



NORTH CAROLINA
Environmental Quality

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MEMORANDUM

TO: Coastal Resources Commission

FROM: Mike Lopazanski

SUBJECT: Proposed Rules Changes for Communities with Approved Beach Management Plans

Over the past several meetings, the Commission has been reviewing Static Vegetation Line (SVL), Static Line Exception (SLE), and Development Line (DL) rules, as well as continued discussions on matters of oceanfront rule implementation. At the September meeting, the Commission spent considerable time discussing the recommendations of the Subcommittee on Development Line Implementation and the Division regarding potential strategies and alternatives for consideration.

In discussing the alternatives, Staff noted the Commission's support for the following:

- The State should retain some oversight in areas where beach nourishment projects are installed;
- In order to gain regulatory flexibility for construction setbacks, beach communities should demonstrate a local commitment to maintaining beach nourishment projects;
- Beach nourishment projects should not be used as a stimulus for new development in areas that would otherwise not be suitable;
- Alternatives should not encourage seaward encroachment of new or expanded structures;
- Limitation on seaward encroachment of structures is preferred through the landward-most adjacent neighbor rule rather than a new oceanward-most adjacent neighbor policy, but there is a need for flexibility in addressing unique circumstances (curved shorelines, development around cul-de-sacs, or peculiar lot configurations) utilizing a sight-line or average line of construction approach.

Beach Management Plans

Staff has begun incorporating the above provision into your rules that address the siting of oceanfront development, as well as looking for opportunities to simplify the existing rules which have been subject to many amendments since oceanfront setbacks first went into effect in 1979. Part of the revision will be based on the existing rule for Static Line Exceptions (15A NCAC 7.1200), which will now incorporate provisions for CRC approved Beach Management Plans. Beach Management Plans would be considered for approval once an initial nourishment project has been completed and



would be due for re-authorization every five years. These Plans would include the now familiar elements of the Static Line Exception: a summary of beach fill projects in the jurisdiction, subsequent maintenance projects with construction dates, contract award dates, volume of sediment excavated, total cost of beach fill project(s), funding sources, maps, design schematics, pre-and post-project surveys. In addition to the past documentation required for a SLE, Staff is proposing that Beach Management Plans also include historic and projected volumetric losses due to erosion and storm events, anticipated maintenance event triggers and schedules, long-term volumetric sand needs and annual monitoring protocols, and planned maintenance needed to achieve a design life providing 30 years of shore protection. These additional provisions will be useful in the streamlining of beach nourishment permits similar to the CAMA permit developed for the 50-year Bogue Banks (Carteret County) Beach Master Nourishment Plan. Staff is also proposing that the identification of financial resources be expanded to include the dedicated percentage or occupancy taxes, special tax districts and anticipated federal funding.

Enhanced Exceptions

Staff is proposing that areas with approved Beach Management Plans include the existing Static Line Exception provision granting graduated setback relief to large structures. Under this provision, structures 10,000 square feet or greater require a minimum setback of 120 feet or 60 times the erosion rate.

The existing provisions allowing the replacement of oceanfront structures that do not meet current setbacks (original dimensions, minimum 60-foot setback, as far landward as practicable) is currently limited to single family and duplex residential structures and commercial and multifamily residential structures up to 10,000 square feet and constructed prior to August 2009. Staff is proposing to allow all structures to take advantage of this replacement provision if located in an area with an approved Beach Management Plan. Staff is also proposing to remove the references to residential or commercial structures generally, as the Commission has moved away from the use distinctions since 2009.

With regard to approving Beach Management Plans, Staff is proposing to require that local governments present their Beach Management Plans to the Commission rather than DCM summarizing the Plans. Staff believe it is more appropriate for DCM to focus on its recommendations on whether a Plan meets the Commission's criteria for approval. Also proposed for deletion are provisions incorporating written or oral comments from third parties regarding Plan approval requests. Given 10 years of experience with Static Line Exception requests, Staff does not believe these provisions are necessary.

Setback Related Nomenclature

In keeping with the Subcommittee's recommendations, the term "Static Vegetation Line" would be changed to "Pre-Project Vegetation Line." The terminology can be confusing and seemingly vague, whereas "pre-project vegetation line" is better fitted to being self-defining. "Vegetation Line" would be used throughout the rules as it is defined as the first line of stable and natural vegetation.

Implementation

There are 23 oceanfront communities (~80%) that currently have static vegetation lines. Once their project is finalized, the addition of Surf City's SVL will bring the total to 24 (~86%). Eight of these communities already have a CRC-approved Static Line Exception. Staff is proposing that these communities continue to utilize the Static Line Exception provisions until they expire, at which point they will be eligible to petition for a CRC approved Beach Management Plan. As mentioned at the September meeting, after reaching out to local governments and reviewing available documentation, DCM Staff determined that the majority of the remaining 15 oceanfront communities either already have a beach and/or inlet management plan, or have the information needed that can be used to create a plan with minimal effort and cost. Additionally, these communities also perform regular surveys to monitor beach sediment losses and gains.

Other Proposed Changes

Staff are proposing other changes to streamline and simplify the oceanfront development rules. These changes include moving repealing 15A NCAC 7H .0104, as the provision (addressing lots created prior to 1979) are effectively the same as those in 15A NCAC 7H .0309(b) which allow for similar development of a structure no greater than 2,000 square feet.

- Clarification that parking lots and parking structures size are determined by total square footage.
- Clarifying and simplify rule language related to the siting of structures in relation to primary and frontal dunes.
- Consolidating rules related to dune alteration in 15A NCAC 7H .0308(b)(1).
- Amending the required permit condition that requires structures to be relocated or removed within two years of becoming imminently threatened to eight years. This change mirrors provisions for the management of temporary erosion control structures (sandbags).
- Removing provisions allowing for the use of erosion rates at the time the lot was platted in determining setbacks. While seldom used, this language has caused confusion for Staff and Local Permitting Officers.
- Removing or consolidating redundant rule language.

Inlet Management Plans

While initial discussions among the Subcommittee, Division, and the Commission also included the potential for regulatory relief for communities with an approved "Inlet Management Plan," Staff recommends that the CRC focus on the issues of oceanfront development siting and Inlet Hazard Areas separately. At the present time, the Commission has yet to complete its approach to managing development adjacent to inlets and there are several implementation-still related issues to be discussed at your February meeting.

I look forward to discussing these proposed changes and receiving further guidance as Staff continue to develop these rules.