PRMUSACE - Julia A Appleget

Dare County

Project ID #100610

This property portfolio has been created for the NC DEQ Division of Mitigation Services. It includes real property documents related to compensatory mitigation. Typical documents include recorded conservation easements, warranty deeds, and plats. Other relevant legal documents and illustrations are incorporated when they provide insight to the intended audience of land stewards, landowners and program personnel.

NORTH CAROLINA
Department of Environmental Quality

Filed Book: 1569 Page: 183 Doc Id: 6136653
06/08/2004 03:07PM Receipt #: 114345
Doc Code: ESMT
BARBARA M GRAY, REGISTER OF DEEDS DARE CO, NC

6136653
Page: 1 of 7
06/08/2004 03:07P

EXEMPT
DARE COUNTY TAX
COLLECTOR
NO. 3360-04

STATE OF NORTH CAROLINA
DARE COUNTY

CONSERVATION EASEMENT

Prepared by Christopher L. Seawell
Return to:
Blaine Rice
State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

THIS CONSERVATION EASEMENT DEED, made this 1st day of May, 2004, by JULIA A. APPLEGET, unmarried, Grantor, whose mailing address is P. O. Box 70, Hatteras, NC 27943, to the State of North Carolina, Grantee, whose mailing address is State of North Carolina State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321. The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. 143-214.8 et seq., the State of North Carolina has established the Wetlands Restoration Program (as defined in N.C. Gen Stat. 3 143-214.8) within the Department of Environment and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, and creating wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; and

WHEREAS, the Wetlands Restoration Program in the Department of Environment and Natural Resources has approved acceptance of this instrument; and

WHEREAS, the acceptance of this instrument for and on behalf of the State of North Carolina has been granted to the Department of Administration by resolution as approved by the Governor and Council of State adopted at a meeting held in the City of Raleigh, North Carolina, on the 8th day of February 2000; and

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. 143-214.8, two of the components of the Wetlands Restoration Program are (1) restoration and perpetual maintenance of wetlands, riparian areas, and surface waters and (2) land ownership and management; and

WHEREAS, Grantor owns in fee simple certain real property as referenced in deeds recorded in Book 520, Page 148, and Book 1482, Page 182, situated, lying, and being in Hatteras Township, Dare County, North Carolina (the "Protected Property"), and

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being more particularly described as the area designated as "Wetlands", as shown on Exhibit "C" on the plat entitled "Nationwide #14 Permit Julie Appleget", which plat is attached to this instrument and denominated as Exhibit "A".

WHEREAS, the preservation of the Property is a condition of Department of the Army Nationwide Permit Number 14 dated March 29, 2004, issued to Grantor by the Wilmington District Corps of Engineers, required to mitigate for unavoidable stream and/or wetland impacts authorized by that permit, and certified by a 401 Water Quality Certification issued by the North Carolina Division of Water Quality. Grantor and Grantee as the holder agree that third-party rights of enforcement shall be held by the U.S. Army Corps of Engineers, Wilmington District and the North Carolina Division of Water Quality (Third-Parties, to include any successor agencies), and that these rights are in addition to, and do not limit, the rights of enforcement under said permit and certification.

WHEREAS, Grantor is willing to grant a Conservation Easement on a portion of the Protected Property, thereby restricting and limiting the use of the Protected Property to the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such easement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth. Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, over a portion of the Protected Property, referred to hereafter as the Easement Area, for the benefit of the people of North Carolina, and being more particularly described as follows:

> Beginning at an iron pin or other marker located at the Northwest corner of the property owned by the herein Grantor, as same is shown on the plat hereinafter referred to; thence from said point of beginning South 45 deg. 0 min. 00 sec. East 81.15 feet to a point; thence South 78 deg. 33 min. 20 sec. West 93.24 feet to a point; thence North 42 deg. 13 min. 57 sec. West 26.91 feet to a point; thence North 42 deg. 57 min. 03 sec. East along the Northwest line of the aforesaid Grantor's property 76.40 feet to the point and place of beginning, said area containing 4,000 square feet.
>
> This being that area designated as "Proposed Conservation Area (4,000 SF)", as shown on that plat entitled "Nationwide #14 Permit Julie Appleget Parcel of Land in Frisco Hatteras Township - Dare County - North Carolina", which is attached hereto as Exhibit "A" and incorporated herein by reference.

The purposes of this Conservation Easement are to maintain, restore, enhance, and create wetland and/or riparian resources in the Easement Area that contributes to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Easement Area in its natural condition, consistent with these purposes; and to prevent any use of the Easement Area that will significantly

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impair or interfere with these purposes. To achieve these purposes, the following conditions and restrictions are set forth:

I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, their personal representatives, heirs, successors, and assigns, lessees, agents, and licensees.

II. RESERVED USES AND RESTRICTED ACTIVITES

The Easement Area shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Easement Area by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee. The following specific uses are prohibited, restricted, or reserved as indicated:

A. Recreational Uses. Grantor expressly reserves the right to undeveloped recreational uses, including hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited.

B. Educational Uses. The Grantor reserves the right to undeveloped educational uses and the right of access to the Easement Area for such purposes including organized educational activities such as site visits, studies, and observations.

C. Vegetative Cutting. Cutting, removal, mowing, harming, or destruction of any vegetation in the Easement Area is prohibited.

D. Industrial Use. Industrial activities in the Easement Area are prohibited.

E. Residential Use. Residential use of the Easement Area is prohibited.

F. Commercial Use. Commercial activities in the Easement Area are prohibited.

G. Agricultural Use. Agricultural use of the Easement Area including use for cropland, waste lagoons, or pastureland is prohibited.

H. New Construction. There shall be no building, facility, mobile home, or other structure constructed or placed in the Easement Area.

I. Signs. No signs shall be permitted in the Easement Area except interpretive signs describing restoration activities and the conservation values of the Easement Area, signs identifying the owner of the Protected Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Easement Area.

Unofficial Document

J. Dumping. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material in the Easement Area is prohibited.

K. Grading, Mineral Use, Excavation, Dredging. There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

L. Water Quality and Drainage Patterns. There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.

M. Subdivision. Subdivision, partitioning, or dividing the Easement Area is prohibited.

N. Development Rights. No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

The Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Easement Area. These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow. In addition, the Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times for the purpose of inspecting said property to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The easement rights granted herein do not include public access rights.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from the Wetlands Restoration Program, whose mailing address is 1619 Mail Services Center, Raleigh, NC 27699-1619.

III. ENFORCEMENT AND REMEDIES

A. In the event that the Grantee determines that the Grantor has violated or is threatening to violate any of these terms, conditions, or restrictions, the Grantee may institute a suit to

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enjoin such violation and if necessary, to require the restoration of the Easement Area to its prior condition at the expense of the Grantor.

B. No failure on the part of Grantee to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

IV. MISCELLANEOUS

A. This Conservation Easement shall be construed to promote the purposes of N.C. Gen Stat. 143-214.8 et seq., the Wetlands Restoration Program.

B. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of the Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

C. Any notices shall be sent by registered or certified mail, return receipt requested to the parties at their addresses shown above or to other address(es) as either party establishes in writing upon notification to the other.

D. Grantor shall notify Grantee in writing of the name and address and any party to whom the Protected Property or any part thereof is to be transferred at least sixty (60) days prior to the time said transfer is made. Grantor further agrees to make any subsequent lease, deed, or other legal instrument by which any interest in the Protected Property is conveyed subject to the Conservation Easement herein created.

V. QUIET ENJOYMENT

Grantor reserves all rights accruing from ownership of the Protected Property, including the right to engage in or permit or invite others to engage in only those uses of the Easement Area that are expressly reserved herein, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserves to the Grantor, and the Grantor's invitees and licensees, the right of access to the Easement Area, and the right of quiet enjoyment of the Easement Area.

TO HAVE AND TO HOLD the said rights and easements perpetually unto Grantee for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent easement herein granted; that the same are free from encumbrances and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

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

Julia A. Appleget (SEAL)

NORTH CAROLINA
DARE COUNTY

I, a Notary Public of the aforesaid County and State, do certify that Julia A. Appleget personally appeared before me and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal or stamp, this the 5 day of June, 2004.

Vanessa W Jones
Notary Public

My commission expires: February 2, 2007

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Page: 6 of 7
06/08/2004 03:07P

NORTH CAROLINA
DARE COUNTY

The foregoing certificate of Vanessa W Jones, a Notary Public of Dare County, North Carolina, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

BARBARA M. GRAY
Register of Deeds

BY: Adrian Y. Tillett
Deputy/Assistant Register of Deeds

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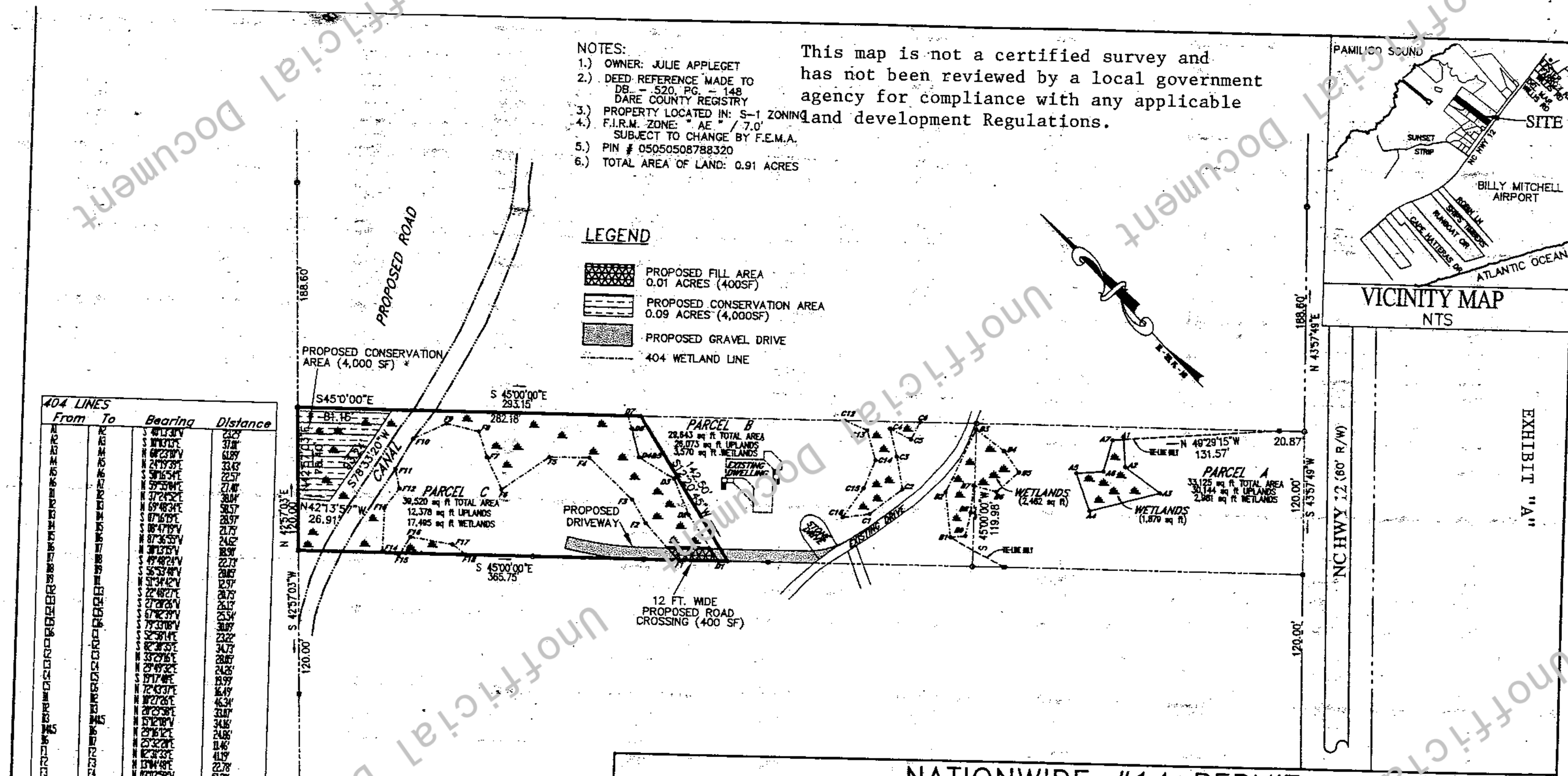
NOTES:
1.) OWNER: JULIE APPLEGET
2.) DEED REFERENCE MADE TO DB. – 520, PG. – 148 DARE COUNTY REGISTRY
3.) PROPERTY LOCATED IN: S–1 ZONING
4.) F.I.R.M. ZONE: " AE " / 7.0' SUBJECT TO CHANGE BY F.E.M.A.
5.) PIN # 0505050788320
6.) TOTAL AREA OF LAND: 0.91 ACRES

This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable Land development Regulations.

LEGEND

- PROPOSED FILL AREA 0.01 ACRES (400SF)
- PROPOSED CONSERVATION AREA 0.09 ACRES (4,000SF)
- PROPOSED GRAVEL DRIVE
- 404 WETLAND LINE



404 LINES			
From	To	Bearing	Distance
A1	A2	S 48°13'30"W	23.25'
A2	A3	S 30°13'13"E	37.08'
A3	A4	N 68°23'10"W	61.89'
A4	A5	N 24°19'39"E	33.43'
A5	A6	S 50°16'54"E	22.57'
A6	A7	N 59°55'04"E	27.40'
B1	B2	S 37°24'52"E	38.04'
B2	B3	N 69°48'34"E	58.57'
B3	B4	S 07°16'15"E	28.97'
B4	B5	S 08°47'12"W	21.75'
B5	B6	N 87°36'55"W	24.62'
B6	B7	N 30°13'15"W	18.99'
B7	B8	S 49°48'24"W	22.73'
B8	B9	S 36°53'48"W	28.67'
B9	B10	N 51°34'42"W	12.57'
B12	C13	S 22°48'27"E	28.75'
C13	C14	S 27°20'26"W	26.13'
C14	C15	S 67°82'39"W	25.54'
C15	C16	S 79°33'08"W	30.09'
C1	C2	S 52°39'14"E	23.22'
C2	C3	S 82°30'35"E	34.73'
C3	C4	N 33°29'16"E	28.05'
C4	C5	N 29°49'32"E	24.26'
C5	C6	S 19°17'48"E	19.99'
C6	C7	N 72°43'37"E	16.49'
B4	B2	N 10°27'06"E	46.34'
B3	B4.5	N 28°29'38"E	33.07'
B4.5	B6	N 57°12'08"W	34.16'
B6	B7	N 29°16'12"E	24.86'
F1	F2	N 25°32'28"E	11.46'
F2	F3	N 42°30'33"E	41.19'
F3	F4	N 13°44'48"E	22.78'
F4	F5	N 03°03'59"W	51.21'
F5	F6	N 45°33'56"W	33.91'
F6	F7	N 88°19'27"W	49.14'
F7	F8	S 18°59'10"W	29.94'
F8	F9	N 25°46'54"E	22.70'
F9	F10	N 32°33'10"W	28.36'
F10	F11	N 78°39'58"W	30.88'
F11	F12	S 74°09'33"W	29.24'
F12	F13	S 31°00'17"W	16.89'
F13	F14	S 83°08'52"W	[illegible]
F14	F15	S 46°18'49"W	36.0[illegible]
F15	F16	S 31°19'10"E	14.88'
F16	F17	N 76°24'45"E	18.34'
F17	F18	S 36°27'05"E	36.00'
F18	F19	S 82°49'53"E	14.57'

BASE MAP TAKEN FROM PLAT NAMED " JULIE APPLEGET 404 PLAT" BY W.M. MEEKINS & ASSOCIATES DATED 9/02/03.

NATIONWIDE #14 PERMIT
JULIE APPLEGET
PARCEL OF LAND IN FRISCO
HATTERAS TOWNSHIP – DARE COUNTY – NORTH CAROLINA

50' 0' 100' 200' 300'
GRAPHIC SCALE 1"=100'

FILE: 04–009 SURVEYED: MEEKINS & ASS. PLATTED: 2/12/04

ATLANTIC ENVIRONMENTAL CONSULTANTS, LLC
P.O. BOX 3266, KITTY HAWK, N.C. 27949
(252)261-7707, e-mail roxdorman@aol.com

Unofficial Document
6136659
Page: 7 of 7
06/08/2004 03:07P