational opportunities to disabled citizens and visitors. Further, the impermanent seasonal access decking allows individuals to traverse the dry sand to gain access to the hard packed wet sand and allows a convenient place for the transfer of an individual from their own wheelchair to beach wheelchair. Providing unimpeded access to the dry sand beach to the disabled improves the public safety and welfare.

(d)(3) The installation of the impermanent seasonal access decking will preserve substantial justice by affording the disabled with independence and a safe and convenient access to the dry sand beach.

#### Staff's Position: Yes.

Staff agrees that granting the requested variance would be consistent with the spirit, purpose and intent of the Commission's rules. The limited area of the proposed beach mats on a heavily trafficked area with few recent sea turtle nests, and the increased access for visitors with disabilities, would meet the legislative goals of the NC Coastal Area Management Act. Staff agrees that there would appear to be no significant adverse impacts to the public's use of dry sand beach, especially if the mats are removed prior to storm events. The beach mats would also seem to have a limited impacton sea turtle nesting in this heavily developed and heavily used area, which sea turtles appear to avoid based on nesting history.

Staff also agrees that granting the requested variance would secure the public safety and welfare, and preserve substantial justice. The proposed beach mat placement is designed to increase access to the public beach for all disabled visitors. The Town's commitment to improving access for visitors with disabilities is exemplary, and in keeping with the goals of the CAMA and the Commission's rules.

Staff recommends that the Commission consider conditioning any variance grant authorizing the beach mats as proposed <u>without</u> the May-September use restriction the Town requested in their permit application in case the Town wishes to extend the use of the beach mats beyond these months in the future. While it would require a permit modification request from the Town, it would not also require another variance from the Commission.

#### ATTACHMENT D:

016

#### PETITIONERS' VARIANCE REQUEST MATERIALS



701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

#### ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Braxton Davis, Director N.C. Division of Coastal Management 400 Commerce Avenue Morehead City, NC 28557 *Via Electronic Mail: Braxton.Davis@NCDENR.Gov* 

#### Re: Variance Request - Town of Carolina Beach

Dear Mr. Davis,

Enclosed please find the Variance Request being filed this day by the Town of Carolina Beach, seeking issuance by the Coastal Resources Commission of a variance order allowing the Division to issue a Minor Development CAMA Permit for the Town's impermanent seasonal access decking.

Thank you for your service and consideration of the Town's impermanent seasonal access decking.

Sincerely,

Charlotte Noel Fox, Town Attorney Town of Carolina Beach 1121 N Lake Park Blvd. Carolina Beach NC 28428

Enclosures Cc: Willis, Angela (angela.willis@ncdenr.gov) Goebel, Christine A. (Christine.Goebel@NCDENR.GOV) Lucasse, Mary (MLucasse@ncdoj.gov)

#### **CAMA VARIANCE REQUEST FORM**

#### DCM FORM 11 DCM FILE No.:\_\_\_

#### PETITIONER'S NAME: Town of Carolina Beach COUNTY WHERE THE DEVELOPMENT IS PROPOSED: New Hanover

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

#### VARIANCE HEARING PROCEDURES

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: www.nccoastalmanagement.net

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

#### VARIANCE CRITERIA

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

## For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

The name and location of the development as identified on the permit application;

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A copy of the permit decision for the development in question;
A copy of the deed to the property on which the proposed development would be located;
A complete description of the proposed development including a site plan;
A stipulation that the proposed development is inconsistent with the rule at issue;
Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;

Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;

A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.

This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

\*Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.

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

NIA

Signature of Petitioner or Attorney

Charlotte Noel Fox Printed Name of Petitioner or Attorney

701 Market Street Wilmington, NC 28401 Mailing Address

1-6.202

Date

cnfox@craigeandfox.com Email address of Petitioner or Attorney

(910) 815-0085 Telephone Number of Petitioner or Attorney

(910) 815-1095 Fax Number of Petitioner or Attorney

#### TOWN OF CAROLINA BEACH –VARIANCE REQUEST CHECKLIST OF VARIANCE PACKAGE ITEMS January 06, 2021

- 1. Name-Location of Development: Impermanent Seasonal Access Decking to be located at Public Access 90-100; Atlantic Ocean.
- 2. Copy of Permit Decision: See attached denial letter dated October 6, 2020.
- 3. Copy of Deed: See Proposed Stipulated Exhibit of 1963 Session Law and Proposed Stipulated Exhibit of recorded Building Line map.
- 4. Complete Description of Proposed Development: See schematic dated September 23, 2020 submitted with permit application and proposed as Stipulated Exhibit.
- 5. Stipulation: The Town stipulates that the proposed impermanent seasonal access decking is inconsistent with 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5).
- 6. Proof of Notice: See enclosed notice letters and certified mail information provided to all adjacent property owners and those individuals who commented during the permit review process who requested written notification.
- 7. Proof of local government variance request: Not Applicable
- 8. Town's Written Statements in Support of Variance Request: Enclosed.
- 9. Draft Set of Proposed Stipulated Facts: Enclosed.
- 10. Signed Variance Request Form: Enclosed.

#### STATEMENT IN SUPPORT OF VARIANCE REQUEST

Petitioner Town of Carolina Beach ("Town") respectfully contends that the impermanent seasonal access decking meets the four variance criteria specified in the North Carolina Coastal Area Management Act ("CAMA"). In support, the Town presents the following statements and information, and respectfully requests that the Coastal Resources Commission ("CRC") issue a variance order allowing the Town's requested variance from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5).

In 2014, the Town reconstructed its existing wooden Boardwalk. Due to its proximity to the Atlantic Ocean, the Boardwalk is a popular means for the public to view, enjoy and access the public resources of the dry and wet sand beaches, and the Atlantic Ocean. The wooden Boardwalk was constructed in a deliberate manner in order to maximize access to persons with disabilities. Specifically, the wooden Boardwalk is constructed in the Town's popular central business district in proximity to public parking and is accessed by an ADA compliant ramp. The wooden Boardwalk includes two additional ADA compliant ramps which provide access to the public beach for persons with disabilities.

The Town owns ten (10) beach wheelchairs and provides them free of charge to citizens and visitors with disabilities. Between the months of May and September of 2020, the wheelchairs were reserved almost 500 times (See Proposed Stipulated Exhibits). The beach wheelchairs require a person who utilizes a wheelchair to be transferred from their personal wheelchair into the beach wheelchair. The beach wheelchair cannot be propelled by individuals in the chair but must be pushed by another person. Additionally, the beach wheelchairs must be transported from the Town's recreation center to the beach in a personal vehicle. The installation of the impermanent seasonal access decking provides additional access and enjoyment of the public beach to persons with disabilities. The impermanent seasonal access decking allows persons with disabilities to use their own wheelchairs or other mobility devices to access the dry sand beach and to traverse the dry sand beach to gain access to the wet sand beach. The impermanent seasonal access decking is frequently used throughout the day and night by disabled individuals in their own wheelchairs (See Proposed Stipulated Exhibits).

The impermanent seasonal access decking is installed from May through September and is removed during weather events that result in exceptionally high tides such as tropical storms and hurricanes. The impermanent seasonal access decking is swept twice daily and is monitored 24 hours a day (See Proposed Stipulated Exhibits).

An undue hardship to the Town, its citizens and the tens of thousands of visitors to the Town will be created if strict application of [15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5)] prevents the impermanent seasonal access decking being installed.

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

**Yes.** Strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) prevents the Town from constructing a public park amenity as expressly contemplated by the Legislature in 1963 Session Law 511. This law – one of only two of its kind – was enacted by the General Assembly in recognition of, and response to, major shoreline erosion threats then impacting the Town's ocean beaches. The governing 1963 Session Law (See Proposed Stipulated Exhibits) provides that, in exchange for the Town receiving title to lands raised by the Corps' long term beach nourishment project, the Town will limit use of such raised lands to public street, road and park purposes. The Town's impermanent seasonal access decking ensures that the Town's ocean beaches are accessible to all visitors and citizens regardless of physical ability.

In 2014, the Town reconstructed its existing wooden Boardwalk located within its Central Business District. There are two (2) hotels within the Central Business District that offer ADA compliant rooms and amenities, one of which has direct access to the wooden Boardwalk. The wooden Boardwalk is handicap accessible and includes two ramps that allow access to the dry sand beach (See Proposed Stipulated Exhibits). In 2017, after receiving numerous accolades from the disabled public about the wooden Boardwalk, the Town installed the impermanent seasonal access decking to further facilitate access to and over the dry and wet sand beach.

CAMA recognizes the importance of the public's ability to enjoy the recreational aspects of the public beach. Strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) limits that recognition to only the non physically disabled public. Failure of the Commission to approve the Town's impermanent seasonal access decking would render a significant hardship to the Town's long term efforts to afford the physically disabled public with convenient and safe access to the dry and wet

to afford the physically disabled public with convenient and safe access to the dry and wet sand public beach.

Specifically, strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) prevents the Town from installing the impermanent seasonal access decking which effectively denies persons with disabilities the convenient access to the dry and wet sand beaches. Further, strict application of 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) undermines the Town's significant efforts to provide all visitors and residents, regardless of physical disabilities, with improved beach access in compliance with the express provisions of the governing 1963 Session Law and the express purpose of the CAMA.

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

**Yes.** See discussion regarding factor I above. The property upon which the impermanent seasonal access decking is located is unique public property. This property was raised from the tides of the Atlantic Ocean by taxpayer funded beach nourishment efforts first undertaken by the Corps in the mid-1960's, and uniquely was deeded to the Town by the North Carolina General Assembly pursuant to the provisions of the governing 1963 Session Law. The 1963 Session Law balances public and private property rights by recognizing that the Corps'

publicly funded beach nourishment project extinguished the common law littoral rights of the impacted oceanfront property owners, by deeding the raised lands to the Town, by requiring the Town to use those raised lands for public street and public park purposes.

Further, the ocean beach where the impermanent seasonal access decking is installed has been routinely renourished since the mid 1960's which has resulted in a stable and wide dry sand beach which, without the impermanent seasonal access decking, makes it exceptionally difficult for the disabled public to access the wet sand beach. Further, without the impermanent seasonal access decking, the dry and wet sand public beach is largely inaccessible to the disabled public. And while the Town's ten (10) beach wheelchairs are in high demand (See Proposed Stipulated Exhibits), those wheelchairs require planning, personal vehicles for transport, a transfer from a personal wheelchair, and someone to push the wheelchair (See Proposed Stipulated Exhibits). The impermanent seasonal access decking, connected to the Boardwalk's ADA compliant accessways, ensures the disabled public has a convenient means of independently and spontaneously accessing the public beach by allowing a person in <u>any</u> wheelchair to access the public beach without having to make a reservation for a beach wheelchair or arranging for assistance from another person.

#### (c) Do the hardships result from actions taken by the petitioner? Explain.

**No.** See responses above for discussion of the relevant hardships, the unique nature of the Town's public property and the provisions of the governing 1963 Session Law requiring the Town to use such areas for public park uses. There is a unique hardship to the Town's disabled citizens and visitors in that the impermanent seasonal access decking is consistent with the legislative goals of CAMA but inconsistent with 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5). The impermanent seasonal access decking is not development that interferes with legal access to, or use of, public resources. Contrarily, the impermanent seasonal access decking affords all Town citizens and visitors, regardless of age, physical ability or access to a beach wheelchair, to access the public beach (See Proposed Stipulated Exhibits).

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

Yes. See responses to factors I, II, and III above.

The Commission's regulations are intended, in part, to limit private property owners from infringing upon the public's right to access and to preserve public trust rights.

(d)(1) The variance requested by the Town will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission. 15A NCAC 07H. 0203 states that:

It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and

public trust shorelines, as an interrelated group of ABC's, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values...Furthermore, it is the objective of the Coastal Resources Commission to protect present common-law and statutory public rights of access to the lands and waters of the coastal area.

The impermanent seasonal access decking is entirely consistent with spirit, purpose, and intent of the rules. Specifically, the CAMA calls for the public's right to enjoy the shorelines of the State to be preserved. Denying access to the states shorelines to those who are disabled is inconsistent with the spirit, purpose, and intent of the rules. The potential biological impact from installation of the impermanent seasonal access decking is minimal due to the monitoring of the tides and weather and the location in which the impermanent seasonal access decking is installed (See Proposed Stipulated Exhibits). Finally, the potential biological impact is outweighed by the significant benefit to the disabled.

(d)(2) The variance requested by the Town will secure the public safety and welfare.

The proposed impermanent seasonal access decking will allow the disabled public the ability to, in their own wheelchair and without the need to reserve a beach wheelchair, gain access to the dry sand beach. The proposed impermanent seasonal access decking facilitates organizations supporting those with disabilities holding special events and camps which provide recreational opportunities to disabled citizens and visitors. Further, the impermanent seasonal access decking allows individuals to traverse the dry sand to gain access to the hard packed wet sand and allows a convenient place for the transfer of an individual from their own wheelchair to beach wheelchair. Providing unimpeded access to the dry sand beach to the disabled improves the public safety and welfare.

(d)(3) The installation of the impermanent seasonal access decking will preserve substantial justice by affording the disabled with independence and a safe and convenient access to the dry sand beach.

#### NORTH CAROLINA GENERAL ASSEMBLY 1963 SESSION

#### CHAPTER 511 HOUSE BILL 612

#### AN ACT RELATING TO THE TITLE TO THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF CAROLINA BEACH IN THE COUNTY OF NEW HANOVER AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN.

WHEREAS, during the course of many years in the Town of Carolina Beach, in the County of New Hanover, North Carolina, much of the land abutting and fronting on the Atlantic Ocean in said town formerly belonging to various property owners has been and is now being washed away by successive storms, tides and winds; and

WHEREAS, the said Town of Carolina Beach, with aid from the State of North Carolina, the United States Government, and with its own funds, has from time to time made available funds with which to control the erosion caused by said tides and winds and other causes, and to that end the said town has pumped sand from Myrtle Grove Sound and also pushed up sand and hauled sand, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work has been completed the question will arise as to whom title to the said new land shall belong; and

WHEREAS, it is the desire of the authorities of the Town of Carolina Beach, as well as the State of North Carolina, to fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands: Now, therefore,

The General Assembly of North Carolina do enact:

Section 1. All land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in the preamble to this Act, which will exist between the present eastern property line of the lot owners at present bordering on said ocean and the low water mark of the Atlantic Ocean after the work referred to in the preamble hereof is completed, shall be within the corporate limits of the Town of Carolina Beach and so much of said lands so filled in, restored and made which will lie West of "the building line" to be defined and determined by Section 2 of this Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying East of said "building line" to be fixed and determined by Section 2 of this Act is hereby granted and conveyed in fee simple to

Exhibit 1

the Town of Carolina Beach, provided, however, that no building or structure shall be built and erected on said made and built-up land lying East of "the building line" to be defined and set out in Section 2 of this Act, and provided further that all made and constructed land lying East of "the building line" shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine; and provided further that if any such property as is hereby granted and conveyed to the Town of Carolina Beach shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, and provided further that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

Sec. 2. Within thirty (30) days from the date of the completion of said work to be carried on by the Town of Carolina Beach and referred to in the preamble hereof, the said Town of Carolina Beach shall, at its own cost, survey or have surveyed by a competent engineer a line to be known as "the building line", and which shall constitute and define "the building line" referred to in Section 1 of this Act, and which shall run the full length of the beach within the town limits, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Carolina Beach shall immediately cause to be prepared a map showing, fixing, and determining "the building line", which map so prepared shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a map book kept for said purposes, after the engineer has appended an oath to the effect that said line has been truly and properly surveyed and laid out and marked on said map, and the register of deeds shall properly index and cross-index said map, and when so recorded in said map book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and prima facie evidence of the facts thereon. without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section 1 of this Act.

Sec. 3. Any property owner or claimant of land who is in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Carolina Beach, or assert such claims by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successor or successors in title, within six (6) months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

Page 2

S.L. 1963-511

House Bill 612

Exhibit 1

#### **ATTACHMENT E:**

027

#### STIPULATED EXHIBITS

- 1. 1963 Session Law
- 2. Building Line Map recorded in Map Book 8, Page 52
- 3. Development Line Map recorded in Map Book 62, Page 145
- 4. Schematic dated September 23, 2020, drawn by Town, showing proposed installation of impermanent seasonal access decking overlain on a 2016 aerial photo
- 5. 2016 Aerial Photograph showing access decking installed and width of beach
- 6. Schematic dated January 5, 2021 showing the Hotels, Public Parking and ADA accessible Boardwalk in proximity to the proposed impermanent seasonal access decking
- 7. Affidavit of Eric Jelinski, Town of Carolina Beach Parks and Recreation Director
- 8. Affidavit of Nancy Busovne, Permit Holder for Town of Carolina Beach Sea Turtle Project
- 9. Letter from Ocean Cure President Kevin Murphy detailing setup and maintenance of beach mats
- 10. Letters of Support from Non-Profits:
  - a. Life Rolls ON
  - b. Veterans and Athletes United
  - c. Paralyzed Veterans of America
  - d. Access of Wilmington, Inc.
  - e. Ocean Cure
  - f. Pleasure Island Sea Turtle Project
  - g. MoreLife
- 11. Letters of Support from Local Businesses
  - a. Courtyard Marriot Carolina Beach Oceanfront
  - b. Carolina Beach Physical Therapy
  - c. Brightmore Retirement Community
  - d. Hampton Inn & Suites by Hilton Carolina Beach
- 12. Photographs of the beach mats in use (Exhibits 12A-12S)
- 13. Comments received by the Division of Coastal Management during permit review
- 14. May 2019 email with DCM, WRC, Town
- 15. May 2020 email with Town, DCM, WRC, FWS
- 16. Tara MacPherson's 2020 site visit photos and notes
- 17. July 2020 DCM Notice of Regulatory Requirements letter to Town
- 18. Town's CAMA Minor Permit Application
- 19. Adjacent Riparian Owner Notice x4 during permit review
- 20. October 6, 2020 CAMA Permit denial letter
- 21. Adjacent Riparian Owner Notice x4 re: variance request
- 22. Permit Commenters notice re: variance request
- 23. Comments in response to Town's variance request
- 24. Powerpoint (includes part/all of Exhibits 5, 12, 16)

In the General Assembly read three times and ratified, this the 22nd day of May, 1963.

House Bill 612

S.L. 1963-511

Page 3

Exhibit 1



# Exhibit 2



MAP BOOK UZ, PAGE 145

Exhibit

 $\mathfrak{C}$ 

Book 62 Page 146

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TAMMY THEUSCH BEASLEY Register of Deeds

## New Hanover County Register of Deeds



320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401 Telephone 910-798-4530 • Fax 910-798-7751



State of North Carolina, County of NEW HANOVER Filed For Registration: 10/31/2016 03:43:51 PM Book: PLAT 62 Page: 145-146 2 PGS \$21.00 Real Property \$21.00 Recorder: CAROLYN JOHNSON Document No: 2016035600

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.









Exhibit 5



#### AFFIDAVIT OF ERIC JELINSKI

- 1. My name is Eric Jelinski. I am the Parks and Recreation Director for the Town of Carolina Beach, North Carolina, over the age of 18 years, competent to testify to the matter stated herein, and I make these statements based on personal knowledge.
- 2. The Town owns ten (10) beach wheelchairs which are available to reserve free of charge.
- 3. The beach wheelchairs are available for reservation year round.
- 4. During the months May through September, the beach wheelchairs are in high demand.
- 5. In 2019, the beach wheelchairs were reserved 511 times.
- In 2020, the beach wheelchairs were reserved 491 times.
- 7. Beach wheelchairs are located at the Town's Recreation Center and are transported to the Boardwalk area by the person who made the reservation.
- 8. The Town's beach wheelchairs cannot be propelled by the person using it.
- 9. The impermanent seasonal access decking allows individuals with disabilities to access the ocean beach without reserving a beach wheelchair.

#### FURTHER THE AFFIANT SAYETH NOT.

in felusi

Eric Jelinski

#### SWORN TO AND SUBSCRIBED before me,

this the  $\underline{\mathbf{\mathcal{A}}}$  day of January, 2021

· P. r

Notary Public

SHEILA P NICHOLSON NOTARY PUBLIC New Hanover County North Carolina My Commission Expires June 09, 2024 036

#### AFFIDAVIT OF NANCY BUSOVNE

- 1. My name is Nancy Busovne. I am a resident of Carolina Beach, North Carolina, over the age of 18 years, competent to testify to the matter stated herein, and I make these statements based on personal knowledge.
- 2. I am the Permit Holder and President of the Pleasure Island Sea Turtle Project.
- 3. I have been the Permit Holder for the past fifteen (15) years.
- 4. In fifteen (15) years, there have only been two nests recorded in the vicinity of the proposed location of the impermanent seasonal access decking.
- 5. The two nests recorded where laid prior to the completion of construction of the Hampton Inn.
- 6. The area where the proposed impermanent seasonal access decking is proposed to be installed is highly trafficked by the public due to its proximity to the Town's central business district.
- 7. One of the nests recorded was not observed when it was laid due to the turtle tracks having been covered up with numerous human footprints.
- Every Thursday night during the summer months (except 2020 due to Covid-19) a fireworks show takes place in close proximity to the proposed location of the impermanent seasonal access decking.
- 9. The fireworks draw large crowds.
- It is my opinion that the activities occurring within the Town's central business district and the presence of two oceanfront hotels are a significant impediment to sea turtles nesting.
- 11. Thus far there have been no issues with the seasonal access decking impeding the sea turtle nesting in any way.

FURTHER THE AFFIANT SAYETH NOT.

Nancy Busovne

SWORN TO AND SUBSCRIBED before me, this the  $\frac{1}{2}$  day of January, 2021

Notary Public



Exhibit 8


607 N. Lake Park Blvd. Carolina Beach, NC 28428 (910) 431-0594

To whom it may concern,

The purpose of this letter is to provide Ocean Cure's role in the storge, installation, maintenance, and deconstruction of the Carolina Beach Accessible Beach Mat, which makes this flooring unique.

Throughout the year, the mat is stored in our storage facility to ensure physical integrity. Each season, the mat is installed at an agreed upon time and place with the Town of Carolina Beach. The location is determined following surveying the mean high and low tide between September to April. With over 10 years' experience conducting camps with the disabled community, we have found that the boardwalk is the best location for the mat given the already available ADA accessibility to the sand. Our team inspects the mat and transports it to the beach via our transport trailer. The volunteers dedicate approximately four hours to carefully placing the mat on the beach, ensuring that the mat is flush with the sand; optimizing accessibility.

Once the mat is on the beach, our team continuously maintains the functionality of the mat. We physically maintain the mat twice daily by sweeping the mat and making adjustments, as necessary. In addition, we utilize our live beach camera which allows 24 hours recorded monitoring available on cloud storage.

Last, our team is able to disassemble the mat within two hours and return it to our storage facility in the event of a straight line storm, tropical storm, hurricane, or a large swell event.

Sincerely,

Kevin Murphy President and Founder of Ocean Cure 501c3 Non-Profit





To Whom It May Concern,

We are writing in support of keeping the Beach Accessible Mat available the entire 2021 season at Carolina Beach.

038

For 20 years, Life Rolls On has fought to make the healing power of the ocean accessible to people living with various disabilities. And a critical part of this initiative are beach mats to accommodate wheelchairs.

The Life Rolls On signature quality of life event, They Will Surf Again, has grown over the years to attract nearly 1000 people to Carolina Beach, from as far away as Kentucky, Florida, New Jersey, and New York. But perhaps more importantly, this event serves as a trajectory change in so many lives. Our vision of success is inspiring people to visit the ocean frequently – not just the day of our event – realizing that they deserve to enjoy the water, too. And that's why we are emphatic supporters of keeping the Beach Accessible Mat available.

#### The Beach Accessible Mat is a game changer in countless lives.

Thank you in advance for your consideration.

Grateful,

Jesse Dillauer

Jesse Billauer jesse@liferollson.org

2X World Adaptive Surfing Champion 4X US National Adaptive Surfing Champion Founder & Executive Director / CEO, Life Rolls On Foundation

Life Rolls On is dedicated to improving the quality of life for people living with various disabilities. Believing that adaptive surfing and skating could inspire infinite possibilities beyond any disability. Life Rolls On began as a splash into the unknown on September II, 2001; achieved 501c3 nonprofit status in 2002; and now touches lives around the world. LifeRollsOn.org

### Exhibit 10A



EIN: 46-1844248 2536 Falkirk Drive North Chesterfield, VA 23236 540-597-3186

"In every chaos, there is also opportunity."

December 14, 2020

Subject: Permit approval for accessible wheelchair matting at Carolina beach

To whom this may concern,

I am writing to ask that you please strongly consider approving the permit to allow accessible matting for wheelchairs on Carolina beach. I am a C5 quadriplegic from my service in the army and medically retired as Captain in 2010. I have been in a wheelchair for almost 12 years and absolutely enjoy the numerous trips I take to Carolina beach throughout the year. One of the greatest experiences since I've been in a wheelchair was the opportunity to join my family on the beach which was all made possible by the matting that was placed so I could independently roll in my wheelchair with my family on the beach for the 1st time. It is a sense of freedom and independence that can sometimes be taken for granted but means a great deal to those of us that have to use a wheelchair on a daily basis. I think it's one of the bigger attractions now encouraging all those with disabilities to enjoy the wonderful Carolina beach area and the accessibility that has been provided.

I not only know how much this accessible beach matting means to me but I also know how much it means to so many others that we serve through our nonprofit VAU Veterans and Athletes United. For 7 years we have held numerous large veteran group retreats at Carolina beach for numerous veteran wheelchair users. Many of these families have commented on how convenient and amazing it was to get out on the beach again.

I appreciate your consideration to approve this permit. It will have a tremendous impact on many individuals who wish to enjoy the freedoms of the beach without the limitations of their wheelchairs.

With gratitude,

James Howard

James Howard VAU Founder and President



Mid-Atlantic Chapter

MID-ATLANTIC CHAPTER OF THE PARALYZED VETERANS OF AMERICA 804-378-0017 800-852-7639

804-378-0026 11620 Busy Street North Chesterfield, Virginia 23236 Pvamidatlantic.org

Heather Coats, Beach & Inlet Management Project Coordinator Division of Coastal Management North Carolina Department of Environmental Quality 127 Cardinal Drive Extension Wilmington, NC 28405

Dear Ms. Coats:

On behalf of the Mid-Atlantic Chapter of the Paralyzed Veterans of America, I am writing to you in support of the efforts by Ocean Cure to secure or renew the necessary permits to place accessible beach mats that will facilitate beach access for persons with disabilities at designated location(s) on Caroline Beach, NC. Ocean cure is a 501(c)(3) non-profit organization based out of Carolina Beach, with a mission to provide increased beach accessibility and to help improve the quality of life for their participants through surfing. In addition, Ocean Cure hosts a monthly wounded warrior camp and other programs that benefit the disabled community.

040

As a veterans service organization, we are a staunch advocate for improving accessibility wherever and whenever possible for our members and all other persons with disabilities. We strive to serve and assist our members, with many of whom residing in eastern half of North Carolina. The boardwalk in Carolina Beach is very wheelchair friendly and accessible to everyone. The beach itself is not, but it can be made partially accessible with the placement of the specialized beach mats for which Ocean Cure is seeking to receive permits. Alan Earl, who is a past employee of our National organization, the Paralyzed Veterans of America (PVA), resides in Carolina Beach. Mr. Earl is a paraplegic and utilizes a wheelchair for mobility and has benefited directly from the programs offered by Ocean Cure. While employed by PVA as a sports director, Mr. Earl assisted our chapter with hosting multiple sporting events for our members and other persons with disabilities, such as wheelchair billiards, wheelchair bowling, and the National Veterans Wheelchair Games.

The Mid-Atlantic Chapter is one of the six original co-founding chapters of the Paralyzed Veterans of America; it was officially formed on February 9, 1947. The Chapter office is located at 11620 Busy Street, North Chesterfield, Virginia 23236. The Chapter has approximately 850 members, located primarily in Virginia and North Carolina. It is the philosophy of the Mid-Atlantic Chapter to do everything we can for all veterans. The Chapter has been and will continue to be very active concerning issues relative to health care and medical treatment.

Thank you for your attention and consideration.

Respectively,

it

Terefice Smith President Paralyzed Veterans of America Mid Atlantic Chapter

cc: Kevin Murphy, Ocean Cure

### Exhibit 10C



#### 2021 CORPORATE DRIVE, SUITE B • WILMINGTON, NC 28405 • 910-508-6788

December 14th, 2020

To whom it may concern,

It is with great pleasure that I write this letter of support for Ocean Cure's permit application to benefit everyone living with disabilities in Southeastern, North Carolina.

As a Program Coordinator for ACCESS of Wilmington, a 501(c)(3) nonprofit organization dedicated to improving the health, wellness, and quality of life of children, adults, and veterans living with disabilities in southeastern North Carolina, I am committed to the health and healing of individuals living with disabilities. ACCESS of Wilmington has two signature programs that benefit highly from Ocean Cure's mission to make our coast accessible to all. One being for children and adults living with disabilities and the other being for veterans living with service-connected illness or injury. These programs aim to introduce these individuals to activities they may never have experienced before and with the help of this permit, they will be able to experience the coast like never before. These mats would enable us to provide over 650 of our participants with an opportunity to explore Carolina Beach, spend time with family and friends, and have full accessibility to the beach.

On behalf of ACCESS of Wilmington, I give Ocean Cure all my support for this permit that will change the lives of children, adults, and veterans living with disabilities. I believe that this company provides a unique opportunity for healing that will make a true difference for our community.

Thank you for your consideration of this amazing opportunity.

Sincerely,

pretty

Samantha Wang, CTRS/LRT Program Coordinator ACCESS of Wilmington Operators of Project SOAR and ACCESS Play

IMPROVING THE HEALTH, WELLNESS, AND QUALITY OF LIFE OF CHILDREN, ADULTS, AND VETERANS LIVING WITH DISABILITIES IN SOUTHEASTERN NORTH CAROLINA.





Ocean Cure 607 N. Lake Park Blvd. Carolina Beach, NC 28428

To whom it may concern,

Ocean Cure is a strong advocate for the Carolina Beach Accessible Beach Mat. We have been operating in Carolina Beach for over 10 years working with a wide array of individuals with challenges and disabilities. Throughout the year, we conduct around 20 adaptive beach and surf events in Carolina Beach that have impact thousands of participants. Our adaptive athletes come from all over the country to attend these events. In fact, over the past 5 years we have had athletes from every state in the country. The mat placed in front of the boardwalk allows us to facilitate these camps with great ease. Without the mat I do not believe it would be possible to bring in as many individuals with such a wide array of disabilities as we do.

We are proud to have 8 beach wheels chairs that we personally own and use for our camps. We also lend these chairs out free of cost to anyone needing them. Unfortunately, these chairs are only a portion of the battle. Many of our individuals are in power chairs, are elderly and use walkers or simply prefer to stay in their own personal chairs and remain independent. The mat allows them these small victories for their personal freedom.

I want to strongly state that Ocean Cure conducts all of our camps at no cost to participants, and by no means profit directly from the mat, the wheelchairs or the camps. We invest hundreds of volunteer hours each year so that those who have struggles can enjoy the same coastal moments that we do.

I would like to finish by thanking you for all of the work and dedication you do to support the coastal community and I can not think of a greater victory for both CAMA and it's resident than making our coast that much more accessible.

Sincerely,

Kevin Murphy President and Founder of Ocean Cure 501c3 Non-Profit

Exhibit 10E



December 22, 2020

To: Town of Carolina Beach

From: Pleasure Island Sea Turtle Project PO Box 1743 Carolina Beach, NC 28428

To Whom it may Concern:

The Pleasure Island Sea Turtle Project would like to state that as of our most recent nesting season (2020) and prior, we have noted no impacts on nesting or hatching turtles from the beach mat placed in Carolina Beach by Ocean Cure. The mat is in a high-density spot with beach lighting occurring from the Boardwalk and nearby hotels; the impact of which may be hindering nesting turtles from the area. In my 15 years as Permit Holder, I have recorded 2 nests in this vicinity.

Between our two organizations (Ocean Cure and Pleasure Island Sea Turtle Project) I feel assured that the mat is being closely monitored and, should impacts occur, these will be duly reported as required for the Sea Turtle Project by the State.

The Pleasure Island Sea Turtle Project stands in full support of Ocean Cure and its mission to make our beach accessible to all.

Nancy Busovne President, Carolina Beach Permit Holder Pleasure Island Sea Turtle Project

## Exhibit 10F

More

Jan. 5, 2021

Subject: Recommendation for approval of beach flooring installation to serve disabled patrons.

To: Town of Carolina Beach, NC

Dear leaders.

We humbly recommend your support to approve the installation of the flooring that has provided hundreds of disabled veterans and families access to the beautiful coast of Carolina Beach.

The flooring, along with the caring of it from Ocean Cure, has allowed beach access for programs and services to be delivered that promoted mental and physical recovery for wounded veterans and their families.

Over the last 5 years this flooring has allowed us to deliver our most helpful initiative to disabled veterans throughout North and South Carolina.

The MoreLife Initiative is a transformative outdoor retreat program created in memory of Matthew Lempergel, a family member and paratrooper who lost his life to suicide due to PTSD.

MoreLife, a North Carolina based 501(c)3 non-profit organization offers warriors a therapeutic outlet to reintegrate and reconnect to adventure. We foster personal growth and family centered values to help warriors and their families recommit to overcoming difficult challenges.

Once again, we highly recommend the approval of such a meaningful tool for those with limitations and injuries.

Sincerely,

Joe Brazzle

Executive Director

910.578.7217

MA, LMFT-S jbrazzle@morelifeinitiative.org

MoreLife is a program powered by; Pathfinder Solutions Inc - A Non-Profit Organization 2525 Raeford Rd. Suite D Fayetteville, NC 28305

www.morelifeinitiative.org



December 16, 2020

Re: Carolina Beach Accessible Beach Mat

To whom it may concern,

The assessable beach mat located in Carolina Beach has been an assist to our community and visitors. We have seen many of our guests who would not normality able to go down to the beach enjoy the use of the mat.

045

I personally feel, the mat is one of the many things that make our Beach stand out among other beach community's. We have may handicap guests visit Carolina Beach each year and the feedback about our community and the beach mat has all been wonderful.

This is one of the many things that makes Carolina Beach such a special please. I have personally seen guests in wheelchairs experience the beach for the first time because of the mat. Carolina Beach is becoming known as the states assessable beach.

Warm Regards,

Carolina Beach, NC 28428

910.458.2030

m allen

Tom Ullring General Manager tom.ullring@crestlinehotels.com Courtyard by Marriott Carolina Beach Oceanfront 100 Charlotte Ave. Carolina Beach, North Carolina 28428 Courtyard by Marriott® Carolina Beach Oceanfront 100 Charlotte Avenue

courtyard.com





1300 Bridge Barrier Rd, Bldg 3 Carolina Beach, NC 28428 (910) 636-3574

January 5, 2021

To Whom It May Concern,

As a young physical therapist living on the Virginia coast, I often visited the oceanfront. Many times, I was accompanied by a good friend who was wheelchair bound due to a spinal cord injury sustained as the result of a fall in his late teens. I recall heading to the Virginia boardwalk one afternoon to check out the new "wheelchair access ramp". We stared at it with disappointment: a steep concrete ramp that dumped out on to the beach, right into the soft loose sand. Not only would my friend be unable to navigate the steep ramp, but if he tried his wheelchair would certainly drive into the sand and bury his front wheels and footrests. So, we sat on the boardwalk, straining our necks to see the ocean over the top rail because when you are at wheelchair height the railing is essentially eye-level blocking any decent view. Despite his spinal cord injury, my friend was fiercely independent. He worked a full-time job, lived alone, and drove a sporty Saturn with hand controls. But he couldn't go out on the beach ever again.

Fast forward to present day in Carolina Beach, NC. After relocating to the island and opening Carolina Beach Physical Therapy, I quickly heard stories of an "accessibility mat" extending from the boardwalk onto the sand. Skeptical, after my experience in Virginia some years earlier, I had to check it out. I was pleased and amazed to find a truly accessible boardwalk ramp, leading directly out to a mat surface that rested neatly on top of the sand. More than that, I immediately noticed that the mat was already in use by a wheelchair bound patron and his young family. As a physical therapist, there is nothing that makes your heart happier than seeing someone achieve a sense of normalcy that they thought was lost forever.

I am writing to you in support of the accessibility mat in Carolina Beach. It serves everyone: a child who hates the feel of sand on his feet because he has sensory processing deficits; an individual who relies on a wheelchair for mobility; an aging parent whose balance isn't what it used to be; the high school athlete who broke her ankle and is now on crutches for the family's summer beach vacation; the man with the cane; the woman with the walker; the couple with toddler twins in a stroller; the person on hospice with a wish to sit on the beach just one more time. Everyone deserves access to the beach. No one should be forced to sit alone on a bench, yards from their family and friends, simply because they have difficulty navigating the soft sand.

Alongside Ocean Cure, our town and local citizens have placed and maintained the accessibility mats each summer with pride, care, and diligence. All of us are touched by the people who drive a few blocks, across town, for hours, and sometimes from out of state, because they or a family member rely on the ramp and accessibility mat to have a sense of a normal beach vacation. I ask that you act in support of everyone who has a mobility impairment or special need, and allow Carolina Beach to continue seasonal use of the accessibility mats.

## Exhibit 11B

046

My friend passed away a few years ago before he was able to try out the accessibility mats. After his spinal cord injury, he never again was able to sit on the sand, enjoy the sun, and marvel at the waves. For 12 years, he sat in his wheelchair alone behind the boardwalk railing. Don't let this happen to someone else.

Respectfully,

Dr. Laurie Etherington, PT, WCC, Owner



2324 Forty-First Street • Wilmington, NC 28403 (800) 556-6899 • (910) 350-1980 Fax (910) 793-1073

To whom it concerns,

Senior Beach Day has been a big event for our Liberty Senior's for 4 years. On our campus Brightmore Independent living, The Kempton Assisted Living, and The Commons Personal care have been a part of Senior Beach Day; as well as the last few years Carolina Bay (our sister facility.) Without Ocean Cure, and the accessibility mats that are put down at Carolina Beach, we would not be able to have all of our seniors out there and these events would not happen for us. The mats are a lifesaver, as well as the Amazing Group Ocean Cure that puts this event on for us and makes it happen. The residents are able to walk or ride safely down the mats with minimal assistance. They start from the wooden walkways by the parking lot to on the mats, and right down to the tents and chairs that are set up for them. They are able to keep their walkers, canes, and wheel chairs with them on the beach after they have sat down. These events for them mean the world, for this may be the last time they get to put their feet in the sand with sun on their face, and smell the ocean air. For the senior population in our buildings as well as the public, for them to even have a chance on the beach they need these mats. If they are dependent on a walker, cane or wheelchair; this experience would not happen without those mats. Sand would stop them, causing walking and safety issues such as falling or their legs giving out trying to walk over mounds of sand at the slope of the entrance, and wheel-bearing issues with sand being caked inside of walker wheels or wheelchair wheels. The hardest part of the walk down the beach is where the mats are, and without these mats, seniors would look at this slope of sand and not even want to attempt this process. These mats give the seniors confidence, and allows them to safely make it to the more "caked down" part of the sand, where they can walk safely with or without assistance to the water. Not to mention without the mats, this makes it even more difficult and un-safe for the person assisting them. If both people don't have stability and grounding on their feet, falls are more likely to occur from both people. Having the mats allows families of loved ones to be able to safely bring them out to the beach for a day at the beach or watch the sunset, and takes so much stress and worry off of the family or caregiver. We want to continue working with Ocean Cure year to year for these fantastic Senior Beach Days, so we hope we are able to continue to do. We have heard of many families from our facilities taking loved ones to the beach at night, and it is because the mats were there for them to use. Thank you for your time.

Sincerely,

Georgia Blankenship, RN Brightmore Director

Madeline Woodard, LRT/CTRS, ACE-CPT Wellness Director

Exhibit 11C



Division of Coastal Management Wilmington District 127 Cardinal Dr Ext. Wilmington, NC 28405

Dear CAMA Wilmington District Team,

I am the General Manager of the Hampton Inn & Suites Carolina Beach, and I am writing to express my full support of the Beach Accessible Mat off the boardwalk in Carolina Beach.

I understand some have voiced concerns over the placement of the mat and how it may endanger sea creatures and what damage it is doing to the beach.

However, I feel the benefits to the handicap community and Town of Carolina Beach far outweigh any concerns. Here at the Hampton Inn & Suites Carolina Beach, we have received multiple calls from potential visitors throughout the country as far as Arizona and Montana inquiring about the mat because they are confined to wheelchairs or just have issues walking. All they want to do is enjoy the beach like everyone else and this provides them with the opportunity.

In addition, the multiple Wounded Warrior events and Life Rolls On hosted by Ocean Cure all use the mat to assist them in getting around.

Allowing the mat to be put down also helps the Town of Carolina Beach and the state of North Carolina, as it shows our inclusivity of all people regardless of life experiences.

I urge you to approve the use of the beach mat. I want everyone to experience the beach with the same joy as a young child seeing the ocean for the first time and the Accessible Beach Mat will go a long way.

Yours Sincerely,

Lance Fischer General Manager Hampton Inn & Suites Carolina Beach Oceanfront







Exhibit 12B



















# Exhibit 12J





















From:	DEQ_DCMComments
To:	Amanda Amyot
Cc:	Kevin@OdySeaSurf.com
Subject:	RE: [External] Carolina Beach mats
Date:	Monday, September 28, 2020 10:45:39 AM

Ms. Amyot,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Amanda Amyot [mailto:amandaamyot@yahoo.com] Sent: Monday, September 28, 2020 9:41 AM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Cc: Kevin@OdySeaSurf.com Subject: [External] Carolina Beach mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

Good morning,

I will try to keep this short and sweet as I know you have limited time.

Being the mom of a 22 year old daughter with cerebral palsy, I hope you will reconsider allowing the mats at Carolina Beach.

Living on the island I have witnessed the mats being used daily and the most important thing I see is independence. Yes the town does offer rental of wheelchairs for disabled people, but there is a big difference between the mat and the wheelchairs. It means another transfer of their body and those chairs are impossible to move on your own.

With the mat, individuals can roll themselves right off the boardwalk and onto the sand without assistance. Independence means more to any disabled person than the rest of us realize because it eliminates the people gawking at their every move. It also gives the opportunity to view a quick sunrise or sunset without it becoming a huge production.

The Ocean Cure group that runs this program loves the earth and its creatures and they would cause harm to either.

This is a very small stretch of our shore, but provides an oversized love for our disabled community that come from all over the US to visit. Please allow it to continue!

Thank you for your time and consideration!

Amanda Amyot

### Exhibit 13

317 Hamlet Ave CB, NC 28428 Ms. Backes,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: backesmr@charter.net [mailto:backesmr@charter.net]
Sent: Thursday, October 1, 2020 9:57 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Mats at Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <a href="mailto:report.spam@nc.gov">report.spam@nc.gov</a>

Mr. Davis,

I want to express my disappointment on your department's not allowing the mats to be placed on the beach at Carolina Beach. Unless you have a handicapped member in your family, you cannot understand what these mats mean to those who would otherwise be unable to go onto the beach. Please consider allowing the mats to be placed on the beach.

Mary Backes

From:	DEQ_DCMComments
To:	Lynn Barbee
Subject:	RE: [External] Handicap Beach Mat at Carolina Beach
Date:	Friday, October 2, 2020 11:25:44 AM
Attachments:	image001.png

#### Ms. Barbee,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Lynn Barbee [mailto:lynn.barbee@carolinabeach.org]
Sent: Monday, September 28, 2020 11:02 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Handicap Beach Mat at Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

Mr. Davis,

I am in full support of the beach mat permit. Carolina Beach is an environmentally friendly community. We support and promote the preservation of our natural environment.

However, there are times when our human needs and our environmental needs collide. This is such a case.

It is my belief that the minimal environmental impact of this request is far outweighed by the benefit to the disabled to enjoy the very environment we are trying to protect.

I respectfully ask that you approve this permit.

Thanks for all you do.

Lynn Barbee Council Member lynn.barbee@carolinabeach.org


1121 North Lake Park Blvd. Carolina Beach, NC 28428

CarolinaBeach.org

DEQ_DCMComments
Christine Basile
RE: [External] Keep the beach accessible
Friday, October 2, 2020 11:32:25 AM

Ms. Basile,

Thank you very much for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis

Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Christine Basile [mailto:chrissy.basile@icloud.com] Sent: Monday, September 28, 2020 12:53 PM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] Keep the beach accessible

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Mr. Davis,

Please keep the mats in CB and ensure accessibility to all. As a full time wheelchair user I feel I shouldn't be denied access to any place an abled body person has access to.

Chrissy Basile

Sent from my iPhone

Ms. Camerino,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Mary-Sara Camerino [mailto:marysarac@gmail.com]
Sent: Monday, September 28, 2020 9:12 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach CAMA permit for beach mats

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Mr. Davis,

Please add my name to the list of enthusiastic supporters of the beach mat. We appreciate your careful consideration. Thank you.

Mary-Sara Camerino
 1200 St Joseph ST Apt 25
 Carolina Beach, NC 28428

<u>(571)334-1025</u> (m) <u>LinkedIN</u>

From:	DEQ_DCMComments
To:	Ana Diaz
Subject:	RE: [External] Beach Mats on Carolina Beach
Date:	Friday, October 2, 2020 11:33:33 AM

Ms. Diaz,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Ana Diaz [mailto:msanadiaz@gmail.com] Sent: Monday, September 28, 2020 1:06 PM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] Beach Mats on Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

Dear Director Davis,

I write in support of the application for a permit to install beach matting at Beach Access 90-100, adjacent to the Atlantic Ocean, at Carolina Beach in New Hanover County.

Beach matting would allow those with mobility disabilities to access and enjoy the beach, an activity which is otherwise not an option to those who use wheelchairs or scooters. Enjoying the sun, the water, and the beauty of Carolina Beach is an activity that many of us take for granted.

It is an egregious oversight of our society that so many physical barriers already exist to hinder those with mobility disabilities from accessing services, places of business, and recreational venues. Approving this permit would represent a giant step forward in improving accessibility of recreational spaces, and would set an example for other locales around the country.

I applaud your consideration of public comment on this application, and look forward to the day when beaches are accessible to all. If possible, I would appreciate a written update on the permit decision, once made.

Best regards, Ana M. Diaz

From:	DEQ_DCMComments
To:	Alan Earl
Subject:	RE: [External] Beach accessibility in Carolina Beach CAMA PERMIT
Date:	Monday, September 28, 2020 10:38:01 AM

Mr. Earl,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Alan Earl [mailto:ajearl1@gmail.com] Sent: Sunday, September 27, 2020 1:52 PM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] Beach accessibility in Carolina Beach CAMA PERMIT

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

>

> My name is Alan Earl and I live in Carolina Beach, North Carolina. I was told that you are working with Kevin Murphy to try to figure out the mat situation on our beach. I am just a concerned resident that has a disability and use this mat.

>

> I have called this place my home since 2009. I am a wheelchair user, since 1997, and just recently retired from the Paralyzed Veterans of America. I moved here to escape the world and especially from Washington DC where I worked for almost 15 years. As soon as I moved here I realized that being paralyzed and a wheelchair user was not very conducive to the beach life. I would always refer to it as "the other side of the dunes". It was heartbreaking. I lived in paradise but was not able to enjoy the part they called paradise. Thankfully at the time I lived in a four story complex and could at least enjoy seeing everyone else enjoying the beach on the other side of the dunes. It's the only thing that kept me sane.

> Fast forward a few years when I was introduced to Kevin Murphy and Ocean Cure. He gave me the opportunity to get on the other side of the dunes. He took me surfing and enjoyed the day at the beach. It was awesome but it was only a one time treat. It was a chore. They set out plywood for the day so I could be part of the festivities. It was nice to have someone care enough to give us the opportunity. He has been working hard to make our beach, my home, more inclusive and make it a place that welcomes everyone. Which brings me to today's issue. The mats on the beach being removed.

> Ocean Cure has been working tirelessly and spending money and resources to make sure we, the disabled, are included. From beach chairs to powered surf boards. But his biggest accomplishment is our little section of beach mat. A very small but incredibly impactful part of our beach. A place that people that don't every get to experience the other side of the dunes can go and feel "normal" and enjoy paradise. A place where the WHOLE family can go and create memories. This mat is our one place we don't need someone else. I can go there any time I want and be free. It's the one place I can tell my wife that I will go to the beach and spend the day. It's my lifeline to the paradise that I moved to and retired to.

> Please consider the HUMAN side of this small piece of beach. We love nature and our wildlife but we also love

# 078

our humans. ALL OF THEM. Even the ones that don't look like us or do the same things as us. To be honest, I'm sad that I get treated like a second class citizen. I would give anything to walk again and not rely on the world accommodating my inabilities. But every day I deal with it and continue to try to enjoy it the best I can or am allowed. Please please consider this when you are making decisions on these accessible mats.

> Thank you for listening.

> Alan Earl

> 400 North Seventh Street

> Carolina Beach, NC 28428

> 615.887.4946

>

From:	Davis, Braxton C
To:	Davis, Braxton C
Subject:	RE: [External] Beach accessibility in Carolina Beach
Date:	Friday, September 18, 2020 4:51:39 PM

#### Mr. Earl,

First, thank you so much for your email. I read it and I truly take it to heart. This has been a unique, first-of-its-kind project for us to review. I hope I can clear a few things up on what's happened and give you a positive update today:

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place this summer with the intent that we could work through the permitting in the offseason. I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and I will be making every effort to have the issue heard by the commission at their November meeting (if we have any unavoidable delays, it would be heard at their February 2021 meeting).

Again, thank you for your email. I'm inspired by your story, and I hope you will continue to enjoy the wonderful coast of NC in your retirement. Please let me know if you have any questions or need anything further on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Alan Earl [<u>mailto:ajearl1@gmail.com</u>] Sent: Friday, September 11, 2020 4:30 PM To: Coats, Heather <heather.coats@ncdenr.gov> Subject: [External] Beach accessibility in Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

Ms. Coats-

My name is Alan Earl and I live in Carolina Beach, North Carolina. I was told that you are working with Kevin Murphy to try to figure out the mat situation on our beach. I am just a concerned resident that has a disability and use this mat.

I have called this place my home since 2009. I am a wheelchair user, since 1997, and just recently retired from the Paralyzed Veterans of America. I moved here to escape the world and especially from Washington DC where I worked for almost 15 years. As soon as I moved here I realized that being paralyzed and a wheelchair user was not very conducive to the beach life. I would always refer to it as "the other side of the dunes". It was heartbreaking. I lived in paradise but was not able to enjoy the part they called paradise. Thankfully at the time I lived in a four story complex and could at least enjoy seeing everyone else enjoying the beach on the other side of the dunes. It's the only thing that kept me sane.

Fast forward a few years when I was introduced to Kevin Murphy and Ocean Cure. He gave me the opportunity to get on the other side of the dunes. He took me surfing and enjoyed the day at the beach. It was awesome but it was only a one time treat. It was a chore. They set out plywood for the day so I could be part of the festivities. It was nice to have someone care enough to give us the opportunity. He has been working hard to make our beach, my home, more inclusive and make it a place that welcomes everyone. Which brings me to today's issue. The mats on the beach being removed.

Ocean Cure has been working tirelessly and spending money and resources to make sure we, the disabled, are included. From beach chairs to powered surf boards. But his biggest accomplishment is our little section of beach mat. A very small but incredibly impactful part of our beach. A place that people that don't every get to experience the other side of the dunes can go and feel "normal" and enjoy paradise. A place where the WHOLE family can go and create memories. This mat is our one place we don't need someone else. I can go there any time I want and be free. It's the one place I can tell my wife that I will go to the beach and spend the day. It's my lifeline to the paradise that I moved to and retired to.

Please consider the HUMAN side of this small piece of beach. We love nature and our wildlife but we also love our humans. ALL OF THEM. Even the ones that don't look like us or do the same things as us. To be honest, I'm sad that I get treated like a second class citizen. I would give anything to walk again and not rely on the world accommodating my inabilities. But every day I deal with it and continue to try to enjoy it the best I can or am allowed. Please please consider this when you are making decisions on these accessible mats.

Thank you for listening. Alan Earl 400 North Seventh Street Carolina Beach, NC 28428 615.887.4946

Davis, Braxton C
Angela Eatmon
RE: [External] Carolina Beach handicap mat
Friday, September 18, 2020 2:42:14 PM

#### Ms. Eatmon,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this, Braxton

\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----

From: Angela Eatmon [mailto:ecugirl2007@gmail.com]

Sent: Thursday, September 17, 2020 2:16 PM

To: katryn\_matthews@fws.gov; Ingram, Cameron N <cameron.ingram@ncwildlife.org>; Davis, Braxton C <Braxton.Davis@NCDENR.Gov>; Stone, John <john.stone@ncwildlife.org>; Fonville, Tommy <tfonville@fmrealty.com>; Coley, John T. <coley@bpropnc.com>; Clifton, Ray <Ray.Clifton@ncwildlife.org>; Zimmer, Landon <landon.zimmer@ncwildlife.org>; Berry, Tom <tom.berry@berico.com>; hrogersnc@gmail.com; Brad Stanback <castanea@bellsouth.net>; mjohnson@hickorytoyota.com; Ruffin, James M <james.ruffin@ncwildlife.org>; Seegars, Wes <wes@seegarsfence.com>; Edwards, Richard <richard.edwards@ncwildlife.org>; Davis, Kelly <kelly.davis@ncwildlife.org>; Monty Crump <monty@gorockingham.com> Subject: [External] Carolina Beach handicap mat

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To whom it may concern,

I'm writing because I found out that after 3 years, Ocean Cure was forced to pull up the beach mat used by so many people with disabilities. I love sea turtles and shore birds, but when did they start ranking higher than human beings?? The beach mat serves as an opportunity for people in wheelchairs to enjoy the beach. While there are over 20 beach wheelchairs available, some individuals cannot transfer to it and without the mat, their independence is taken from them. Which is why the mat is SO important!

The mat literally takes up less than .03% of the beach! Ocean Cure has recently purchased a very expensive video recording camera that monitors the mat 24 hours a day. They, along with other volunteers, sweep the mat twice a day and maintain it EVERYDAY! They monitor high tides and when big storms come, they store the mat until it is safe to lay out again. They put in countless hours to support people in wheelchairs.

The mat is located in the perfect spot as well! It is located in the brightest and most visited section of the beach on the island. I know a lot of people come from all over the country to Carolina Beach just because of the mat.

In conclusion, Ocean Cure saw a need. People in wheelchairs cannot access the beach. Many have never visited because of accessibility. The result was purchasing the mat so there are no restrictions. The town and local turtle protection project are supporting them. WHY CAN'T YOU!!! Please reconsider!! If you have any doubt, I encourage you to search Ocean Cure on Facebook and look at the pictures of 100's of people and families who use the mat. If you don't "feel" something when you look at them, you don't have a heart.

There are a bunch of people rallying behind Ocean Cure and we will not go down without a fight!

Sincerely, Angela Eatmon

From:	DEQ_DCMComments
To:	Angela Eatmon
Subject:	RE: [External] Carolina Beach mat
Date:	Monday, October 5, 2020 1:44:03 PM

Ms. Eatmon,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Angela Eatmon [mailto:ecugirl2007@gmail.com] Sent: Sunday, October 4, 2020 5:21 PM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] Carolina Beach mat

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> To whom it may concern,

>

> I'm writing because I found out that after 3 years, Ocean Cure was forced to pull up the beach mat used by so many people with disabilities. I love sea turtles and shore birds, but when did they start ranking higher than human beings?? The beach mat serves as an opportunity for people in wheelchairs to enjoy the beach. While there are over 20 beach wheelchairs available, some individuals cannot transfer to it and without the mat, their independence is taken from them. Which is why the mat is SO important!

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> The mat is located in the perfect spot as well! It is located in the brightest and most visited section of the beach on the island. I know a lot of people come from all over the country to Carolina Beach just because of the mat.

> In conclusion, Ocean Cure saw a need. People in wheelchairs cannot access the beach. Many have never visited because of accessibility. The result was purchasing the mat so there are no restrictions. The town and local turtle protection project are supporting them. WHY CAN'T YOU!!! Please reconsider!! If you have any doubt, I encourage you to search Ocean Cure on Facebook and look at the pictures of 100's of people and families who use the mat.

>

> There are a bunch of people rallying behind Ocean Cure and we will not go down without a fight!

>

- > Sincerely,
- > Angela Eatmon

From:	Davis, Braxton C
To:	<u>csh.jenmom@gmail.com</u>
Subject:	RE: [External] Carolina Beach Accessibility Mats
Date:	Friday, September 18, 2020 2:48:47 PM

### Ms. Hancock,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202 From: Cindy Hancock [mailto:csh.jenmom@gmail.com]
Sent: Sunday, September 13, 2020 8:30 PM
To: Coats, Heather <<u>heather.coats@ncdenr.gov</u>>
Subject: [External] Carolina Beach Accessibility Mats

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#### Dear Ms. Coats:

My name is Cindy Hancock and I am an occupational therapist. I have lived in Carolina Beach for 25 years and am thrilled that our community has been able to give access to our beautiful beach to the special needs population. It is a privilege to live where I know people with mobility issues can access the beach accessibility mats that are currently located between the 2 boardwalk ramps.

It was brought to my attention that Carolina Beach is at risk of losing these mats due to the potential impact on shore birds and nesting sea turtles. While the protection of wildlife is very important to our coastal community, losing these mats would be a huge loss to an already underserved population, people with special needs and mobility issues.

Ocean Cure is a non-profit organization that has raised the money to help make our beach accessible and has a team of volunteers from both their organization and other community organizations who sweep and monitor the mats. They installed a high-end surveillance camera to monitor the mat and to make sure it is not posing a risk to coastal wildlife. The Pleasure Island Sea Turtle Project has daily sea turtle patrols both morning and evening to ensure nesting sea turtles are laying their nests in safe locations during nesting season. These mats can easily be pulled up in the event of a situation where they would need to be removed.

People come from all over to enjoy the beaches of North Carolina and specifically to Carolina Beach due to its easy accessibility. In working with people with mobility issues, they often comment on how they are able to bring their families to Carolina Beach because they are able to use the boardwalk ramp and wheel right out onto the beach in their own wheelchair. While we are fortunate that we also have beach wheelchairs available for people who need them, they are not the best solution for everyone. There are individuals who rely on a specialized custom wheelchair such as people who have experienced a spinal cord injury or children who need a harness or bolster to be safe. Beach wheelchairs do not allow the same level of support or independence that a custom chair provides, and this is why the beach mats have been so helpful.

It is heartbreaking to think about the time, money, and commitment Ocean Cure and the community have put into these beach mats to make Carolina Beach a place for all to enjoy. Families who have children in wheelchairs or specialized strollers requiring features beach wheelchairs can't offer. Families who have already experienced a sense of loss due to an accident or disability who feel like they can actually enjoy something as a family again. Families who have grandparents who feel more comfortable and secure in their own wheelchairs and can watch their grandkids play on the beach. Everyone deserves the right to have access to the beach, and Carolina Beach has gone to great lengths to serve the underserved population of those with special needs and mobility issues. Please consider that the benefit these beach mats provide significantly outweighs the potential risk to wildlife. Thank you for your time and consideration.

#### Sincerely,

Cindy Hancock 910.512.3931

From:	Cindy Hancock
То:	Coats, Heather
Subject:	[External] Carolina Beach Accessibility Mats
Date:	Monday, September 14, 2020 8:17:34 AM

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

#### Dear Ms. Coats:

My name is Cindy Hancock and I am an occupational therapist. I have lived in Carolina Beach for 25 years and am thrilled that our community has been able to give access to our beautiful beach to the special needs population. It is a privilege to live where I know people with mobility issues can access the beach accessibility mats that are currently located between the 2 boardwalk ramps.

It was brought to my attention that Carolina Beach is at risk of losing these mats due to the potential impact on shore birds and nesting sea turtles. While the protection of wildlife is very important to our coastal community, losing these mats would be a huge loss to an already underserved population, people with special needs and mobility issues.

Ocean Cure is a non-profit organization that has raised the money to help make our beach accessible and has a team of volunteers from both their organization and other community organizations who sweep and monitor the mats. They installed a high-end surveillance camera to monitor the mat and to make sure it is not posing a risk to coastal wildlife. The Pleasure Island Sea Turtle Project has daily sea turtle patrols both morning and evening to ensure nesting sea turtles are laying their nests in safe locations during nesting season. These mats can easily be pulled up in the event of a situation where they would need to be removed.

People come from all over to enjoy the beaches of North Carolina and specifically to Carolina Beach due to its easy accessibility. In working with people with mobility issues, they often comment on how they are able to bring their families to Carolina Beach because they are able to use the boardwalk ramp and wheel right out onto the beach in their own wheelchair. While we are fortunate that we also have beach wheelchairs available for people who need them, they are not the best solution for everyone. There are individuals who rely on a specialized custom wheelchair such as people who have experienced a spinal cord injury or children who need a harness or bolster to be safe. Beach wheelchairs do not allow the same level of support or independence that a custom chair provides, and this is why the beach mats have been so helpful.

It is heartbreaking to think about the time, money, and commitment Ocean Cure and the community have put into these beach mats to make Carolina Beach a place for all to enjoy. Families who have children in wheelchairs or specialized strollers requiring features beach wheelchairs can't offer. Families who have already experienced a sense of loss due to an accident or disability who feel like they can actually enjoy something as a family again. Families who have grandparents who feel more comfortable and secure in their own wheelchairs and can watch their grandkids play on the beach. Everyone deserves the right to have access to the beach, and Carolina Beach has gone to great lengths to serve the underserved population of those with special needs and mobility issues. Please consider that the benefit these beach mats provide significantly outweighs the potential risk to wildlife. Thank you for your time and consideration.

#### Sincerely,



Cindy Hancock 910.512.3931

### Ms. Harbeck,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

# 090

From: Janet Harbeck [mailto:janetharbeck@gmail.com]

Sent: Friday, September 11, 2020 3:56 PM

**To:** Coats, Heather <heather.coats@ncdenr.gov>; ted.davis@ncleg.gov; harper.peterson@ncleg.net **Subject:** [External] Carolina Beach Access

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### 9/11/2020

To Whom It May Concern,

There is an issue that has come to my attention regarding handicapped accessibility for disabled persons at Carolina Beach. At the beach, near the boardwalk, there is a large, long mat that extends from each public access ramp. This was purchased and is maintained by Ocean Cure, a non-profit organization that helps provide surfing experiences for people with special needs and limited mobility. I have witnessed this accessible matting being used numerous times, both for surfing events as well as on a routine basis by community members and vacationers. It allows block- long beach access. Locals and tourists come to Carolina Beach for its' accessibility and people can use their own personal wheelchairs and roll right out to the beach. This creates so much joy and freedom for people who already face so many obstacles in their lives. It makes it so much easier for family members who are trying to assist their loved ones onto the beach. While many beaches offer beach wheelchairs, they are not always available to those that need them, as they are on a "first come first served" basis, which can be disappointing if one has driven to the beach from out of town. They also are large and cumbersome, and at some beaches must be loaded into a personal vehicle from their "storage point" to be taken to the beach. This is NOT user friendly, as they typically fit best in the bed of a a pick up truck or in a large van. Having this accessible matting at Carolina Beach is unique, providing incredibly easy accessibility.

I recently read an article that states that this matting may be permanently removed, because it is putting sea turtles and shore birds at risk. Volunteers with Ocean Cure, many of who I have met, have poured their hearts and souls into fundraising and maintaining these mats to keep the beach accessible. The matting runs parallel to the tide line and is free floating with super low impact to the beach. Because it is not staked to the beach itself, it is allowed to shift slightly and lies flush with the sand, allowing any animal to pass over it. It is also designed with holes so the sand can pass through it when it rains to prevent flooding. This is in a busy, populated section of Carolina Beach, where I cannot imagine the effect on turtles and shorebirds being as significant as if it were in a remote area. It is an ideal place because in addition to the beach, it allows for access to the businesses on the boardwalk. This is a win-win for those with disabilities as well as the businesses.

Please consider doing anything possible to insure that these mats are not removed. I do not dislike shore birds and turtles, but t I feel that, in this case, their needs are being placed far above the needs of people with disabilities. While the article states that the DCM "fully supports and encourages handicapped access to oceanfront beaches", this clearly does NOT seem to be the case, and it truly saddens me as I work with those who have physical challenges.

Thanks for all of your support in this matter. Sincerely,

Janet Harbeck

Ms. Hoover,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Felicia Gore Hoover [mailto:fghoover@aol.com]
Sent: Monday, September 28, 2020 9:10 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach Access 90-100

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I am writing to urge that a permit be granted allowing the use of beach mats for handicap accessibility. My husband is in a power wheelchair and longs to visit the beach again. Although we have not used these mats at Carolina Beach we hope to do so. We have been following and supporting the good work of Ocean Cure. Just the thought that visiting the beach in a wheelchair is a possibility is uplifting.

Felicia Gore Hoover 919-523-0495 6100 Crestdale Circle Raleigh NC 27612

From:	DEQ_DCMComments
To:	Hoover, Emily Opal
Subject:	RE: [External] Carolina beach access 90/100
Date:	Friday, October 2, 2020 11:34:40 AM

Ms. Hoover,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Hoover, Emily Opal [mailto:eoh7136@uncw.edu]
Sent: Monday, September 28, 2020 1:30 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina beach access 90/100

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

## Hello,

Please grant the permit for use of beach mats in Carolina beach for handicap accessibility!!

My dad has MS and is in a wheelchair. We love the sea turtles, but we really want wheelchair users to be able to access this beach.

Please grant this permit!!! Thank you so much.

Mr. Jarvis,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: John Jarvis [mailto:jarvis@pbcdesignbuild.com]
Sent: Tuesday, September 29, 2020 9:00 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach CAMA minor permit for sand mats.

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

To whom it may concern:

As a citizen of New Hanover county and a resident of Carolina Beach for over 15 years. I believe all people should have access to the public beach.

I have many friends with children with disabilities who utilize this access weekly because of the mats.

If you need proof please come spend a Summer Saturday at this beach access. Tons of people with wheels chairs able to enjoy what you and I take for granted.

Please allow the mats to remain for all to enjoy our beach.

Respectfully-

John Jarvis Office: <u>910.763.8760</u> • Cell: <u>910.599.2630</u> www.pbcdesignbuild.com



Ms. Kanadanian,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: monique kanadanian [mailto:moniquekanadanian@gmail.com]
Sent: Monday, September 28, 2020 7:39 AM
To: DEQ\_DCMComments < DCMComments@ncdenr.gov>
Subject: [External] Mats on Carolina beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <a href="mailto:report.spam@nc.gov">report.spam@nc.gov</a>

To whom it may concern,

I am writing to ask you to approve accessibility mats on Carolina Beach, NC for those of us who are unable to navigate the sand. We love the beach but have physical challenges that make it impossible to enjoy our coastal beaches without assistance.

Please keep our beaches accessible to all!

Thank you for your consideration.

Monique Kanadanian Wilmington, NC 28412 Ms. Kissling,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Sharon Kissling [mailto:sharonkissling510@gmail.com]

Sent: Monday, September 28, 2020 2:17 PM

To: DEQ\_DCMComments <DCMComments@ncdenr.gov>

**Subject:** [External] Town of Carolina Beach's application for a CAMA Minor Permit for the beach mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

Dear Sir,

This application really needs to be passed. The disabled have a right to access to public beaches. I personally see no acceptable reason to deny this request. The mats don't cause any damage to beaches and I understand there is no cost to tax payers....so why not? Thank you,

Sharon Kissling

From:	DEQ_DCMComments
To:	Katie Leath
Subject:	RE: [External] Carolina Beach - Accessibility mats
Date:	Friday, October 2, 2020 11:24:47 AM

Ms. Leath,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

Brakton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Katie Leath [mailto:katieleath@gmail.com]
Sent: Monday, September 28, 2020 10:54 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach - Accessibility mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <a href="mailto:report.spam@nc.gov">report.spam@nc.gov</a>

Mr. Davis,

I hope you are well.

I'm writing to you regarding the installation of handicap access beach matting in Carolina Beach.

I would hope and assume that this is automatically going to be approved but I am more than happy to take the time to write to you as another voice of the community just in case. These beach mats will provide everyone access to one of the most magical attractions in ILM.

Luckily, I am a person who doesn't have to worry about calling, emailing, reading reviews, asking friends, etc. before having to go to every day enjoyments in our city. But I have very close friends and family that do. This will be a step closer to inclusivity in our city. And who wouldn't want that?

I am more than willing to donate my time in helping the installment or whatever might be needed from the community to get this necessity in place. Please don't hesitate to ask.

I appreciate you and the key decision makers in this and I look forward to visiting Carolina

# 099

Beach more often with my friends that will then be able to, too!

Cheers, Katie Leath Prestige Scientific 2607.368.0124

Ms. Leath,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Lisa Leath [mailto:lisa@leathhrgroup.com] Sent: Monday, September 28, 2020 11:06 AM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] Handicap Mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

To whom it may concern:

I am writing to express my support for the handicap mats you're considering an investment for in Carolina Beach and Wrightsville Beach. I have had to physically carry my handicapable mom to the ocean before (horrible experience for all) and would find these mats really helpful so ALL can enjoy our beautiful coast. Thanks for your consideration.

Lisa Leath, SHRM-SCP CEO, WorkTok President, Leath HR Group https://urldefense.com/v3/\_http://www.worktok.com\_\_:!!HYmSToo!MaFZD6k4lgbkCu4ngbDL3NTf31aUOwpQPMrd3RBk8rS91DH3MJ3FgTuCc8QPRZFe4VI\$\_/ https://urldefense.com/v3/\_http://www.LeathHRGroup.com\_\_:!!HYmSToo!MaFZD6k4lgbkCu4ngbDL3NTf31aUOwpQPMrd3RBk8rS91DH3MJ3FgTuCc8QPYPdzsV\_\$ Sent from my iPhone Ms. Lewis,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Maureen Ferguson Lewis [mailto:bchrunrmaureen@yahoo.com]
Sent: Sunday, October 4, 2020 11:38 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>; Davis, Braxton C
<Braxton.Davis@NCDENR.Gov>
Subject: [External] CB Mat Permit- Please approve

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

Dear Mr. Davis-

I wanted to weigh in on the Beach Mat permit that Carolina Beach is requesting at Beach Access 90-100 and ask for your approval.

I am a volunteer with paws4people, a non-profit that raises, trains and places Assistance Dogs with Veterans and children with physical, emotional, neurological and psychiatric disabilities here in Wilmington. These Clients and their families want a "Normal" life. Often, that includes taking trips to the beach. Everyone deserves to be able to navigate the beach and dip their toes in the sand. For many, the beach wheelchair program is not an option. But the Beach Mats which Ocean Cure provides does allow use of their own wheelchair and enjoy a beach trip with their friends and family. Something many of us able-bodied may take for granted.

I know that our local Sea Turtle organization is in full support of the CB Mat program. Our island has amazing Turtle Rescue teams and Mat Cleaning volunteers – they both work together to ensure safety for all. The minimal environmental impact the Beach Mats have on Carolina Beach is far outweighed by the benefit to those who may otherwise may not be able to enjoy a day at the beach due to their disabilities.

I respectfully ask you to please approve the Beach Mats that Ocean Cure has determined are the best ones to service the most people.

Thank you for your time.

Maureen Lewis

1407 Croaker Lane

Carolina Beach, NC 28428

From:	Davis, Braxton C
To:	Maureen Ferguson Lewis
Subject:	RE: [External] Fw: Please restore the Mats on Carolina Beach
Date:	Friday, September 18, 2020 2:36:06 PM

### Ms. Lewis,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

# 104

From: Maureen Ferguson Lewis [mailto:bchrunrmaureen@yahoo.com]
Sent: Wednesday, September 16, 2020 10:08 AM
To: MacPherson, Tara <tara.macpherson@ncdenr.gov>; Davis, Braxton C
<Braxton.Davis@NCDENR.Gov>; Brownlow, Roy <roy.brownlow@ncdenr.gov>
Subject: [External] Fw: Please restore the Mats on Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

Hi there- I sent the email to Ms. Matthews and Mr. Ingram last week- but wanted to make sure you received this email too. I have a friend who has cerebral palsy. The beach wheelchairs do not work for him. The mats allow his special wheelchair to navigate the sand.

I urge you to reconsider the importance of the beach mats that were installed in Carolina Beach.

Respectfully, Maureen Lewis Carolina Beach resident

----- Forwarded Message -----From: Maureen Ferguson Lewis <<u>bchrunrmaureen@yahoo.com</u>> To: <u>cameron.ingram@ncwildlife.org</u> <<u>cameron.ingram@ncwildlife.org</u>> Sent: Thursday, September 10, 2020, 03:02:12 PM EDT Subject: Please restore the Mats on Carolina Beach

Dear Cameron-

It's fitting that I am writing you this on the World Suicide Prevention Day.

I am extremely disappointed in the decision to remove the accessibility mats from Carolina Beach. Do you realize that you are directly impacting the mental health of thousands of people by restricting them access to the beach?

I volunteer with paws4people, an organization that supplies Assistance Dogs to Veterans, children and students. I have learned that freedom and the ability to experience "normal" activities is extremely important to those with mental and physical limitations. The accessibility mats in Carolina Beach have allowed thousands of people to go to the beach and in the water, be independent and have a "normal" beach day that many of us take for granted. Last year, my husband and I volunteered for Ocean Cure, an event that brought people from all over the US to Carolina Beach and allowed them to have a day of freedom. How can you deny one person the opportunity to be a little more independent?

I'm a turtle and wildlife lover too. The Carolina Beach infrastructure is such that turtles and birds are well taken care of during nesting season. This is not a Sophie's Choice, where one decision would eliminate the other. I would recommend that you talk to people whose lives have changed because they were finally able to access the beach using the mats. Better yet, I challenge you to get in a wheelchair that is specially equipped for someone with cerebral palsy and try to navigate going to the beach and dipping your toes in the water. Kevin Murphy and his team have done an excellent job making sure the beach and the ocean are accessible to all, not a select few with the mats. His project works.

Less important but the point should be made- the economic impact to our town is also affected with this decision. Carolina Beach has had such a great reputation as an accessible beach town. This is responsible for bringing people here from all over to enjoy the beach with their friends and family, and supports local businesses at the same time.

I urge you to reconsider your decision. Communities should be able to put these accessible mats down as long as they follow guidelines that minimize any negative effects on sea turtle nest. Please replace the mats!

Respectfully,

Maureen Lewis

Carolina Beach

310-427-5656

Mr. Liptak,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Larry Liptak [mailto:grayskull00@gmail.com]
Sent: Tuesday, September 29, 2020 9:32 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Cc: Kevin@odyseasurf.com
Subject: [External] Beach Mats

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Please bring back the beach mats in their original design so disabled people can continue to enjoy the same access to our beach as non-disabled people. There has to be a compromise in here somewhere to protect both wildlife and the rights of the disabled.

Larry Liptak

Ms. Liptak,

Thank you so much for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

I wish you the very best, and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Dani L [mailto:liptakdv88@gmail.com]
Sent: Monday, September 28, 2020 12:48 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] CB accessible beach mats

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Mr. Davis,

My name is Danielle Liptak, and I moved from Northern Virginia almost five years ago to Leland, North Carolina. A major attraction to moving there was that I could go to several beaches within 30 minutes of my home. Dishearteningly, the specific form of muscular dystrophy that I have, Facioscapulohumeral Muscular Dystrophy (FSHD), is a degenerative disease, meaning I will continue to lose my abilities throughout my life. When I first moved here, I was able to walk with assistance, but I could not enjoy the beach because, for me, the sand is so challenging to step in.

Today, I use a power wheelchair whenever I leave the house. Three years ago, when wheelchair mats were put down at Carolina Beach, my life changed. I was able to go to the beach whenever I wanted without anyone's assistance. If I woke up at 5 am and wanted to watch the sunrise, I could. If I wanted to see the moon over the ocean and hear the waves and smell the sea, I could. When my friends would visit, we no longer avoid the beach. We flocked to it! I loved the independence, inclusion, and finally being recognized as a part of society that deserves the same access as everyone else. This year I was able to celebrate World FSHD Day on June 20th at the beach. Little did I know that the beach mats would be removed, and a debate would erupt, pitting those who care about accessibility against those who care for the environment. I received cruel comments from strangers on

Facebook when I expressed my confusion about disabled people's exclusion. Thousands of people use that same entrance from the Carolina Beach boardwalk to access the beach where the mats were located. If the mats interfere with sea turtles and seabirds, why isn't everyone banned from using that beach area? If the concern is access to the dunes for the seabirds and turtles, why have a busy boardwalk and access point there in the first place? On behalf of myself and other disabled persons, I am asking those in charge to find a compromise that will bring back the beach mats in a form similar to what they were before they were removed. I'm in a power chair, and a mat that's only six feet long and six feet wide doesn't work for anyone in this type of wheelchair.

I do not want to go back to a life without access to the beach. It's not fair; it is 2020, and the Americans with Disabilities Act has been around for 30 years. If access is denied to those with disabilities to conserve wildlife, it should be blocked from everyone, or else it is discrimination. The access point where the beach mats have been placed is located at the boardwalk, one of the most popular areas with lots of foot traffic. Hundreds of able-bodied people use the ramps that lead to the beach on that boardwalk daily. If the concern is environmental, how can able-bodied people be less detrimental to the environment than me in my wheelchair? The amount of trash left by people on the beach, from cigarette butts to bottle caps and now masks, I have always made sure to leave my beach mat area clean for the next person to use. There is a solution to this issue. I believe it requires understanding that denying access to someone because of their disability but allowing able-bodied others to use that same space is discrimination and illegal.

Please reconsider approving the mats.

Best, Danielle Liptak


From:	DEQ_DCMComments
To:	Josh London
Subject:	RE: [External] Beach Mats Carolina Beach
Date:	Monday, September 28, 2020 10:46:32 AM
Attachments:	image001.jpg
	image002.jpg
	image003.jpg

Mr. London,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Josh London [mailto:josh.london.uyh8@statefarm.com]
Sent: Monday, September 28, 2020 9:58 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Beach Mats Carolina Beach

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To whom it may concern,

I am writing today to voice my support for the Beach Mats at Carolina Beach that allow much more handicap accessibility. Ocean Cure and Kevin Murphy has worked tirelessly to work with all local partners (Sea Turtle Rescue, town of CB and local residents) to make sure that this not only enhance the Town/Beach but protected the Marine Wildlife. As a business owner in the community I have heard countless stories from people who have been able to independently enjoy the beach for the first in years and sometime in their entire life. Please allow them to continue to offer this amazing service and to allow the community to continue to collaborate to maintain them and for the community to enjoy them

"You don't buy life insurance because you are going to die, you buy it because the people you love are going to live."

Pocket Agent App – get it here

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# Josh London Insurance Agency, Inc. Josh London, Agent

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1112 East Cutlar Crossing Suite 104 Leland, NC 28451 (Located next to Port City Java in Brunswick Forest) Phone: 910-383-1303 Email : josh@joshinsuresme.com Website : www.joshinsuresme.com Keep up with the Agency and Community Events by joining us on Facebook.



If this communication is securities related, click <u>here</u> for additional disclosures.

Ms. McClellan,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Kitty McClellan [mailto:kittymcclellan@yahoo.com]
Sent: Monday, September 28, 2020 10:41 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach handicap mats

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Please allow the mats to be used in Carolina Beach. This has been a great asset to our town, and made us one of the most welcoming beach towns in the country for those using wheelchairs. As the 2019 President of Island Women, I saw first hand that the beach wheelchairs we procured for the towns of Carolina Beach and Kure Beach made it possible for people in wheelchairs to enjoy the beach and touch the ocean. I am also a 5 year volunteer with the Pleasure Island Sea Turtle Project, and have never seen the mats interfere with any sea turtle nests. Because of the lights and population around the Boardwalk area, where the mats are placed, the sea turtles don't nest anywhere near them.

It is in the best interest of all that these mats be allowed to be used.

Thank you,

Kathryn McClellan 503 Fern Creek Lane Carolina Beach NC Mr. McCray,

Thank you very much for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Have a great weekend and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Doug McCray [mailto:mccray.doug@yahoo.com]
Sent: Tuesday, September 29, 2020 12:03 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] CB Beach Mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

My name is Douglas McCray and I have been living here on the island for about 5.5 years. I am a C6 quadriplegic and I use that matt almost daily. I see other wheelchair users and young mothers with strollers use that matt faithfully. Carolina Beach has made a name for itself in recent years in the accessibility & community because of how much work the island has put into being ahead of the curve. Our Life Rolls On event each year seemingly doubles in size. Taking these matts would not only hurt me personally but the town and dare I say the state. I would ask that they be allowed to stay.

Respectfully, Douglas McCray 703-599-5545

Sent from Yahoo Mail on Android

Ms. McDonald,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Lacie McDonald [mailto:laciejaymcdonald@gmail.com]
Sent: Thursday, October 1, 2020 3:31 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Fwd: Accessibility mats

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Mr. Davis,

My name is Lacie McDonald, and I am writing to give comment regarding my support of the accessible mats at Carolina Beach as a New Hanover County resident, and in opposition to the proposed smaller mats.

The size of the smaller proposed mats do now allow those with power wheelchairs to access the beach, and therefore would not result in their intended use. I would venture to guess that someone who is not in a wheelchair may have come up with this solution and further represents the need for consultation with/from disability advocacy groups to come to a proper solution.

I would also like to note my support of wildlife and conservation efforts in the area. It seems as though the groups in opposition of the mats have no cited any real evidence of damage to wildlife or the natural area due to the mats. So far, the mats have been placed at the beach during the busy season hours, where as we all know, the beaches are packed to capacity that close to the boardwalk area. Denying those with disabilities access to the beach based on these reasons, but to continue to allow able-bodied people to literally crowd the beach to capacity is illegal. It's discrimination.

There seems to be no good reason not to have the mats. The beach mats break down barriers for those with disabilities as well as the elderly. Although it may seem like a small gesture, for those who cannot use their legs to walk in the sand, this open new worlds to them that would otherwise be off limits.

Please consider these comments. The beach mats are a huge asset to Carolina Beach not just in the accessibility it offers, but also as an attraction for those who would otherwise be excluded. People with disabilities are a wellconnected community who organize around advocacy efforts. It would be a terrible look for CB to remove these mats permanently, and, as I mentioned above, is discrimination.

Please reconsider approving the mats in their original size.

Sincerely,

Lacie McDonald

Mr. McDowell,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Michael McDowell [mailto:miketerri2@gmail.com]
Sent: Monday, September 28, 2020 1:31 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] CAMA Minor Permit for the beach mats

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ADA compliant doesn't always mean accessibility. I have seen this mat and how it allowed people with wheelchairs and other disabilities or mobility issues, access to the beach. It is the only one around. To have it up and then take it down is a slap in the face to all handicap members of the area.

Please put this back up for the well Being of people with mobility issues everywhere, the ability to get on the beach to sun, fish, hang out with others is and can be the difference in how they cope with having a mobility issue.

I am in favor and would love to see you do the right thing here and put the access back up.

Michael McDowell

Col. Morgan,

Thank you for your service, and for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: MARCIA MORGAN [mailto:m2doc@aol.com]
Sent: Monday, September 28, 2020 2:35 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Carolina Beach Mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

Mr. Davis,

I am a resident of Carolina Beach and have happily joined others in welcoming disadvantaged individuals to enjoy our beach via the mats provided by Ocean Cure and local donations. People come from all over the state to take advantage of this opportunity to enjoy being near the ocean; it is a unique experience that they all treasure. It is so important for them to feel as close to "normal" as possible and to have access to similar experiences. (My mother was partially crippled from polio which meant that not only should SHE not go to the beach, she was unable to take her children to the beach.)

I am also extremely concerned about the environment but strongly agree that these mats need to extend beyond the current six foot limit in order to be effective. The area they cover is an extremely small portion of the coastline here and the probability of impacting nesting of any sort is likewise extremely small. To me, the benefit to humans in this instance far outweighs any potential environmental issue. Thank you for your consideration,

Marcia Morgan, Ph.D. COL (Retired), U.S. Army Mr. Morris,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: christopher.morris [mailto:christopher.morris@gmail.com]
Sent: Monday, September 28, 2020 10:16 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Accessibility mats in carolina beach

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Im writing to express my interest in keeping the accessibility & mats in carolina beach. We have a daughter with special needs and these mats provide access to the beach where she would not otherwise be able to do so. Without the accessibility mats her and others are unable to access and enjoy the beach as able bodied individuals do. Not only are the mats vital to access the beach in wheel chairs but they provide inclusion to individuals with accessibility issues.

Please approve the cama request for these mats.

Thank you,

Christopher Morris 212 Hamlet ave Carolina Beach, NC 28428

## Ms. Parker,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202 122

From: Carrie Parker [mailto:carrie.parker@nhcs.net]
Sent: Friday, September 11, 2020 12:34 PM
To: Coats, Heather <heather.coats@ncdenr.gov>
Subject: [External] Carolina Beach Accessibility Mats- Please help!

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#### Dear Ms. Coats,

My name is Carrie Parker and I am an occupational therapist for New Hanover County Schools. I also have my Recreation Therapy degree from UNCW and live in Carolina Beach. I have had the honor of witnessing many people with mobility issues access the beach accessibility mats that are currently located between the 2 boardwalk ramps. It was brought to my attention that Carolina Beach is at risk of losing these mats due to the potential impact on shore birds and nesting sea turtles. While the protection of wildlife is very important to our coastal community, losing these mats would be a huge loss to an already underserved population, people with special needs and mobility issues.

Ocean Cure is a non-profit organization that has raised the money to help make our beach accessible and has a team of volunteers from both their organization and other community organizations who sweep and monitor the mats. They installed a high-end surveillance camera to monitor the mat and to make sure it is not posing a risk to coastal wildlife. The Pleasure Island Sea Turtle Project has daily sea turtle patrols both morning and evening to ensure nesting sea turtles are laying their nests in safe locations during nesting season. These mats can easily be pulled up in the event of a situation where they would need to be removed.

People come from all over to enjoy the beaches of North Carolina and specifically to Carolina Beach due to its easy accessibility. In working with people with mobility issues, they often comment on how they are able to bring their families to Carolina Beach because they are able to use the boardwalk ramp and wheel right out onto the beach in their own wheelchair. While we are fortunate that we also have beach wheelchairs available for people who need them, they are not the best solution for everyone. There are individuals who rely on a specialized custom wheelchair such as people who have experienced a spinal cord injury or children who need a harness or bolster to be safe. Beach wheelchairs do not allow the same level of support or independence that a custom chair provides, and this is why the beach mats have been so helpful. This summer, I watched a dad wheel his specialized wheelchair onto the mat on the beach while carrying his young daughter on his lap with his wife and other young child behind him, beach gear in tow. A beach wheelchair does not allow this level of independence or the positional support he required due to his injury.

It is heartbreaking to think about the time, money, and commitment Ocean Cure and the community have put into these beach mats to make Carolina Beach a place for all to enjoy. Families who have children in wheelchairs or specialized strollers requiring features beach wheelchairs can't offer. Families who have already experienced a sense of loss due to an accident or disability who feel like they can actually enjoy something as a family again. Families who have grandparents who feel more comfortable and secure in their own wheelchairs and can watch their grandkids play on the beach. Everyone deserves the right to have access to the beach, and Carolina Beach has gone to great lengths to serve the underserved population of those with special needs and mobility issues. Please consider that the benefit these beach mats provide significantly outweighs the potential risk to wildlife. Thank you for your time and consideration.

Sincerely,



Occupational Therapist carrie.parker@nhcs.net



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Ms. Pelosky,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: sherry chevalier [mailto:sherryc11@hotmail.com]
Sent: Monday, September 28, 2020 5:11 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] CAMA Minor Permit for the beach mats

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Good Afternoon,

I am writing to you to express my concerns about the current restrictions regarding the wheelchair accessibility mats that have been in place the last few years on Carolina Beach. My husband and I are volunteers for Ocean Cure. We moved to Wilmington just over a year ago, after vacationing in Carolina Beach for the past 10 years. Part of the reason we moved here was because of the community. In Carolina Beach, it isn't hard to find ways to get involved and be a part of people trying to make things better for others. We got involved with Ocean Cure because of the incredible work they do. 10 years ago, I was diagnosed with breast cancer and as part of a free week at the beach, Ocean Cure gave us free SUP lessons. Being able to do something like that with the many physical challenges I now have due to surgeries and treatment, was an empowering moment for both myself and my family. What they did for me is nothing compared to what I see them do all the time for other families, including our veterans.

This past summer, they put out the word that they were looking for some additional people to

# 125

help keep the mats maintained. We jumped at the chance to be involved. It isn't easy for me but worth the effort. There has not been one morning that we are there sweeping the sand off, that someone does not come up to us and tell us what it means to them to have this type of accessibility to the beach and the ocean. We have heard so many stories of what it means to be able to have the freedom to go when you want and be able to use their own wheelchairs. For people who have both physical and emotional challenges, the ocean is a healing place.

We are aware of and completely respect the need to protect the wildlife in the area. My husband also volunteers at the aquarium and is well trained on the care and survival needs of our sea turtles. There has to be an equitable solution that gives us the ability to protect these creatures and give both the residents that use the matts and the people who come to visit for the sole purpose of how accessibly the beach is. I ask that you consider granting the permit to the Town of Carolina Beach so we can maintain the reputation this community now has in the disabled community. I thank you in advance for your time and consideration.

Best Regards,

Sherry Pelosky

Ms. Pope,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely, Braxton

\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Terri Pope [mailto:terrip919@gmail.com]
Sent: Monday, September 28, 2020 8:51 AM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Beach Mat Handicap Access

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I strongly support the approval for the beach matting for handicap access at Beach Access 90-100 in Carolina Beach, NC. I live in Carolina Beach and have seen how the mat is used by people in wheelchairs and their families. For many, the beach mat grants access that is life changing. I have watched community groups help to sweep and clean the beach mats on a daily basis. Ocean Cure, the group responsible for the beach matting, is loved by many, many people. I have volunteered with them and have seen the devotion of the group to our community.

Again, I ask that you please approve the permit for the beach mat handicap access in Carolina Beach.

Thank you, Terri Pope

## Ms. Poulos,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your concerns but I also hope I can clear a few things up with some updates from earlier today:

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202 CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <a href="mailto:report.spam@nc.gov">report.spam@nc.gov</a>

#### Dear Ms. Coats:

There is an issue that has come to my attention regarding some mats that create accessibility for disabled persons at Carolina Beach. At the beach, by the boardwalk, there is a large, long mat that extends from each ramp and was purchased and is maintained by Ocean Cure, a nonprofit organization that helps provide surfing experiences for people with special needs and limited mobility. Apparently they are in danger of losing these mats because the state says they are putting nesting sea turtles and shore birds at risk. The president of Ocean Cure is Kevin Murphy, also a 5th grade teacher at Mary C Williams. He has poured his heart and soul into fundraising and maintaining these mats to keep the beach accessible. There is an expensive security camera monitoring and he has a team of volunteers who help too. The matting runs parallel to the tide line and is free floating with super low impact to the beach. Because it is not staked to the beach itself, it is allowed to shift slightly and lies flush with the sand, allowing any animal to pass over it. It is also designed with holes so the sand can pass through it when it rains to prevent flooding. Locals and tourists come to Carolina Beach for its accessibility and people can use their own personal wheelchairs and roll right out to the beach. This creates so much joy of freedom for people who already have so many obstacles in their life. Please do whatever you can to insure that these mats are not removed. I am a huge fan of shore birds and turtles as well but too often, I feel, these creatures/ needs are placed above the needs of people

# Cathy Poulos, PT Physical Therapist New Hanover County Schools cathy.poulos@nhcs.net 910-538-5550

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From:	Cathy Poulos
To:	Coats, Heather
Subject:	[External] accssibility mats at Carolina Beach
Date:	Friday, September 11, 2020 10:49:11 AM

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#### Dear Ms. Coats:

There is an issue that has come to my attention regarding some mats that create accessibility for disabled persons at Carolina Beach. At the beach, by the boardwalk, there is a large, long mat that extends from each ramp and was purchased and is maintained by Ocean Cure, a nonprofit organization that helps provide surfing experiences for people with special needs and limited mobility. Apparently they are in danger of losing these mats because the state says they are putting nesting sea turtles and shore birds at risk. The president of Ocean Cure is Kevin Murphy, also a 5th grade teacher at Mary C Williams. He has poured his heart and soul into fundraising and maintaining these mats to keep the beach accessible. There is an expensive security camera monitoring and he has a team of volunteers who help too. The matting runs parallel to the tide line and is free floating with super low impact to the beach. Because it is not staked to the beach itself, it is allowed to shift slightly and lies flush with the sand, allowing any animal to pass over it. It is also designed with holes so the sand can pass through it when it rains to prevent flooding. Locals and tourists come to Carolina Beach for its accessibility and people can use their own personal wheelchairs and roll right out to the beach. This creates so much joy of freedom for people who already have so many obstacles in their life. Please do whatever you can to insure that these mats are not removed. I am a huge fan of shore birds and turtles as well but too often, I feel, these creatures/ needs are placed above the needs of people

Cathy Poulos, PT Physical Therapist New Hanover County Schools cathy.poulos@nhcs.net 910-538-5550

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Ms. Proctor,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Ellen Parrish [mailto:ellenpproctor@gmail.com]
Sent: Monday, September 28, 2020 10:52 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Beach Mats

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To Whom It May Concern:

Please consider issuing the needed permit to reinstall the beach mats at this location. The area is already a high traffic area year round, therefore wildlife does not nest in this location. Having accessibility for disabled persons will draw higher economic gains due to its attraction. I know my mother-in-law would very much appreciate a place to enjoy the beach after she gets the heart surgery she needs. She is just one of thousands of disabled people who would greatly benefit from the beach mats.

Sincerely, Ellen Proctor Mr. Rouse,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: wayne [mailto:waynerouse1@hotmail.com]
Sent: Saturday, October 3, 2020 5:59 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Beach Matting

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Dear Mr. Davis,

I am writing to respectfully request that the Division of Coastal Management approve the request by the Town of Carolina Beach per beach access matting for the handicapped at beach access 90-100.

As a resident of Carolina Beach, I have noted many times the joy this brings to the handicapped, that they would otherwise not be able to enjoy. Likewise, I have observed the diligence and care for the environment that the volunteers take in regards to protecting our natural resources. I am very involved in our community and have never heard a resident or visitor make anything but positive comments in regards to the matting.

Thank you for considering this request and for considering the special needs of some of our residents and guest. Please feel free to contact me if I can be of any assistance.

Respectfully,

Wayne Rouse 508 Monroe Avenue Carolina Beach, NC 28428

Wayne Rouse Coldwell Banker Sea Coast Advantage Broker / REALTOR

Please review the link below regarding agency relationships in NC. <u>http://www.ncrec.gov/Brochures/WorkingwAgents.pdf</u>.

Ms. Schoonmaker,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Dori Steiman Schoonmaker [mailto:healingcycles@gmail.com]
Sent: Monday, September 28, 2020 12:23 PM
To: DEQ\_DCMComments < DCMComments@ncdenr.gov>
Subject: [External] carolina beach mat permit

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Hello,

I am a staunch environmentalist. After reviewing the beach mat proposal in Carolina Beach this seems to be a case of bureaucracy instead of actual environmental impact protection. I am in support of the CB Mat Permit.

Sincerely, Dori Steiman Schoonmaker Carolina Beach, NC

## 134

## Simmons, Christy

From:	Davis, Braxton C
Sent:	Wednesday, September 9, 2020 2:19 PM
То:	Coats, Heather; Lopazanski, Mike
Subject:	FW: [External] CB Beach mats

\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Davis, Braxton C
Sent: Wednesday, September 9, 2020 2:19 PM
To: Steve Shuttleworth <steve@steveshuttleworth.com>
Subject: RE: [External] CB Beach mats

just saw your email – we'll be going out for public comments as part of rulemaking, will make sure you get a chance to weigh in... hope you're doing well...

\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Steve Shuttleworth [mailto:steve@steveshuttleworth.com]
Sent: Wednesday, September 9, 2020 1:06 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] CB Beach mats

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Braxton not sure you will get this during the CRC meeting today. I wanted you to know how important the beach mat and handicap access is to our community. We have worked hard to make our beach more handicap friendly and have success in doing just tha. Organizations like Ocean Cure and Life Rolls on are wonderful examples of how private non profit groups dedicate time and energy to help folks enjoy our beaches and Ocean. It is a shame the mats are being called into question. The high traffic area they are placed in has seen few(2) turtle nests in the past 12 years. Please help us in advocating of the use

#### **Steve Shuttleworth**

Shuttleworth Inc 711 Carolina Beach Ave North Carolina Beach North Carolina 28428

719 499 1373 cell 719 623 0473 direct fax <u>Steve@steveshuttleworth.com</u> <u>www.steveshuttleworth.com</u>

From:	mid-Atlantic PVA
To:	Coats, Heather
Cc:	Kevin@odyseasurf.com
Subject:	[External] Letter in Support of Ocean Cure Accessible Beach Mats
Date:	Thursday, December 17, 2020 1:29:00 PM
Attachments:	Mid Atlantic Letter for Ocean Cure Accessible Mats.pdf

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PDF attached containing signed letter - Transmitted via email only

December 17, 2020

Heather Coats, Beach & Inlet Management Project Coordinator Division of Coastal Management North Carolina Department of Environmental Quality 127 Cardinal Drive Extension Wilmington, NC 28405

Dear Ms. Coats:

On behalf of the Mid-Atlantic Chapter of the Paralyzed Veterans of America, I am writing to you in support of the efforts by Ocean Cure to secure or renew the necessary permits to place accessible beach mats that will facilitate beach access for persons with disabilities at designated location(s) on Carolina Beach, NC. Ocean cure is a 501(c) (3) non-profit organization based out of Carolina Beach, with a mission to provide increased beach accessibility and to help improve the quality of life for their participants through surfing. In addition, Ocean Cure hosts a monthly wounded warrior camp and other programs that benefit the disabled community.

As a veterans service organization, we are a staunch advocate for improving accessibility wherever and whenever possible for our members and all other persons with disabilities. We strive to serve and assist our members, with many of whom residing in eastern half of North Carolina. The boardwalk in Carolina Beach is very wheelchair friendly and accessible to everyone. The beach itself is not, but it can be made partially accessible with the placement of the specialized beach mats for which Ocean Cure is seeking to receive permits. Alan Earl, who is a past employee of our National organization, the Paralyzed Veterans of America (PVA), resides in Carolina Beach. Mr. Earl is a paraplegic and utilizes a wheelchair for mobility and has benefited directly from the programs offered by Ocean Cure. While employed by PVA as a sports director, Mr. Earl assisted our chapter with hosting multiple sporting events for our members and other persons with disabilities, such as wheelchair billiards, wheelchair bowling, and the National Veterans Wheelchair Games.

The Mid-Atlantic Chapter is one of the six original co-founding chapters of the Paralyzed Veterans of America; it was officially formed on February 9, 1947. The Chapter office is located at 11620 Busy Street, North Chesterfield, Virginia 23236. The Chapter has approximately 850 members, located primarily in Virginia and North Carolina. It is the philosophy of the Mid-Atlantic Chapter to do everything we can for all veterans. The Chapter has been and will continue to be very active concerning issues relative to health care and medical treatment.

Thank you for your attention and consideration.

Respectively,

Terence Smith President Paralyzed Veterans of America Mid Atlantic Chapter

From:	Home
To:	Coats, Heather
Cc:	kevin@odyseasurf.com
Subject:	FW: [External] Wheelchair Accessible Mat at Carolina Beach
Date:	Sunday, September 27, 2020 4:55:26 PM

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Hello Heather,

As suggested by NCWRC, I wanted to share some perspective on the mats at Carolina Beach.

Thank you for any help with allowing them to be placed next year.

Regards,

Dr. Ladd W. Smith

From: Mahlum, Fairley W [mailto:fairley.mahlum@ncwildlife.org]
Sent: Sunday, September 27, 2020 3:48 PM
To: Home
Subject: Re: [External] Wheelchair Accessible Mat at Carolina Beach

Dr. Smith,

Thank you for reaching out regarding beach mats. I spoke with Kevin two weeks along with the NCWRC sea turtle biologist, Matt Godfrey. Matt provided Kevin with the contact information for the Division of Coastal Management (DCM), the agency responsible for regulation of the mats. He also let Kevin know that he could apply for a variance from DCM for the use of the larger beach mats. Kevin said he would be working on submitting that in the near future.

The best contact to reach out to regarding beach mats and sharing your perspectives is Heather Coats with DCM, her info is below. Heather presented the proposed beach mat regulation changes at the Coastal Resources Commission (CRC) meeting Wednesday.

Heather Coats, Beach & Inlet Management Project Coordinator Division of Coastal Management North Carolina Department of Environmental Quality 910 796 7302 office <u>heather.coats@ncdenr.gov</u> 127 Cardinal Drive Extension Wilmington, NC 28405

These links may be helpful as well:

CRC - https://deq.nc.gov/about/divisions/coastal-management/coastal-resources-commission

September 2020 Meeting Agenda - https://deq.nc.gov/node/89869

Best regards, Fairley

# **Fairley Mahlum**

Director Communications, Marketing & Digital Engagement

## NC Wildlife Resources Commission

1751 Varsity Drive Raleigh, North Carolina 27606 Work: 919-707-0180 Mobile: 919-817-6820 ncwildlife.org



Get <u>NC Wildlife Update</u> -- news including season dates, bag limits, legislative updates and more -- delivered to your inbox from the N.C. Wildlife Resources Commission.

From: Home <plsmith831@gmail.com>

Date: Thursday, September 24, 2020 at 5:24 PM

To: "cingram@ncwildlife.org" <cingram@ncwildlife.org>

Cc: "kevin@odyseasurf.com" <kevin@odyseasurf.com>, "harper.peterson@ncleg.net"

<harper.peterson@ncleg.net>, "leann.pierce@carolinabeach.org"

<leann.pierce@carolinabeach.org>, "info@ncwildlife.org" <info@ncwildlife.org>, "Mahlum,

Fairley W" <fairley.mahlum@ncwildlife.org>, Cameron Ingram

<cameron.ingram@ncwildlife.org>

Subject: [External] Wheelchair Accessible Mat at Carolina Beach

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Dear Mr. Ingram,

I sincerely hope that you, the Commission, Ocean Cure and the town of Carolina Beach, will come to an agreement which will allow placing accessible wheelchair mats on Carolina Beach.

Since my wife uses a power wheelchair, we were quite excited when we read about the mats on the beach earlier this year. That is the only way for a person in a 400 pound chair to access the beach. Now, we understand the mats were removed.

The town of Carolina Beach has a very nice boardwalk which is accessible from our conversion van via the sidewalk. So we were looking forward to expanding use and sharing some beach time with our grandchildren. No other local beach has/had the same access.

We understand the considerations for turtles, birds and other wildlife, though it seems that a section of mat on the beach would not be detrimental to their overall survival.

Please do what you can to provide access to the beach next year.

Thank you.

Dr. Ladd W. Smith Wilmington

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From:	DEQ_DCMComments
To:	Ashley Thomas
Subject:	RE: [External] Comment of the Application for water Access using Beach Mat
Date:	Friday, October 2, 2020 11:42:35 AM
Attachments:	image002.jpg

#### Ms. Thomas,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Ashley Thomas [mailto:ashley@bridge2sports.org]
Sent: Monday, September 28, 2020 2:34 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Comment of the Application for water Access using Beach Mat

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Dear Mr. Davis,

I am a supporter of using the beach mat over the sand in order for people with mobility devises, (wheelchairs, powerchairs, walkers, canes, knee rollers, and others). Water is healing and can emotionally and mentally support life with limits. I believe it will be a great strength to Carolina Beach to show that they care about beach access for all of the members of the community.

Thank you!

# Ashley Thomas • Founder & CEO



www.bridge2sports.org Like us on Facebook 3729 Murphey School Road, Durham, NC 27705 **Proud Sponsors & Affiliates** 

Mr. Williams,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Sincerely,

Braxton

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Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: John t. Williams jr [mailto:bumpbumpbumpskip@gmail.com]
Sent: Sunday, September 27, 2020 8:57 PM
To: DEQ\_DCMComments < DCMComments@ncdenr.gov>
Subject: [External] Beach access matting for the disabled.

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### Hello DCM,

I'm writing you today because I'm not happy about the removal of the matting that allowed the disabled and people with mobility issues to be able to access the beach. Do you know how hard it is to find things that are accessible for those of use that are wheelchair users? Being a wheelchair user I've found that compliant dose not always mean accessible. By removing this matting you have recreated a barrier for those of us that are wheelchair users or may have mobility issues. You know this matting might be the one thing that gets someone out, motivates them to be more productive or to stay healthy it may be what changes their lifes. The State should be funding projects like this. So much for equal access. I really wish some of you would come and try to roll out on these access threw the soft stuff ina wheelchair so you can see how it is for yourself. I have an extra one any takers.... I dont understand how this matting is so harmful to sea turtles and shore birds and driving on the north and south ends of our beach is not. So why not stop the vehicle traffic? Hell let's shut it down on all our beaches haha. Pollution is a bigger threat I think. So why is nothing's being done about all the over development around our waterways and estuary? Progress Right. You people dont understand how important things are to use that make accessibility possible because you dont have to deal with not being to access were you want to go whenever you want to go. I hope whoever complained about this mat sleeps good at night knowing they stopped access for those of us who have the least access in the state. This states so fn backwards sometimes. Every state agency that has anything to do with access or regulates access or provides access

needs to start interacting with the disabled community more because you all dont have a clue. I hope the mats are allowed to return and you all start seeing a need for things that makes Accessibility Possible For ALL. EQUAL ACCESS FOR ALL John Thomas Williams Jr.

### Mr. Williams,

First, thank you for your email. This has been a unique, first-of-its-kind project for us to review. I understand your frustration but I also hope I can clear a few things up.

Our agency, the Division of Coastal Management (DCM), is very supportive of this project for all of the reasons you outlined below. We had informed the Town and Ocean Cure of the need for a permit, which could only be obtained if granted a variance by the North Carolina Coastal Resources Commission. It's the same process that was used for permitting of the Carolina Beach boardwalk, as an example. In the meantime, we had communicated that the mats could remain in place for this summer (we asked that they be removed after Labor Day weekend, but I understand they were pulled up even sooner to avoid impacts from the hurricane). I think there has been some honest confusion regarding the permitting process, but we had a very productive discussion with Town officials and with Mr. Murphy (of Ocean Cure) this morning, and we are all in agreement on the path forward.

When we receive the Town's permit application (likely next week), DCM will post a public notice in the Star News announcing a one-week public comment period. We'll make sure you get the notice as well – or if you'd like, we can include the comments you already submitted in the official permit file. All public comments will be provided to the Coastal Resources Commission for their consideration of the variance request from the Town. DCM staff will also be expressing our support of this worthy project.

If a variance is granted by the coastal commission, DCM will be able to issue a permit soon after. We are hoping and making every effort to have the issue heard by the commission at their November meeting (if we have any unexpected delays, it would be heard at their February 2021 meeting).

Again, thank you for your email and please let me know if you have any further questions on this,

Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202
From: John t. Williams jr [mailto:bumpbumpskip@gmail.com]

Sent: Friday, September 18, 2020 12:44 PM

To: Coats, Heather <<u>heather.coats@ncdenr.gov</u>>

Subject: [External] The removal of the only truly accessible beach access for wheelchair users

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

### Hello Ms Coats,

My name is John Thomas Williams jr. I am a wheelchair user that is pretty mad about yawls decision to remove the only truly wheelchair accessible beach access. You people should embrace things like this. The state should provide this so everyone can have some type of equal access. By removing this from the beach you have recreated a barrier for people like me who would like to access the beach. Do you know how bad the access is in this state for people who use wheelchairs. How bout you and ur higher up come meet me at any beach access I still have my old chair yawl can come try it. Come see how difficult or impossible it is to cross the soft stuff to get to the hard pack.

I think yawl are a bunch of hypocrites. pollution, light pollution and vehicle traffic on our beaches pose more of a threat to sea turtles than the only wheelchair accessible access. So why aren't yawl shutting down the vehicle traffic or making the beach black out at nite. It's only a problem because one person at the dmc decide to complain about the only wheelchairs access beach access. So much for equal access. This state is so backwards.

JTWjr

Ms. Willis,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

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Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Lynne Willis [mailto:lynne@cmsmachineshop.com]
Sent: Monday, September 28, 2020 4:17 PM
To: DEQ\_DCMComments <DCMComments@ncdenr.gov>
Subject: [External] Beach Mat permit for Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

Mr. Davis,

I am in full support of the beach mat permit for Carolina Beach. Carolina Beach is an environmentally friendly community. We support and promote the preservation of our natural environment, but we also want to provide our disabled residents and visitors the opportunity to enjoy our beautiful beach. It is my understanding that the mat for wheel chairs would have minimal environmental impact while providing immense enjoyment for individual who already have a huge disadvantage.

I respectfully request that you approve this permit.

Thank you.

Lynne Willis CFO CMS Tool & Die, Inc. 1331 Bridge Barrier Road PO Box 819 Carolina Beach, NC 28428 910-458-3322

Mr. Wright,

Thank you for your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Thanks again and please let me know if you have any questions on this, Braxton

\*\*\*\*\*\*

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

-----Original Message-----From: Steve [mailto:wrightstevenwayne@gmail.com] Sent: Thursday, October 1, 2020 5:57 AM To: DEQ\_DCMComments <DCMComments@ncdenr.gov> Subject: [External] CAMA request- CB Accessibility Mats

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

> I fully support Carolina Beach's CAMA request to have the accessibility mats on the beach. These mats are a necessary item and only humane, to allow those restricted to wheelchairs to access the beach independently in their own wheelchair.

>

> Now how wonderful is that! The mats cause limited impact to environment versus the benefit to these restricted humans. Humanity wins!

>

- > Steve Wright
- > 1224 Spot Lane
- > Carolina Beach NC 28428

>

>

From:	<u>Alan Earl</u>	
To:	Coats, Heather	
Subject:	[External] Beach accessibility in Carolina Beach	
Date:	Friday, September 11, 2020 4:29:45 PM	

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<<u>mailto:report.spam@nc.gov</u>>

### Ms. Coats-

My name is Alan Earl and I live in Carolina Beach, North Carolina. I was told that you are working with Kevin Murphy to try to figure out the mat situation on our beach. I am just a concerned resident that has a disability and use this mat.

I have called this place my home since 2009. I am a wheelchair user, since 1997, and just recently retired from the Paralyzed Veterans of America. I moved here to escape the world and especially from Washington DC where I worked for almost 15 years. As soon as I moved here I realized that being paralyzed and a wheelchair user was not very conducive to the beach life. I would always refer to it as "the other side of the dunes". It was heartbreaking. I lived in paradise but was not able to enjoy the part they called paradise. Thankfully at the time I lived in a four story complex and could at least enjoy seeing everyone else enjoying the beach on the other side of the dunes. It's the only thing that kept me sane.

Fast forward a few years when I was introduced to Kevin Murphy and Ocean Cure. He gave me the opportunity to get on the other side of the dunes. He took me surfing and enjoyed the day at the beach. It was awesome but it was only a one time treat. It was a chore. They set out plywood for the day so I could be part of the festivities. It was nice to have someone care enough to give us the opportunity. He has been working hard to make our beach, my home, more inclusive and make it a place that welcomes everyone. Which brings me to today's issue. The mats on the beach being removed.

Ocean Cure has been working tirelessly and spending money and resources to make sure we, the disabled, are included. From beach chairs to powered surf boards. But his biggest accomplishment is our little section of beach mat. A very small but incredibly impactful part of our beach. A place that people that don't every get to experience the other side of the dunes can go and feel "normal" and enjoy paradise. A place where the WHOLE family can go and create memories. This mat is our one place we don't need someone else. I can go there any time I want and be free. It's the one place I can tell my wife that I will go to the beach and spend the day. It's my lifeline to the paradise that I moved to and retired to.

Please consider the HUMAN side of this small piece of beach. We love nature and our wildlife but we also love our humans. ALL OF THEM. Even the ones that don't look like us or do the same things as us. To be honest, I'm sad that I get treated like a second class citizen. I would give anything to walk again and not rely on the world accommodating my inabilities. But every day I deal with it and continue to try to enjoy it the best I can or am allowed. Please please consider this when you are making decisions on these accessible mats.

Thank you for listening. Alan Earl 400 North Seventh Street Carolina Beach, NC 28428 615.887.4946 Friday, October 2, 2020 11:38:55 AM

### Mr. Lobban,

From:

Date:

Subject:

To:

First, I want to thank you for your service. And I appreciate your email regarding the Minor Permit submitted by the Town of Carolina Beach. Your comments will be considered and included in the official permit file, and you will be notified of the final permit decision.

Have a great weekend and please let me know if you have any questions on this, Braxton

Braxton Davis Director, Division of Coastal Management NC Department of Environmental Quality Morehead City, NC 28557 (252) 808-2808 x202

From: Joe Lobban [mailto:joe.lobban@gmail.com]
Sent: Monday, September 28, 2020 2:03 PM
To: DEQ\_DCMComments < DCMComments@ncdenr.gov>
Subject: [External] Handicapped Mat Application for Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>report.spam@nc.gov</u>

To whom it may concern:

I am a disabled veteran that visits Carolina Beach annually. Furthermore, a veteran organization I belong to conducts a service project each year at Carolina Beach. The service project is in conjunction with the Life Rolls On handicapped surfing event.

The handicapped mats are not a key function in our service project, but the lack of it hinders our ability to do such a thing. Several brethren of mine are with limited mobility due to the injuries sustained during deployments around the world. This event, along with several others that we may attend in Carolina Beach, is always something we look forward to because of the ease the mats give. Most of them can not go to the beaches regularly due to their lack of mobility.

My request to keep the mats does not consider the thousands upon thousands of handicapped North Carolina residents, and visitors around the world, that use the mats to enjoy what several take for granted. The smile on the handicapped children's faces, when they are surfing on Carolina Beach, is what brings us back to the service project each year.

I humbly request that the application for the hanicapped mats be approved. It may not be the prudent use of resources, but it is a correct one. Politics has divided almost everything to a

frustration point. Please don't allow this to become one.

Respectfully,

Joseph Lobban SFC, US Army (Retired) From: Wilson, Debra Sent: Thursday, May 9, 2019 4:35 PM To: eric.jelinski@carolinabeach.org; Miles Murphy (miles.murphy@carolinabeach.org) <miles.murphy@carolinabeach.org>; Jeremy Hardison (jeremy.hardison@carolinabeach.org) <jeremy.hardison@carolinabeach.org>; Ed Parvin (ed.parvin@carolinabeach.org) <ed.parvin@carolinabeach.org> Cc: MacPherson, Tara <<u>tara.macpherson@ncdenr.gov</u>> Subject: Handicap matts

All,

It has come to attention of the NC Division of Coastal Management that there has been the addition of 2 perpendicular handicap matts from of the boardwalk accesses down onto the beach and the matts are then connected in the middle by a parallel section measuring 126' by 16'. DCM has been in communication with the NC Wildlife Commission and well as US Fish and Wildlife and it has been determined that this parallel section will have to be removed nightly due to the possible impedance of sea turtles. The 2 perpendicular sections (1 @ 45' x 8' and 1 @ 45' x 6') may remain in place at night. Please feel free to call me if you have any questions. Thank you in advance for your cooperation.

Debbie

Debbie Wilson, District Manager NC Division of Coastal Management 127 Cardinal Drive Ext. Wilmington, NC 28405 (910) 796-7266 Fax: (910) 395-3964 <u>debra.wilson@ncdenr.gov</u>



*Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.*  From: Matthews, Kathryn H [mailto:kathryn\_matthews@fws.gov]
Sent: Thursday, May 21, 2020 11:31 AM
To: Jeremy Hardison <<u>ieremy.hardison@carolinabeach.org</u>>; MacPherson, Tara<<<u>tara.macpherson@ncdenr.gov</u>>; Miles Murphy <<u>miles.murphy@carolinabeach.org</u>>
Cc: Coats, Heather <<u>heather.coats@ncdenr.gov</u>>; Dunn, Maria T. <<u>maria.dunn@ncwildlife.org</u>>
Subject: Re: [EXTERNAL] RE: Plastic matting on beach strand in Carolina Beach

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Thank you, Jeremy. Any amount of mats waterward of the dune line will need to be rolled up or removed completely from the beach each night. We would prefer that the beach matting not be installed waterward of the dunes, and we hope that no mats would be needed in the harder-packed wet sand. Perhaps they could pull the mat installation back to the dune line. If they feel that they need some matting past that, we would recommend that they only put out enough to reach packed sand. This will also save them from having to deal with constant burial of the mats or other potential damage. If they keep the mats behind the vegetated dune line, they won't have to roll it up every night.

Kathy Matthews Fish and Wildlife Biologist U.S. Fish and Wildlife Service 551-F Pylon Drive Raleigh, NC 27606 919-856-4520, x. 27

From: Jeremy Hardison <jeremy.hardison@carolinabeach.org>
Sent: Thursday, May 21, 2020 11:16 AM
To: MacPherson, Tara <<u>tara.macpherson@ncdenr.gov</u>>; Miles Murphy
<<u>miles.murphy@carolinabeach.org</u>>
Cc: Matthews, Kathryn H <<u>kathryn\_matthews@fws.gov</u>>; Coats, Heather <<u>heather.coats@ncdenr.gov</u>>;
Dunn, Maria T. <<u>maria.dunn@ncwildlife.org</u>>
Subject: [EXTERNAL] RE: Plastic matting on beach strand in Carolina Beach

Thanks Tara,

We did notify the organization that the matting must be removed nightly. The town will follow up with them again and let them know that the requirements have not changed.

Jeremy Hardison Planning Director 1121 N. Lake Park Carolina Beach NC 910 458 2991 From: MacPherson, Tara <<u>tara.macpherson@ncdenr.gov</u>>
Sent: Thursday, May 21, 2020 10:50 AM
To: Miles Murphy <<u>miles.murphy@carolinabeach.org</u>>
Cc: Jeremy Hardison <<u>jeremy.hardison@carolinabeach.org</u>>; <u>kathryn\_matthews@fws.gov</u>; Coats,
Heather <<u>heather.coats@ncdenr.gov</u>>; Dunn, Maria T. <<u>maria.dunn@ncwildlife.org</u>>
Subject: Plastic matting on beach strand in Carolina Beach

### Be Advised: This email originated from outside of the Town of Carolina Beach, NC

Good morning. This email is a result of my site visit this morning looking at the matting that Ocean Cure put on the beach in Carolina Beach. Last year they were instructed to contact us before doing any work. We were not contacted this year and the plastic matting has been placed parallel to the beach in an approximately 120 ft long by 16 ft wide section during Sea turtle season. US Fish and Wildlife stated if these mats are utilized parallel to the beach they must be removed nightly. This is not occurring. In addition high tide is now washing over the matting and it is becoming buried. Any assistance you could provide in addressing this matter would be greatly appreciated. Thank You,

Tara









### 6/9/2020

Hi Braxton, I met with the Town of Carolina Beach LPO on a number of projects today and we were able to get dimensions and photos of the Beach Mat that is on the dry sand beach in front of the boardwalk. I pasted a sketch with dimensions for better visualization below. During my last site visit I observed wrack lines and sand on the beach mat, the tides appear to have normalized and now the waterward edge of the mat is approximately 22 ft. above NHW.

# Thanks,

Tara



### Tara MacPherson

Wilmington Region District Manager NC Division of Coastal Management Department of Environmental Quality

910 796-7266 office 910 395-3964 fax tara.macpherson@ncdenr.gov

127 Cardinal Drive Ext Wilmington, NC 28405

*Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.* 











ROY COOPER Governor MICHAEL S. REGAN Secretary BRAXTON C. DAVIS Director

July 27, 2020

# <u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

Town of Carolina Beach Bruce Oakley, Town Manager 1121 N. Lake Park Blvd. Carolina Beach, NC 28428 Mail Receipt No. 7016 1370 0002 3225 0993

Ocean Cure Kevin Murphy 607 N. Lake Park Blvd. Carolina Beach, NC 28428 Mail Receipt No. 7016 1370 0002 3225 0986

# **RE: NOTICE OF REGULATORY REQUIREMENTS**

Dear Messrs. Oakley and Murphy:

This letter confirms that on June 9, 2020, Tara MacPherson, Wilmington District Manager with the N.C. Division of Coastal Management (Division), and Miles Murphy, Planner, with the Town of Carolina Beach (Town), were onsite at the beach strand adjacent to the Carolina Beach Boardwalk, which is adjacent to the Atlantic Ocean in Carolina Beach, New Hanover County, North Carolina. The purpose of the visit was to investigate the installation of handicap accessible beach matting on the Town's beachfront property in Carolina Beach within the Ocean Erodible Area of Environmental Concern (AEC). Based on information obtained during the site visit, Ocean Cure and the Town has undertaken, or is legally responsible for, the installation of approximately 2,958 square feet of beach matting that extends approximately 60 feet waterward of the vegetation line on the Town's aforementioned property.

Please be assured that the Division fully supports and encourages handicap access to oceanfront beaches, and acknowledges the positive work of Ocean Cure, Inc. (OC) to facilitate handicap access in Carolina Beach. However, Rules of the N.C. Coastal Resources Commission (Commission) state that no person or entity may undertake development in a designated AEC without first obtaining a permit in accordance with the N.C. Coastal Area Management Act (CAMA; North Carolina General Statutes §113A-100 et seq.). The purpose of this letter is to advise you that, while the Division generally does not require a CAMA permit for the installation of "Mobi-Mats" or similar temporary, roll-out matting for access across oceanfront dunes, the



North Carolina Department of Environmental Quality | Division of Coastal Management Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557 252.808.2808 July 27, 2020 Town of Carolina Beach/Ocean Cure Page **2** of **3** 

matting must be deployed in an orientation that is perpendicular to the shoreline and must be no wider than 6 feet and terminate no farther than 6 feet seaward of the toe of the frontal dune or First Line of Stable and Natural Vegetation (FLSNV), whichever is most landward. This is consistent with Commission Rules governing structural beach accessways at 15A NCAC 07K.0207 and 15A NCAC 07H.0308(c).

The most significant concerns are related to potential impacts to sea turtles and shorebirds, and the lack of a Biological Opinion or Habitat Conservation Plan from the U.S. Fish and Wildlife Service (USFWS) authorizing any potential "takes" of endangered species under the Endangered Species Act, should one occur. Both the USFWS and N.C. Wildlife Resources Commission (WRC) have raised concerns about potential sea turtle takes that could result from this structure, and provided the Division with a recent example of a "false crawl" by a sea turtle on a different N.C. beach that appears to have been caused by similar beach matting.

This is a challenging situation given the parallel goals of enhancing handicap access and protecting threatened and endangered species. The Coastal Area Management Act and Commission Rules are intended to balance these kinds of issues. For future projects, the Town may apply to the Division for a CAMA Minor Permit for this kind of structure (or the Town as co-applicant with Ocean Cure, since the Town is the property owner). However, the Permit would likely be denied because the structure is inconsistent with various rules governing oceanfront structures and structural accessways. The Division would also coordinate review of the permit with the USFWS and WRC, therefore the Division recommends you initiate consultations with those agencies prior to submittal of a CAMA permit application. If the permit application is denied, the Town could then petition the Commission for a Variance to grant the permit (or the permit with conditions) due to unique circumstances, as described in the guidance on the Division's website at https://deg.nc.gov/about/divisions/ coastal-management/coastal-management-permits/variances-appeals.

Regardless of any pending permit application or petition for a CRC Variance, all portions of the current structure that are oriented parallel to the beach and/or are extending more than 6 feet beyond the toe of the frontal dune or FLSNV, as determined by DCM, must be removed no later than September 8, 2020. Please note that failure to remove the matting, or failure to apply for a permit for any future work in an AEC after receipt of this Notice, may constitute a CAMA violation and you may be subject to civil and/or criminal penalties as provided by N.C.G.S. §113A-126.

Thank you for your time and cooperation in resolving this important matter. The relevant statutes and regulations are available from the Division. Staff and I are willing to assist you in complying with the requirements of these laws.

July 27, 2020 Town of Carolina Beach/Ocean Cure Page **3** of **3** 

Sincerely,

Roy Brownlow

Compliance Coordinator Division of Coastal Management

Cc: Braxton Davis, Director, DCM Tara MacPherson, DCM Heather Coats, DCM Maria Dunn, WRC Kathy Matthew's, USFWS

Locality	Permit Number
Ocean Hazard Estuarine Shoreline	ORW Shoreline Public Trust Shoreline Other (For official use only)
GENERAL INFORMATION	and the second of the second
LAND OWNER	Contractive and the second second second
Name Town of Carolina Beach / [.	Shue Oakley
Address 1121 N. Luke Park Blyd	
City Carolina Beach State	NC Zip 28428 Phone 910-458-2994
Email bruce. Oakley Q carolinabe	ach.org
AUTHORIZED AGENT	
Name Ed Purvin	When the second
Address 1121 N. Lake Park Blvd	
City Carolinn Beach State	NC Zip 28428 Phone 910-458-2526
Email ed. parvin @ carolina beac	
the second s	et name and/or directions to site. If not oceanfront, what is the name of the
<b>DESCRIPTION OF PROJECT:</b> (List all pro	oposed construction and land disturbance.) Install Hundrep Beach Mats
SIZE OF LOT/PARCEL:	square feet $N/A$ acres
PROPOSED USE: Residential [] (Sing	gle-family 🔲 Multi-family 🛄 ) Commercial/Industrial 🔲 Other 🔀
COMPLETE EITHER (1) OR (2) BELOW to your property):	(Contact your Local Permit Officer if you are not sure which AEC applies
	<b>DOR AREA OF PROPOSED STRUCTURE:</b> <u><b>2716</b></u> square feet (includes above ground level, non-conditioned space elevated above ground level but
UPON SURFACES: square feet (includ	OF BUILDING FOOTPRINT AND OTHER IMPERVIOUS OR BUILT des the area of the roof/drip line of all buildings, driveways, covered decks, n the applicable AEC. Attach your calculations with the project drawing.)
STATE STORMWATER MANAGEMENT Management Permit issued by the NC Divisio YES NO	<b>PERMIT:</b> Is the project located in an area subject to a State Stormwater on of Water Quality?

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

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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)

d		A LINE STRUCTURE THE WALL STRUCT	
	an own	er or record title, Title is vested in	lown
page	52	in the New Hanover	County Re

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)

(1) Mikez Holdings LLL (4(BAS) (2) Urcowa Investments LLC (SCope Ferr)
(3) Corolina Smokhase Holdings LLC (9 Penilters)
(4) Corolina Decidical Holdings LLC (3 Borrinelle)

### **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.

Landowner or person authorized to art 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.

of Caroling Bench, see Deed Book \_\_\_\_\_

(Address) 702 Burney St Wilmington NC 28412 POBOX 2304 Corolina Beach NC 28428 PO Box 390 Levolma Bauch NC 28428 ROZ N Like Rik Blud Cirolm Bach NC 28428 (Sorte A)

This the 16th day of September, 20 20

	AEC HA	ZARD NOTICE	
Project Is In An:	Crean Erodible Area	High Hazard Flood Area	Inlet Hazard Area
Property Owner:	Town of Carolina Bea	ch / Bruce Oakley	Amaacadi ganlandadi voy nedV Amaalaa
Property Address:_	90-100 CB Beach.	Arcess	eysis heles u
Date Lot Was Platte	d: 1963	and Goitagin basis rines (Goitagin basis)	

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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 420 feet landward in a major storm.

The flood waters in a major storm are predicted to be about  $12^{15}$  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.

pplicant 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:

Local Peri	nit Officer Indire Drive Est. Wilmington NC
Taratal	Town of Carolina Beach 28405
Address	1121 N Lake Park Blvd Carolina Beach, NG 28428 Corolina is each
Locality	
	410-296-7423

Phone Number

# AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION

	T ALL 2 1/2 ALL
Name of Property Owner Appl	ying for Permit: Town of lorol ma Beach Bree Oakley
Mailing address:	121 N. Lake Park Blud
	Carolina Beach NC 28428
Phone Number:	910-458-2994
I certify that I have authorized	EJ Parvin Agent / Contractor
	pose of applying and obtaining all CAMA permits
necessary for the proposed de	velopment of <u>Hendricop Beech</u> Muts
at my property located at	0-100 (B Bench Arrens
in New Hanover	County.
This certification is valid throug	h <u>12/31/21</u>
	Date
(Property Owner Information	)
SE OV	
Signature	
Bruce Dateley	* 
Print or Type Name	
Town Monager Title	
9/16/20	
Date	
<u>910-458 -2997</u> Phone Number	
Email Address	Inc beach.org
Email Address	J

### NORTH CAROLINA GENERAL ASSEMBLY 1963 SESSION

### CHAPTER 511 HOUSE BILL 612

### AN ACT RELATING TO THE TITLE TO THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF CAROLINA BEACH IN THE COUNTY OF NEW HANOVER AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN.

WHEREAS, during the course of many years in the Town of Carolina Beach, in the County of New Hanover, North Carolina, much of the land abutting and fronting on the Atlantic Ocean in said town formerly belonging to various property owners has been and is now being washed away by successive storms, tides and winds; and

WHEREAS, the said Town of Carolina Beach, with aid from the State of North Carolina, the United States Government, and with its own funds, has from time to time made available funds with which to control the erosion caused by said tides and winds and other causes, and to that end the said town has pumped sand from Myrtle Grove Sound and also pushed up sand and hauled sand, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work has been completed the question will arise as to whom title to the said new land shall belong; and

WHEREAS, it is the desire of the authorities of the Town of Carolina Beach, as well as the State of North Carolina, to fix and define the title to such new land and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front which will be destroyed or taken by and through the making of such new made lands: Now, therefore,

The General Assembly of North Carolina do enact:

Section 1. All land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in the preamble to this Act, which will exist between the present eastern property line of the lot owners at present bordering on said ocean and the low water mark of the Atlantic Ocean after the work referred to in the preamble hereof is completed, shall be within the corporate limits of the Town of Carolina Beach and so much of said lands so filled in, restored and made which will lie West of "the building line" to be defined and determined by Section 2 of this Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying East of said "building line" to be fixed and determined by Section 2 of this Act is hereby granted and conveyed in fee simple to

Exhibit 1

the Town of Carolina Beach, provided, however, that no building or structure shall be built and erected on said made and built-up land lying East of "the building line" to be defined and set out in Section 2 of this Act, and provided further that all made and constructed land lying East of "the building line" shall be at all times kept open for the purpose of street and highways for the use of the public and further for the development and uses as a public square or park, as the governing authorities of the Town of Carolina Beach by ordinance shall determine; and provided further that if any such property as is hereby granted and conveyed to the Town of Carolina Beach shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, and provided further that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

171

Sec. 2. Within thirty (30) days from the date of the completion of said work to be carried on by the Town of Carolina Beach and referred to in the preamble hereof, the said Town of Carolina Beach shall, at its own cost, survey or have surveyed by a competent engineer a line to be known as "the building line", and which shall constitute and define "the building line" referred to in Section 1 of this Act, and which shall run the full length of the beach within the town limits, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Carolina Beach shall immediately cause to be prepared a map showing, fixing, and determining "the building line", which map so prepared shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a map book kept for said purposes, after the engineer has appended an oath to the effect that said line has been truly and properly surveyed and laid out and marked on said map, and the register of deeds shall properly index and cross-index said map, and when so recorded in said map book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and prima facie evidence of the facts thereon, without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section 1 of this Act.

Sec. 3. Any property owner or claimant of land who is in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Carolina Beach, or assert such claims by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successor or successors in title, within six (6) months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

Sec. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 5. This Act shall be in full force and effect from and after its ratification.

Page 2

S.L. 1963-511

House Bill 612

Exhibit 1

In the General Assembly read three times and ratified, this the 22nd day of May, 1963.

# Exhibit 1





	U.S. Postal Service <sup>™</sup> CERTIFIED MAIL <sup>®.</sup> RECEIPT Domestic Mail Only
9/16/20 (Date)	For delivery information, visit our website at www.ds/s.com. Wilhington No 28412 A Certified Mail Fee \$3.55 \$ Extra Services & Fees (check box, add fee & Loboropetor Return Receipt (hardcopy) \$ Return Receipt (electronic) \$ Return Receipt (electronic) \$ Certified Mail Restricted Delivery \$
(Adjacent Property Owner)	Adult Signature Restricted Delivery \$
<u>702 Bur ney St</u> (Mailing Address) <u>W: Immyten NC 28412</u> (City, State Zip Code)	Street and Apr. No., or PO Box No. FOL During St City, State, ZIP+4* WI MMM W UC 2.8412 PS Form 3800, April 2015 PSN 7530-02-000-9047 See. Reverse for Instructions
Dear Adjacent Property Owner:	
This letter is to inform you that I,	(Property Owner) have applied for a CAMA
Minor Permit on my property at0~100	(Property Address), in New Hanover County.
As required by CAMA regulations, I have en	nclosed a copy of my permit application and project
drawing(s) as notification of my proposed p	project. No action is required from you or you may sign
and return the enclosed no objection form.	If you have any questions or comments about my
proposed project, please contact me at	(Phone Number), or by mail at the address listed
below. If you wish to file written comments	or objections with the Carolina Beach CAMA Minor
Permit Program, you may submit them to:	Patrick Amico Field Rep 127 Cardinal Drive Ext. Wilmington, NC 28405

Sincerely,

(Property Owner)

1121 N. Lake Park Blud (Mailing Address)

(City, State, Zip Code)

175 175 U.S. Postal Service <sup>™</sup> CERTIFIED MAIL <sup>®</sup> RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com <sup>®</sup> . Caroling Bpach, OC 28428 USE State State Sta
9/16/20       Certified Mail Restricted Delivery \$       \$       0.00000000000000000000000000000000000
(Adjacent Property Owner)
1202 N (where Blud Suite A (Mailing Address)
Coolina Beach, NC 28478 (City, State Zip Code)
Dear Adjacent Property Owner:
This letter is to inform you that I, <u>TSCBI Bruce Oakley</u> have applied for a CAMA
Minor Permit on my property at <u>CB Bend Aruss</u> , in New Hanover County. (Property Address)
As required by CAMA regulations, I have enclosed a copy of my permit application and project
drawing(s) as notification of my proposed project. No action is required from you or you may sign
and return the enclosed no objection form. If you have any questions or comments about my
proposed project, please contact me at <u>9/0-459-2994</u> , or by mail at the address listed (Phone Number)
below. If you wish to file written comments or objections with the Carolina Beach CAMA Minor
Permit Program, you may submit them to:

Patrick Amico Field Rep 127 Cardinal Drive Ext. Wilmington, NC 28405

Sincerely,

ToCB/ Bree Ookley (Property Owner) 1121 N. Lohe Blind (Mailing Address)

(Mailing Address) <u>Contine Beach</u> NC 28928 (City, State, Zip Code)

9/16/20 (Date) Unown Investments LLC (Adjacent Property Owner) PC Bux 2304 (Mailing Address) Corolina Beach NC 28428 (City, State Zip Code)	176 U.S. Postal Service <sup>TM</sup> <u>CERTIFIED MALL® RECEIPT</u> <u>Domestic Mail Only</u> For delivery information, visit our website at www.usps.com*. Car (1) no Beach? W 28/28 TOLINES E Car (1) no Beach? W 28/28 TOLINES E Car (1) no Beach? W 28/28 TOLINES E Car (1) no Beach? W 28/28 TOLINES E Services & Fees (check box, add for \$20,000 Beturn Receipt (lactornic) Cartified Mail Feei \$3.55 Services & Fees (check box, add for \$20,000 Beturn Receipt (lactornic) Cartified Mail Restricted Delivery \$ Postage \$ 0.55 Total Postage and Fees \$ 86.95 Senvices & Free and Apt. No. or PO Box No. City Statis, 21P44 W 2000 April 2016 PEN 7550-02-000 9017 Senvices 2000 April 2016 PEN 750-02-000 9017 Senvices 2000 April 2016 PEN 750-02-000 9017 Senvices 2000 April 2016 PEN 7
Dear Adjacent Property Owner:	
This letter is to inform you that I, <u>601</u>	B/Brvae Oucky have applied for a CAMA (Property Owner)
Minor Permit on my property at	(Property Address), in New Hanover County.
As required by CAMA regulations, I have	e enclosed a copy of my permit application and project
drawing(s) as notification of my propose	ed project. No action is required from you or you may sign
and return the enclosed no objection for	m. If you have any questions or comments about my
proposed project, please contact me at _	(Phone Number), or by mail at the address listed
below. If you wish to file written commen	nts or objections with the Carolina Beach CAMA Minor
Permit Program, you may submit them to	o: Patrick Amico Field Rep 127 Cardinal Drive Ext.

Wilmington, NC 28405

199

Sincerely,

I

(Property Owner) (Mailing Address) Curling Beach NC 28428 (City, State, Zip Code)

	U.S. Postal Service <sup>™</sup>
177	CERTIFIED MAIL <sup>®</sup> RECEIPT
	の Domestic Mail Only
	For delivery information, visit our website at www.usps.com <sup>®</sup> .     □
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(Adjacent Property Owner)	гц <mark>\$</mark> \$6.95
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THE REAL PROPERTY OF THE PROPE	Street and Apt. No., or PO Box No. PO 1304 390
(Mailing Address)	City, State, 218+4° Beach NC 28428
	PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions
Carolina Beach NC 28428	
(City, State Zip Code)	
Dear Adjacent Property Owner:	
This letter is to inform you that I,(Property Owner)	have applied for a CAMA
Minor Permit on my property at (Property Address)	, in New Hanover County.
As required by CAMA regulations, I have enclosed a copy	of my permit application and project
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and return the enclosed no objection form. If you have any	v questions or comments about my
proposed project, please contact me at(Phone Number)	$\frac{94}{2}$ , or by mail at the address listed
below. If you wish to file written comments or objections with	ith the Carolina Beach CAMA Minor
Permit Program, you may submit them to:	
Patrick Amico	
Field Rep	·
127 Cardinal	Drive Ext.

Wilmington, NC 28405

Sincerely,

To CI3 / Brie Oakley (Property Owner) 1121 N. Lohe Pork 13/02 (Mailing Address)

Conl m Beest N 28428 (City, State, Zip Code)



ROY COOPER Governor MICHAEL S. REGAN Secretary BRAXTON C. DAVIS Director

October 6, 2020

CERTIFIED MAIL - # 7018 2290 0001 8295 7423 RETURN RECEIPT REQUESTED

Town of Carolina Beach c/o Bruce Oakley 1121 N. Lake Park Blvd. Carolina Beach, NC 28428

RE: DENIAL OF CAMA MINOR DEVELOPMENT PERMIT APPLICATION NUMBER- # CB20-15 PROJECT ADDRESS- Located between the 90 &100 Beach Accesses

Dear Mr. Oakley:

After reviewing the Town of Carolina Beach's application in conjunction with the development standards established through rules of the N.C. Coastal Resources Commission (CRC) and in accordance with the N.C. Coastal Area Management Act (CAMA), the proposed permit application must be denied due to inconsistencies with specific CRC rules.

You have applied to install beach mats between the Town's 90-100 Beach Accesses, which is inconsistent with 15A 07H .0306(a)(2), which states in part: "In no case shall new development be sited seaward of the development line". The proposed development is also inconsistent with 15 NCAC 7H .0308(c)(5), which states in part: "structural accessways may be constructed no more than six feet seaward of the waterward toe of the frontal or primary dune, provided they do not interfere with public trust rights and emergency access along the beach."

Should you wish to appeal my decision to the N.C. Office of Administrative Hearings (within twenty days of the date of this letter), please contact me so I can provide you with the proper forms and any other information you may require. Based on our recent communications, it is our understanding that the Town intends to pursue a petition for a variance from the N.C. Coastal Resources Commission. The Division remains committed to supporting this petition and assisting in any way so that it can be heard at the November



North Carolina Department of Environmental Quality | Division of Coastal Management Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557 252.808.2808 Town of Carolina Beach Page 2

meeting, provided your variance request is submitted in a timely matter. As previously discussed, the scheduled deadline for a variance petition for the November meeting is October 7, 2020 unless an extension is requested and granted by the CRC Chair. Please let us know if you have any questions or if we can assist in the submittal of your request. Your Town Attorney may contact our attorney, DEQ Asst. GC Christy Goebel at Christine.goebel@ncdenr.gov with any questions about the variance process.

Sincerely,

Bita

Braxton C. Davis DCM Director

cc: DCM MHC/WiRO



### ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

## ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Mikez Holdings LLC 702 Burney Street Wilmington, NC 28412-7149 Via US Certified Mail

### Re: Variance Request - Town of Carolina Beach

To Whom It May Concern,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

If the CRC grants the requested variance, the impermanent seasonal access decking will be constructed on the public land located adjacent to your property.

The Town's variance request will be heard at the next regularly scheduled meeting of the CRC, currently scheduled to be held on February 17<sup>th</sup> and 18<sup>th</sup> via video/virtual meeting using the WebEx video conferencing platform.

If you have any questions or comments about the Town's proposed project, please contact the Town Attorney, Noel Fox, Esq. at (910) 815-0085, or via e-mail at cnfox@craigeandfox.com, or by United States mail at the address listed below. If you wish to file written comments in support of, or objecting to the Town's proposed project, you should send your comments by e-mail, fax or regular United States Mail, addressed to the Division of Coastal Management, as follows:
Sincerely,



PS Form 3811, July 2015 PSN 7530-02-000-9053

N

Article Number (Transfer from service label)

94246

rred Mail rred Mail Restricted Delivery rr \$500)

Domestic Return Receipt



701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Urcowa Investments LLC PO Box 2304 Carolina Beach, NC 28428-2304 *Via US Certified Mail* 

# Re: Variance Request - Town of Carolina Beach

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Sincerely,



D. Is delivery address different from item 1?       Yes         If YES, enter delivery address below:       No         3. Service Type       Priority Mail Express@         Adult Signature       Registered Mail <sup>TM</sup> Certified Mail Restricted Delivery       Delivery         Collect on Delivery       Recinature Restricted Delivery         Collect on Delivery       Restricted Delivery         Collect on Delivery       Signature Confirmation <sup>TM</sup>	or on the front if space permits.          1. Article Addressed to:         1. Article Addressed to:         Urcowa Investments LLC         PO Box 2304         Carolina Beach, NC 28428-2304         Image: Addressed to:         9590 9402 6039 0069 3608 26         2. Article Number (Transfer from service label)         7017 2280
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oigriature	<ul> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse</li> </ul>



701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Carolina Smokehouse Holdings LLC PO Box 390 Carolina Beach, NC 28428-0390 *Via US Certified Mail* 

# Re: Variance Request - Town of Carolina Beach

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Sincerely,



<ul> <li>Priority Mail Express®</li> <li>Registered Mail<sup>™</sup></li> <li>Delivery</li> <li>Delivery</li> <li>Return Receipt for Merchandise</li> <li>Signature Confirmation<sup>™</sup></li> <li>Signature Confirmation</li> </ul>	<ol> <li>Service Type         <ul> <li>Adult Signature Restricted Delivery</li> <li>Certified Mail Restricted Delivery</li> <li>Collect on Delivery Restricted Delivery</li> <li>Collect on Delivery Restricted Delivery</li> <li>Insured Mail</li> </ul> </li> </ol>	9590 9402 6039 0069 3608 02 2. Article Number (Transfer from service label) 7 □ 1 & 1 1 3 □ □ □ □ 1 & 7 □ L 9 7 2 5 3
		Carolina Smokehouse Holdings LLC PO Box 390 Carolina Beach, NC 28428-0390
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Addressee	x	Print your name and address on the reverse so that we can return the card to you.
	A. Signature	Complete items 1, 2, and 3.
N DELIVERY	COMPLETE THIS SECTION ON DELIVERY	SENDER: COMPLETE THIS SECTION



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LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

> \*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Carolina Beach Land Holdings LLC 1202 N Lake Park Blvd Suite A Carolina Beach, NC 28428-4131 *Via US Certified Mail* 

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\*Board Certified Specialist in Elder Law

# ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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January 6, 2021

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Sincerely,



SENDER: COMPLETE THIS SECTION       COMPLETE THIS SECTION ON DELIVERY <ul> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> <li>Article Addressed to:</li> <li>Urcowa Investments LLC PO Box 2304</li> <li>Carolina Beach, NC 28428-2304</li> <li>Service Type</li> <li>Adduit Signature</li> <li>Adduit Signature</li> <li>Adduit Signature</li> <li>Adduit Signature</li> <li>Service Type</li> <li>Collect on Delivery</li> <li>Collect on Delivery</li> <li>Signature Confirmation</li> <li>Received Delivery</li> <li>Signature Confirmation</li> </ul>		ver \$500)	
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701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Carolina Smokehouse Holdings LLC PO Box 390 Carolina Beach, NC 28428-0390 *Via US Certified Mail* 

# Re: Variance Request - Town of Carolina Beach

To Whom It May Concern,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

If the CRC grants the requested variance, the impermanent seasonal access decking will be constructed on the public land located adjacent to your property.

The Town's variance request will be heard at the next regularly scheduled meeting of the CRC, currently scheduled to be held on February 17<sup>th</sup> and 18<sup>th</sup> via video/virtual meeting using the WebEx video conferencing platform.

Sincerely,



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		Carolina Beach, NC 28428-0390
		Carolina Smokehouse Holdings LLC PO Box 390
low: INO	D. Is delivery address different from item 1? If YES, enter delivery address below:	1. Article Addressed to:
C. Date of Delivery	B. Received by (Printed Name)	<ul> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>
Agent     Addressee	x	Print your name and address on the reverse so that we can return the card to you.
	A. Signature	Complete items 1, 2, and 3.
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LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

> \*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Carolina Beach Land Holdings LLC 1202 N Lake Park Blvd Suite A Carolina Beach, NC 28428-4131 *Via US Certified Mail* 

# Re: Variance Request - Town of Carolina Beach

To Whom It May Concern,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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Sincerely,







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LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

### ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Wayne Rouse 508 Monroe Ave. Carolina Beach, NC 28428 *Via US Certified Mail* 

#### Re: Variance Request - Town of Carolina Beach

Dear Mr. Rouse,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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If you have any questions or comments about the Town's proposed project, please contact the Town Attorney, Noel Fox, Esq. at (910) 815-0085, or via e-mail at **cnfox**(*a*)**craigeandfox.com**, or by United States mail at the address listed below. If you wish to file written comments in support of, or objecting to the Town's proposed project, you should send your comments by e-mail, fax or regular United States Mail, addressed to the Division of Coastal Management, as follows:

#### PRACTICE AREAS

Sincerely,







701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law

# ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Marcia Morgan 110 Green Turtle LN Carolina Beach, NC 28428 *Via US Certified Mail* 

### Re: Variance Request - Town of Carolina Beach

Dear Ms. Morgan,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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Sincerely,



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PS Form 3811, July 2015 PSN 7530-02-000-9053 7018 1130 0001 8707 2116 2. Article Number (Transfer from service label)

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Domestic Return Receipt

 Signature Confirmation<sup>TM</sup>
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LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

## ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Larry & Dani Liptak 2092 Forest View Cir Leland, NC 28451 *Via US Certified Mail* 

## Re: Variance Request - Town of Carolina Beach

Dear Mr. and Mrs. Liptak,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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#### PRACTICE AREAS

Sincerely,







Larry & Dani Liptak 2092 Forest View Cir Leland, NC 28451

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		2092 Forest View Circle
		Larry & Dani Liptak
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Agent     Addressee	X Signature	<ul> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> </ul>
DELIVERY	COMPLETE THIS SECTION ON DELIVERY	SENDER: COMPLETE THIS SECTION

CRAIGE<sup>46</sup> FOX

#### ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

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\*Board Certified Specialist in Elder Law

### ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Steve Wright 1224 Spot Lane Carolina Beach, NC 28428 *Via US Certified Mail* 

# Re: Variance Request - Town of Carolina Beach

Dear Mr. Wright,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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Braxton Davis, Director E-mail: Braxton.Davis@ncdenr.gov Division of Coastal Management 400 Commerce Ave Morehead City, NC 28557 252-808-2808 / 1-888-4RCOAST (1-888-472-6278) Fax: 252-247-3330

Sincerely,

Charlotte Noel Fox, Town Attorney Town of Carolina Beach 1121 N Lake Park Blvd. Carolina Beach NC 28428



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Steve Wright 1224 Spot Lane Carolina Beach, NC 28428

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## ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX \*Board Certified Specialist in Elder Law

ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

> \*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Ashley Thomas 3729 Murphey School Drive Durham, NC 27705 Via US Certified Mail

# Re: Variance Request - Town of Carolina Beach

Dear Ms. Thomas,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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#### PRACTICE AREAS

Braxton Davis, Director E-mail: Braxton.Davis@ncdenr.gov Division of Coastal Management 400 Commerce Ave Morehead City, NC 28557 252-808-2808 / 1-888-4RCOAST (1-888-472-6278) Fax: 252-247-3330

Sincerely,

Charlotte Noel Fox, Town Attorney Town of Carolina Beach 1121 N Lake Park Blvd. Carolina Beach NC 28428



9590 9402 6039 0069 3608 95 2. Article Number (Transfer from service label) フロユ各 ユユヨロ ロロコ  各フロフ  ミユキフ	Ashley Thomas 3729 Murphey School Drive Durham, NC 27705	1. Article Addressed to:	<ul> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	SENDER: COMPLETE THIS SECTION
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#### ATTORNEYS & COUNSELORS AT LAW

701 Market Street / Wilmington, North Carolina 28401 Telephone: (910) 815-0085 / Facsimile: (910) 815-1095 / www.craigeandfox.com

LAWRENCE S. CRAIGE\* CHARLOTTE NOEL FOX

\*Board Certified Specialist in Elder Law

## ASHLEY MICHAEL\* JENNIFER M. RODEN\*\*

\*Board Certified Specialist in Family Law \*\*Board Certified Specialist in Elder Law

January 6, 2021

Lacie McDonald 606 S 10th Street Wilmington, NC 28401 Via US Certified Mail

# Re: Variance Request - Town of Carolina Beach

Ms. McDonald,

This letter is to inform you that The Town of Carolina Beach is applying for a variance to the North Carolina Coastal Resources Commission (CRC) from 15 NCAC 07H.0306 (a)(2) and 15 NCAC 07H.0308 (c)(5) in order to install impermanent seasonal access decking which assists disabled individuals with gaining access to the beach.

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Braxton Davis, Director E-mail: Braxton.Davis@ncdenr.gov Division of Coastal Management 400 Commerce Ave Morehead City, NC 28557 252-808-2808 / 1-888-4RCOAST (1-888-472-6278) Fax: 252-247-3330

Sincerely,

Charlotte Noel Fox, Town Attorney Town of Carolina Beach 1121 N Lake Park Blvd. Carolina Beach NC 28428

ATTORNEYS & COUNSELORS AT LAW O





Lacie McDonald 606 S 10th Street Wilmington, NC 28401

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PS Form 3811, July 2015 PSN 7530-02-000-9053	D	Domestic Return Receipt

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From: sean hart [mailto:sean.kotu@gmail.com]
Sent: Monday, January 25, 2021 8:38 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach Mats At Carolina Beach

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

I am writing in the hope that you will consider reinstalling the mat at Carolina Beach to facilitate better access to the beach to people that need to use wheelchairs and other mobility aids this year. It was such a joy to be able to go to the beach with friends that need wheelchairs. I feel it sets a tone that says "yes, even those of you with wheelchairs belong here." It was genuinely a bummer to see it go and I hope you will reconsider the importance of the message they sent. It was an honor to know that just blocks from where I lived in my teens was a place that said "you belong here."

Thank you for the consideration, and if there is anything I am able to do to help ensure it is put back out I would really appreciate knowing.

Sean Hart

From: Lacy Kinsolving [mailto:lacyakinsolving@gmail.com]
Sent: Thursday, January 21, 2021 12:29 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach accessibility

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Dear Mr. Braxton Davis,

I was hoping that you could assist in returning the mats at Carolina Beach which allow handicap access. My family and friends with disabilities thoroughly enjoyed their time on the beach. It brought so much joy to their lives. I have also seen the local elderly in wheelchairs pushed out onto the mats. The access to the beach improved their quality of life. I would deeply appreciate your help in this matter. Thank you, Sir.

> Sincerely, Lacy A. Kinsolving

From: Skye Anderson [mailto:skyelanderson@yahoo.com] Sent: Tuesday, January 19, 2021 10:32 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Equal access-beach mats CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.<<u>mailto:report.spam@nc.gov</u>>

Mr. Braxton Davis,

I support the installation of mats that give disabled people access to the beaches. I am physically disabled and the mats make it possible for me to enjoy the beach- just like anyone else.

The removal of the beach mats denies not only mine, but other physically disabled people's access to the beach. I consider this an act of ableism and discrimination in favor of able-bodied people. Please consider returning the beach mats at the Carolina Beach ADA boardwalk access point, and the same size as the ones that were previously removed, 2,800 square feet. I hope to use the mats this year so my friends and family members no longer have to drag me in my wheelchair through the sand in order to enjoy the beach with them. I would appreciate having equal access.

Thank you, Skye Anderson

From: Caitlyn Hecox [mailto:caitlynhecox@gmail.com]
Sent: Tuesday, January 19, 2021 7:18 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach mats, pleas read.

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Mr. Braxton Davis,

I support the installation of mats that give disabled people access to the beaches. I have a friend who regularly uses the beach mats because she is disabled and requires a power wheelchair to get around.

Put yourself in other's shoes and imagine not having the ability to freely adventure where you want. Providing access to the beach for those who use wheelchairs is a simple way to enhance another person's quality of life.

Please consider returning the beach mats at the Carolina Beach ADA boardwalk access point, and the same size as the ones that were previously removed, 2,800 square feet. I hope you consider providing access to all and return the beach mats so people of all abilities can enjoy nature's beauty.

Thank you, Caitlyn Hecox From: Malia Tarasek [mailto:maliatarasek@lucidoagency.com]
Sent: Tuesday, January 19, 2021 11:23 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Carolina Beach mats

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Mr. Davis,

Good morning, I support the installation of mats that give disabled people access to the beaches. My friend Danielle Liptak, personally uses them as she uses a wheelchair. You may have heard from Danielle and some of her other friends - she is an advocate for disabled citizens and I support her efforts!

Please consider returning the beach mats at the Carolina Beach ADA access point on the boardwalk, the same size as the ones that were previously removed, so that everyone has the ability to enjoy the beach, even those with a disability.

Thank you,

# MALIA TARASEK, REALTOR® & Team Leader

cell: 703.309.5262 direct: 202.869.0299

main: 877.362.2689 MaliaTarasek.NoVA.LucidoAgency.com

From: Kathy Lindenmayer [mailto:kathylindenmayer@gmail.com]
Sent: Tuesday, January 19, 2021 10:58 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] beach mats

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam</u>.

Hi there,

I'm writing to encourage you to bring back the ADA-compliant beach mats on Carolina Beach so that all our neighbors have access to the beach. I thought it was exclusive and unneighborly to remove them and especially during this period, when we need to do what we can to keep ourselves and our neighbors healthy (which means mostly outdoors). It's a simple solution that makes such a difference in who we see on the beach - which should be everyone.

Thank you for your consideration,

#### Kathy Lindenmayer

From: Zak Duff [mailto:zmduff@gmail.com]
Sent: Tuesday, January 19, 2021 9:05 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Carolina Beach handicap access matts

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam</u>.

Mr. Braxton Davis,

I support the installation of mats that give disabled people access to the beaches. I personally know several people who use the beach mats because they are disabled and require a power wheelchair to get around.

I consider the removal of the beach mats an act of abelism as access is being denied due to disability. This is discrimination in favor of able-bodied people. Please consider returning the beach mats at the Carolina Beach ADA boardwalk access point, and the same size as the ones that were previously removed, 2,800 square feet. I hope my friends are able to use the beach mats this year and every year so they can have equal access.

Thank you for your time.

Zak Duff

Z. Duff (336) 684-3689 <u>www.zakduff.com</u> <u>zmduff@gmail.com</u>

From: Dani L [mailto:liptakdv88@gmail.com]
Sent: Tuesday, January 19, 2021 9:14 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Carolina Beach mats

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#### Mr. Braxton Davis,

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I consider the removal of the beach mats an act of abelism as access is being denied due to disability. This is discrimination in favor of able-bodied people. Please consider returning the

beach mats at the ADA boardwalk access point, and the same size as the ones that were previously removed, 2,800 square feet. I hope to use the beach mats this year and every year so I can have equal access as the rest of the public.

Thank you,

Danielle Liptak

From: Warren Stephens [mailto:wstephens210@gmail.com]
Sent: Tuesday, January 19, 2021 10:17 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Your Support IS Needed For Granting Variance

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Good morning Mr. Davis. I am writing to kindly ask for your support and assistance in getting the variance approved that has been submitted by Ocean Cure and Carolina Beach Parks and Recreation. This is for the handicap accessible beach mats. Those in the local community who had the pleasure of using these mats in the past have been dealt a hard blow by seeing them taken away. I believe that everyone should have equal access to the beautiful coastline that we are blessed to enjoy in this area. At the same time I am understanding of the needs of the local wildlife and bird population. Surely there is some common ground and a resolution can be found.

My mother was in a wheelchair most all of her life. I remember family vacations to the Myrtle Beach area. All she could do was sit at the end of a dock or pier and look at everyone else being able to enjoy themselves down by the ocean. What she would have given to be able to put her toes in the sand and feel the coolness of the water. A handicap accessible beach mat would have made an amazing difference for her. That is what I and many others are wanting for so many people in this community. These mats are truly life changing!

Please do everything that you can to make this possible once again and allow the mats to be placed on the beach like they have been in the past. Thanks for your time and help!

Warren Stephens Hampstead, NC

From: Jessica Teachey [mailto:jnteachey14@gmail.com]
Sent: Tuesday, January 19, 2021 10:24 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach mats in CB

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Mr. Braxton Davis,

I support the installation of mats that give disabled people access to the beaches. I have several friends and family who use the beach mats because they disabled and require a power wheelchair to get around.

I consider the removal of the beach mats an act of abelism as access is being denied due to disability. This is discrimination in favor of able-bodied people. Please consider returning the beach mats at the Carolina Beach ADA boardwalk access point, and the same size as the ones that were previously removed, 2,800 square feet. I hope they can use the beach mats this year and every year so they can have equal access as the rest of the public.

Thank you, Jessica Teachey

Thank you for your time,

Jessica Teachey 910.233.6446

From: Sue Kezios [mailto:smkezios@gmail.com]
Sent: Friday, January 15, 2021 3:50 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach Mats for disabled citizens

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Greetings,

I am writing to support the installation of mats that assist disabled access to our beaches, specifically at Carolina Beach. I have had the pleasure of working with the team who is spearheading this movement over the past decade. I have seen the miracles they perform with both wounded warriors, senior citizens and young children who are physically challenged to enjoy the simple pleasure that so many of us take for granted - going to the beach.

I don't know how this can be denied to this group of citizens of North Carolina who have to struggle every day to navigate the challenges many of us never even have to consider.

I am an avid environmentalist, but I don't believe it is asking too much to allow this small exception.

Sincerely, Sue Kezios From: Elizabeth Crace [mailto:elizabeth.crace@nhcs.net] Sent: Saturday, January 16, 2021 11:56 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Support for mats

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Please support installation of mats that assist disabled access to our beaches! I live and teach in Carolina Beach and we need the mats to help residents enjoy the outdoors and also for our students with disabilities to have access to the beach for enjoyment and education.

Sent from my iPad

From: Lisa McVay [mailto:lamcvay57@gmail.com] Sent: Saturday, January 16, 2021 6:29 PM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach wheelchair mats

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to <u>Report Spam.</u>

Good evening.

I am writing to express my total, unwavering support of the beach mats at Carolina Beach. We have been part time Carolina Beach residents for 10 years, and in 2015 our teenage daughter was in a horrible accident which resulted in a below knee amputation. Recovery meant months in a wheelchair and all she wanted was to get back out on the beach. These mats would have made a huge difference in her recovery.

A few years ago, she and I were sitting on the beach at the Carolina Beach Ocean Blvd access point and a young woman wheeled her husband/boyfriend onto the beach using a conventional wheelchair. I can still remember the look of contentment and peace on their faces, sitting on the beach, watching the waves. Caregivers do not often get time for themselves, so I am sure this was a treat for both. As they attempted to leave, it was clear that pushing the wheelchair uphill in deep sand wouldn't work, and dragging it was going to take all her strength. I hopped up and grabbed one handle of the chair and 2 other ladies soon joined us. The four of us dragged the chair to the parking lot in short order, but you could tell that the young man in the chair was both grateful and embarrassed. My daughter hated needing help when she was in a wheelchair, so I think I understood his emotions.

I told the couple about the wheelchair mats at the boardwalk beach access downtown and how the whole boardwalk was very wheelchair friendly. They were so excited to hear that future trips to the ocean did not have to be so difficult.

I thought about this couple when I heard the mats would not be replaced this past summer. Life can be tough for anyone using a wheelchair, walker, crutches or other mobility aids. Please let them get to the beach. Respectfully yours, Lisa McVay

From: Patricia Fossett [mailto:patfossett1@gmail.com] Sent: Sunday, January 17, 2021 8:50 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Mats for disabled people

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Dear Mr. Davis,

I'm in full support of the installation of mats for all disabled people.

This will allow our fellow human beings to enjoy something the majority of us take for granted. Sand and seashells beneath their toes and the awe inspiring look, feel and taste of the ocean along with its smell and breezes.

How could we possibly deny this.....

Kind regards, Pat Fossett 216 Atlanta Avenue Carolina Beach, NC 704-301-3375

Sent from my iPad

From: Mona Baker [mailto:mona2thebeach@gmail.com]
Sent: Sunday, January 17, 2021 2:57 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Fwd: Beach Variance at Carolina Beach

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Please allow the variance to support the installation of mats that assist the disabled access to our beaches. Thank you, Mona Baker From: Sheri Ruis [mailto:shr17@yahoo.com]
Sent: Friday, January 15, 2021 12:25 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] In Support of mats for the disabled

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Mr. Davis,

I am writing to you as a parent of a disabled son. We live in Waxhaw, NC and my 11 year old son, Cameron was born with Spina Bifida and is a full-time wheelchair user as he is paralyzed.

The purpose of my email is to support the installation of mats that assist disabled access to NC beaches. Without a mat, it is nearly impossible to get him down to the beach with our family. He and the other disabled citizens deserve the right to access the beaches.

I hope the NC Coastal Resources Commission will vote YES for the variance required to allow beach mats. It is the right and just thing to do. Thank you for your time.

Sheri Ruis Executive Manager Scout & Cellar, Independent Consultant <u>sruisscoutandcellar@yahoo.com</u> cell: 704.957.9268 scoutandcellar.com/sheriruis

From: Katie Leath [mailto:katieleath@gmail.com] Sent: Tuesday, January 19, 2021 8:33 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach - Beach Mats

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Mr. Davis,

I hope you're having a productive start to the new year. I'm sending you a note in respect to the city of Wilmington's need for accessibility to their beaches. In particular right now, Carolina beach.

I support the installation of mats that give disabled people access to the beaches. Have you ever tried to access the beach with someone in a walker or a wheelchair? The wheels are not built for the sand. Mats are not an option- they're necessary. I have friends and family that would love to go to the beach without it being a torturous hassle for them.

I think it's unfortunate that we are still fighting for something that should already be there.

Not having the mats on the beach is discrimination. The same size (2,800 sq feet as before) beach mats at the Carolina Beach ADA boardwalk access point need to be replaced this year.

I hope to use the beach mats this year and every year with my loved ones. I hope your disabled loved ones can, too.

Thank you, Katie Leath 607.368.0124

Sent from my iPhone

From: M P [mailto:free10708@hotmail.com]
Sent: Friday, January 15, 2021 2:53 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Carolina Beach Variance installation of mats that assist disabled access to our beaches!

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To whom it may concern.

My husband and I moved here to live near the beautiful beach.

We were pleasantly surprised to find out last year that the beach was wheelchair accessible.

I was struck such a treasure.

Then we were informed the matter being taken away.

Hopefully you can do something to prevent that from happening.

Thank you for your time.

Terry P

From: Mike Dascal [mailto:mike@cltfoundation.org] Sent: Friday, January 15, 2021 2:50 PM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] It's the RIGHT thing to do....

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\*please approve these mats...

#### \*\*UPDATE: BEACH ACCESSIBLE MAT\*\*\*

The Town of Carolina Beach Government, NC, Carolina Beach Parks and Recreation and Ocean Cure have been working extremely hard over the past couple of months completing and submitting the Variance Request. The communication we have had so far with NC DEQ: North Carolina Environmental Quality Division of Coastal Management has been very positive. They have helped lead us through this process and made recommendations. Personally I am very hopeful that the Variance will be granted in the February meeting. There is still one last thing the general public can do to help. Write, email or fax.

Support installation of mats that assist disabled access to our beaches! The NC Coastal Resources Commission is scheduled to review the town's request for variance at their meeting on Feb 17th and 18th. This variance is needed to put the mats in place. Let the CRC know you are in favor of this access by sending your comments by email, fax or USPS to Fax: 252-247-3330 Braxton Davis Division of Coastal Management 400 Commerce Ave More head City, NC 28557

#### **Mike Dascal**

**Co-Founder & Executive Director - Changing Lives Together (CLT) Foundation** <u>mike@cltfoundation.org</u> (704) 620-9203

From: Liz Bordeaux [mailto:liz.c.bordeaux@gmail.com] Sent: Friday, January 15, 2021 2:50 PM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Beach accessible mats

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Please install beach accessible mats. It makes a difference. Everyone should be able to enjoy our NC beaches.

Sent from my iPhone

From: Oots, Joseph [mailto:OotsJ@fnb-corp.com] Sent: Friday, January 15, 2021 9:19 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach handicap beach access.

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January 15, 2021

Braxton Davis NCDENR

Dear Mr. Davis,

I am writing you to express my support for a code variance to accommodate the handicap beach access mats at Carolina Beach.

This beach access allows many of our most vulnerable and challenged citizens access to the beach that the rest of us able bodied citizens also enjoy. I have seen the beach mats and walked on them. I have seen them utilized by persons in wheelchairs. I have not seen any negative impact to the beach. They are not permanent and do not in any way change the landscape or cause erosion. They do not interfere with birds or nesting because they are located at a heavily travelled beach access where birds would not nest. The only potential impact I can imagine is that if a sea turtle tried to dig a nest in the exact spot they would be thwarted by the mat. I'm no expert on sea turtles but I would imagine in the rare occurrence of that happening the sea turtle would simply continue and build it's nest a few feet away. You are probably aware that sea turtle nest are protected by volunteers and nurtured until they hatch. Assuming the handicapped mat interfered with a nest hatch, volunteers would make accommodations to ensure the turtles have as good a chance of reaching the sea as any other hatchling. In fact probably a better chance because the location would be so heavily monitored.

I consider myself a strong supporter of environmental and wildlife protections and while I am a Banker and not a scientist it certainly appears to me that the environmental impact of these mats is nil. If one were to weigh a potential negative consequence of these mats against the benefits to our physically challenged brothers and sisters; the scale would tip in the direction of permitting the mats every time.

I certainly hope that the variance is approved. It should not create a precedent to allow other more negatively impactful projects to occur and hopefully it will create a precedent to permit other beaches to provide more accessible beaches to all members of our society. Thank you for your consideration.

Joe Oots 5220 Calais Circle Wilmington, NC 28409 336-880-3751

Joe Oots Special Assets Manager First National Bank 1508 Military Cutoff Road, Suite 100 Wilmington, NC 28403 Office (910) 344-0021 Cell (336) 880-3751 Ootsj@fnb-corp.com

From: Erik Bigsby [mailto:erik.bigsby2@nhcs.net]
Sent: Friday, January 15, 2021 9:44 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Support of Carolina Beach Access Mat

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Mr. Davis, good morning!

I am writing as a resident of Carolina Beach who is in full support of the Ocean Cure sponsored Beach Mat that allows better access to the beach for people with physical disabilities.

Ocean Cure maintains the beach mat and provides a great service to the community!

I hope that they have your support in pursuing a Variance that allows the mats to be placed on the sand for the upcoming season.

Thank you for your time! -Mr. Erik Bigsby Fifth Grade Teacher and Concerned Citizen College Park Elementary School

From: The Collective Great [mailto:thecollectivegreat@gmail.com]
Sent: Friday, January 15, 2021 10:23 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Carolina Beach Wheelchair Accessible Mats.

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Hi Braxton!

I am in support of the mats! Please grant variance.

Thank you so much!

Cheers, Brad Cutler (910)-707-3977

From: Laura Pica [<u>mailto:lcpica16@gmail.com</u>] Sent: Friday, January 15, 2021 10:26 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Mats in Carolina Beach

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.<<u>mailto:report.spam@nc.gov</u>>

Hello,

My name is Laura, I live in Wilmington, and I often spend time at Carolina Beach. My nephew has cerebral palsy and is wheel-chair bound and so going to the beach has always been a struggle for my family. Although it would be closer for us to go to Wrightsville, the wheel chair accessible mats at Carolina Beach make it possible for my whole family to enjoy the coast, and not just some of us. I am writing this email in hopes that the accessible mats at CB will be put in place again.

Thank you,

Laura Pica

Sent from my iPhone

From: David Marshall [mailto:davidmnc\_1999@yahoo.com] Sent: Friday, January 15, 2021 10:33 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach Accessible Mat

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Mr. Davis,

As a resident of the CB, and member of the Island Men nonprofit organization I was more than a little saddened by the removal of the handicapped accessible beach mat last year. That mat has become part of our identity as a community, and just one example of the feelings we all share that our beaches are for EVERYONE. Not just the select few who live here or are able to walk through the deep sand. These mats are more important that many will ever know. I hope you will vote for the variance to allow it to return in 2021. In this crazy world we live in our beaches should be accessible to all to reflect, and enjoy what Mother Nature has provided.

Thank you for your consideration.

David Marshall 910-336-1390

Sent from my iPhone From: M P [mailto:YankeesBleachers@hotmail.com] Sent: Friday, January 15, 2021 11:04 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach Variance installation of mats that assist disabled access to our beaches!

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Braxton Davis Division of Coastal Management 400 Commerce Ave More head City, NC 28557

Dear Mr. Davis,

Please allow the reinstallation of the mats at carolina beach.

I moved to the area because of this feature.

Its the only beach in the area that allows me to get close to the water.

lam an amputee in a wheelchair.

Thank you and God Bless

## Matt Pompillo

From: Patrick Conley [mailto:websearchandrescue@gmail.com]
Sent: Friday, January 15, 2021 11:09 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Disabled Access Mats Variance for Carolina Beach, NC

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Good Morning Mr. Braxton Davis,

As a full time home owner in Carolina Beach for nearly a decade now, I want to commend the many efforts of the OceanCure team and their leader, Kevin Murphy. They are currently navigating the legal process of securing a variance to allow them to continue to do good things for our residents and the thousands of tourists to our town by placing wheelchair access mats in a very small section of our public beaches.

#### Please let this communication serve as my support for this important request.

Thank you for your attention to this matter and helping thousands of disabled adults and children enjoy the beauty that is Carolina Beach!

-Patrick Conley 1506 Snapper Ln. Unit 2 Carolina Beach, NC 28428

From: Cheryl Bansch [mailto:Cheryl.Bansch@ucps.k12.nc.us]
Sent: Friday, January 15, 2021 12:44 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Variance Request

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Good afternoon,

I'm writing in support of the variance request to allow installation of beach mats that assist those who are disabled to access NC beaches. North Carolina's beaches are beautiful and EVERYONE should be able to enjoy them! So in honor of a very special student of mine who needs beaches to be wheelchair accessible, please grant this variance.

Sincerely, Cheryl Bansch, RN, BSN, NCSN School Nurse Rea View Elementary School 320 Reid Dairy Road Waxhaw, NC 28173 704-290-1524 (Phone) 704-845-1653 (Fax)

From: Alisa Perry [mailto:alisadperry@ymail.com]
Sent: Friday, January 15, 2021 1:18 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Wheelchair Accessible Mats- Carolina Beach

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Good afternoon Mr. Davis,

I am writing in support of wheelchair accessible mats at our beach access in Carolina Beach and implore you to support it as well. As an employee of the Town of Carolina Beach, I see firsthand how much of an impact it has on our local community. Additionally, many non-local families choose our beach specifically so that their disabled loved ones may also experience a luxury that many of us take for granted.

As an environmentalist and former member, and forever volunteer, of Surfrider Foundation and Oceana. I understand concerns related to the well being of our marine life. We have volunteers that go to great lengths to ensure our turtles have clear and protected access to our miles of beaches. Patrolled every morning during laying season, any nests would be properly relocated.

Please consider allowing our community to move forward permanently with something that has brought so much joy in times when we could use it most.

Thank you for your consideration,

Alisa D. Perry

From: Virginia Holman [mailto:virginiaholmanwrites@gmail.com]
Sent: Wednesday, January 13, 2021 8:55 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Beach mats

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Dear Mr. Davis,

I hope you will read this national article I recently wrote for Sierra magazine that highlights the need for disability access to the outdoors. It features some people affected by the beach mat removal in Carolina Beach. I am an environmentalist and as 16 year resident of the island and I support finding a smart way to restore accessibility.

https://www.google.com/amp/s/www.sierraclub.org/sierra/inside-concept-birdability%3famp Virginia Holman From: Molly Maguire [mailto:msm11649@gmail.com]
Sent: Wednesday, January 13, 2021 4:40 PM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>
Subject: [External] Access to the NC beaches via mats for the disablef

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Thank you for your attention to this notice. I served 23 years as an Army physical therapist from 1978-2001. I saw too many service members sacrifice for this country. Anything we can do to allow/ improve beach access to all disabled individuals is greatly appreciated. Thank you .

From: Ed Parvin [mailto:ed.parvin@carolinabeach.org]
Sent: Tuesday, January 12, 2021 10:35 AM
To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>>; Noel Fox
<<u>CNFox@craigeandfox.com</u>>; Lucasse, Mary L <<u>mlucasse@ncdoj.gov</u>>; Goebel, Christine A
<<u>Christine.Goebel@NCDENR.GOV</u>>
Cc: Jeremy Hardison <<u>jeremy.hardison@carolinabeach.org</u>>; Bruce Oakley
<<u>Bruce.Oakley@carolinabeach.org</u>>; Willis, Angela <<u>angela.willis@ncdenr.gov</u>>
Subject: RE: [External] Town of Carolina Beach Variance Request

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Braxton et al,

The attached letter was just sent to Carolina Beach.

V/R,

Ed H. Parvin Town of Carolina Beach Assistant Manager 910 465 2766

December 21, 2020

Ocean Cure,

Thank you for your efforts to make the beach more accessible. The mats that you have provided on the beach have served many people well. The mats have helped populations of people who may not otherwise have opportunities to experience the beach or ocean.

The mats have been a useful resource during events designed to honor and empower wounded warriors and family members. The mats on the beach have been used routinely while helping hundreds of warriors and family members reach the next part of their warrior journeys.

One benefit of the mats that we have experienced is that they make it easier for people who can not walk, or have difficulty walking, to get on the beach and closer to the ocean so they can experience what is offered. A great example of this benefit has been witnessed many times when people who use wheelchairs could suddenly navigate on the beach independently. The mats have also received rave reviews from many family members who often comment about how much easier the mats make it for them to access the beach and ocean.

We hope the mats are available for many more people to become empowered.

Sincerely,

Jason Pratscher peer leader specialist



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Hello!

I am writing in support of the installation of mats that assist disabled access to our beaches. I'm hoping that you will support the town's request for a variance from the NC Coastal Resources Commission at their meeting on Feb 17th and 18th.

Thank you! Linda Whelan

From: MARCIA MORGAN [<u>mailto:m2doc@aol.com</u>] Sent: Thursday, January 14, 2021 10:51 AM To: Davis, Braxton C <<u>Braxton.Davis@NCDENR.Gov</u>> Subject: [External] Carolina Beach Variance Request - Decking

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# Director Davis,

I adamantly support the installation of seasonal access decking (mats) that allow disabled individuals to fully enjoy the beach experience.

This is a very small expanse of beach, right in the heart of Carolina Beach. While I also am a strong environmentalist and support protecting wildlife, I also value enhancing the quality of life for those who have limited opportunities. There are miles of beach for wildlife and only a few yards for humans.

I have encountered a number of people who have been positively impacted, but the ones who touch my heart the most are the mothers who are in tears because of this opportunity to show their children a few hours of sun and sand.

Please approve the variance as requested.

Marcia Morgan COL, US Army (Ret) Division of Coastal Management



# Town of Carolina Beach Variance Request

**New Hanover County** 

February 18, 2021



Leland Wilmington New Hanover

Wrightsville Beach

Winnabow

Myrtle Grove

runswick

Carolina Beach

Project area

Oak Island

25

Southport

© 2020 Google Data SIO, NOAA, U.S. Navy, NGA, GEBCO Image Landsat / Copernicus Carolina Beach

247

Project site

Carolina Lake

© 2020 Google

Development
 Line

Static Vegetation Line

Project site

Image source: DCM Map Viewer (2020 aerial)

248



# Exhibit 4. (2016 aerial)

# Photo taken June 2020. Northem end of project site facing east.





Project site facing west. June 2020


Width of the Beach



## Exhibit 5. (2016 aerial)









### Exhibit 12B.













# Exhibit 12F.













261



# Exhibit 12J.

# Exhibit 12K.







































#### VARIANCE CRITERIA

#### 15A NCAC 07J.0703(f)

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

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;
- (3) that such hardships did not result from actions taken by the petitioner; and
- (4) 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.