AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning Director **DEPARTMENT:** Planning

MEETING: Town Council Workshop – 27 OCT 2020

SUBJECT: CAMA Oceanfront Setbacks Discussion - Development Line vs Static Line Exception

Applicant: Town of Carolina Beach

BACKGROUND:

The Division of Coastal Management notified the Town on October 2nd that the Coastal Resource Commission held a virtual meeting in September and declared that if a community has been granted a Static Line Exception and a Development Line, **only one may be applied within the bounds of the community's beach nourishment project (see attached letter)**. A community will not be permitted to have both a Development Line and a Static Line Exception when issuing permits pursuant to the Coastal Areas Management Act of 1974 ("CAMA"). They are requiring the Town to decide which setback rule we would like to use.

History of Ocean Front Setbacks.

1925 - 1962

There was not a specific established method for placement of ocean front structures that took erosion and beach dynamics into consideration. There was no dune or vegetation in place during this time. Two major events happened that impacted the coastline in the 1950's. 1) Carolina Beach Inlet was artificially opened by local interests in September 1952. Prior to its opening, the beach was continuous from Carolina Beach north to Masonboro Inlet with shoreline changes along the entire area relatively moderate. Immediately following the opening of the inlet, the shoreline south of the inlet began to erode at an accelerated rate. 2) Hurricane Hazel in 1954, a Category Four event that brought significant damage and recognition of the need to manage storm risk in Carolina Beach. As a result of the sporadic placement of structures to the ocean many started to become threated by beach attrition and repetitive flooding by 1962.

1963- 1978

In response to the cumulative effects of the inlet related and storm induced shoreline retreats congress passed the flood control act of 1962 which lead the way to fund and authorized federal storm damage reduction project (beach nourishment). One of the conditions for federal participation in the project was the assurance the beach would remain open to the public for the life of the project. Prior to project construction, the Town of Carolina Beach established a Building Line. Authority to establish the Building Line was provided by a special act of the NC Legislature in 1963. All lands located seaward of the Building Line are in public ownership. The Carolina Beach Building Line would become the build to line

for ocean front development and no structures could be authorized to go past it other than beach crossovers and piers.

The federal storm damage reduction project was constructed seaward of the Town Building Line with the Building Line serving as the approximate landward toe of the dune. Carolina Beach was the first nourishment project in North Carolina that took place in 1964 that consisted of a 25-foot wide vegetated dune fronted by a 50-foot wide storm berm.

1979- 2008

The Coastal Area Management Act (CAMA) of 1974 was passed by NC General Assembly for guiding development for NC coastal communities and created the Coastal Resource Commission (CRC) who were responsible for creating policies. In 1979 Ocean front setbacks were introduced statewide. CAMA used the first line of stable natural vegetation to measure setbacks. There were two setback factors utilized are based off annual erosion rates.

1) Small structure setback – structures less than 5,000 sq. ft., setback 60' from the stable natural vegetation.
2) Large structure setback – structures 5,000 sq. ft. or more, setback 120' from the stable natural vegetation.

Carolina Beach has had a healthy coastal storm damage reduction project since 1980. Through local beach management the dune vegetation has expanded oceanward over the years, but the CAMA measurement line for setbacks were still based off where the vegetation line was at the inception of CAMA known as the Static CAMA Vegetation line. The CAMA Static CAMA Vegetation Line was codified in 1996 in part based on three factors.

1) Engineered beaches erode at least as fast as, If not faster than, pre-project beach;
2) Three is no assurance of future funding9 or beach-compatible sand) for project maintenance; and
3) Development tied to a vegetation line in artificially forced systems could be located so as to be more vulnerable (closer to the shoreline) to natural hazards along the oceanfront.

2009 Static Line Exception

In 2009 CAMA adopted new rules for ocean front setback with the introduction of graduated setbacks based off the size of structures measured from the static vegetation line. The following setbacks would apply.

Structure Size	**Setback From the Static Vegetation Line**
< 5,000 sq ft	60'
≥ 5,000 sq ft	120'
≥ 10,000 sq ft	130'
≥ 20,000 sq ft	140'
≥ 40,000 sq ft	150'
≥ 60,000 sq ft	160'
≥80,000 sq ft	170'
≥ 100,000 sq ft	180'

CAMA did want to recognize local government efforts and long-term commitments to managing oceanfront erosion by creating the Static Vegetation Line Exception rules, which would exempt oceanfront communities from the graduated setbacks. To be eligible for this exception, a community must petition the Coastal Resource Commission by providing a beach management plan that describes the project area and design; identify sediment sources; identify funding sources to maintain the initial large-scale project; and, provide an update on project effectiveness and how it will continue to be maintained. The plan must be updated and presented to the CRC every five years for reauthorization.

The Town was granted a static line exception in 2009 after presenting the Beach Plan Report. The reason the town applid for the exception was not to allow for develoopment to move more seaward, rather the concern that the rule establishing graduated setback requirmetns for strucuttres based on size could render many oceanfront structures non-conforming based on the present location of the static line and not be able to rebuild following major damage resulting from a weather related event. The Town wanted to prevent more structures becoming non-conforming with the new rule. The existing non-conforming structures were 64 buildings and over 800 units.

The approval of the static line exception did allow some development to be measured from the natural vegetation line rather than the static line under the following conditions.

- Development meet the minimum setback of 60 feet or 30 times the erosion rate, whichever is greater, as measured from the vegetation line;
- Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- Total floor area of a building is no greater than 2,500 sq. ft.
- No portion of a building or structure, including roof overhangs and elevated portions that cantilevered, knee braced or otherwise extended beyond the support of pilings or footings extends oceanward of the landward-most adjacent building or structure; and
- Swimming pools are not allowed oceanward of the static vegetation line.

Since the town was granted the 2009 static line exception the CRC has reauthorized the town in 2015 and 2020 after staff provided the following;

- Design changes to the initial large-scale beach fill project
- Design changes to the location and volume of compatible sediment necessary to construct and maintain the large-scale beach fill project.
- Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project.

<u>2016 Development Line</u>

Prior to 2016 Staff was notified by the real estate industry that many “non-conforming” units were not able to secure financing because of new lending procedures. The town met with lenders and real-estate professionals with CAMA discussing the state and local non-conforming regulations. The town’s non-conforming regulations allow a building to be rebuilt in the same footprint if it is destroyed by fire, wind, flood or other catastrophic event. The CAMA regulations were more restrictive, if a structure is destroyed more than 50% then it shall meet current setbacks regardless of how it was destroyed. This is problematic for many non-conforming structures since the setback places them near or completely in the street. In these cases, if the setback were measured from the current vegetation line rather than the

static vegetation line then it could be rebuilt in the same footprint. The issue was brought to the Coastal Resource Commission. Commission found that some communities had demonstrated a long-term commitment to beach nourishment and maintenance of their nourished beaches. Due to this long-term commitment, the vegetation had become stable and migrated oceanward of the static line. To recognize local government efforts to address erosion through long-term beach nourishment and offer relief from the Static Vegetation Line requirements, the CRC adopted the "Development Line" option. A development line is an established line adopted by the local government that represents where structures can build up to, as long as the structure meets the setbacks utilizing the vegetation line when measuring oceanfront setbacks.

The Town was approved for a development line by the CRC, which utilized the 1963 Building Line as the Development line. This abled the majority of the oceanfront buildings to be rebuilt in its current footprint. The only area that does not benefit from the rules are the nonconforming homes located along the rock revetment because of the limited vegetation.

2016 Amended Non-conforming Regulations

CAMA amended the non-conforming regulations that allowed structures to be rebuilt that are below 10,000 sq. ft. if they meet the 60' setback from the natural stable vegetation line or the middle of the rocks where the rock revetment is located. There several structures that are adjacent to the rocks that would still not be able to be rebuilt.

2016 Amended the Static Line Exception Rule

Removed the condition that limited development to 2,500 sq. ft. in order to utilize the exception.

2020 Static Line Exception or Development Line.

The town must decide which line it wants to utilize for ocean front setbacks according to the CRC, although the CRC did grant the town the Static Line Exception in 2009 and the Development Line in 2016.

2020 version of the Static Line Exception vs Development Line

Both the Static Line Exception and the Development Line can now measure from the existing natural stable vegetation line, but the graduated setbacks still would apply to the building line, but not the Static Vegetation Line Exception. With the Static Vegetation Line Exception however you cannot go oceanward of the adjacent structures and must provide an updated beach management plan every 5 years, demonstrating a financial plan, sand resource and a committed storm reduction plan.

With the flexibility of not having graduated setbacks and being able to develop to the Development Line there are only 6 non-conforming buildings. If the town decides to go with the Static Vegetation Line Exception then 27 structures would not be able to build in the same footprint on the lot, because they sit further out from the adjacent structure. If the town decided to go with the Development Line, then 18 structures would be non-conforming because of their size with the graduated setbacks.

Condition	**Static Vegetation Line Exception**	**Building Line**
Measure from existing Vegetation Line	✓	✓
Graduated Setbacks apply		✓
New structures cannot go past the adjacent Structures	✓	
Beach Plan Report With commitment to renourishment	✓	
Number of Non-conforming Structures	27	18

ACTION REQUESTED:

Per the Coastal Resource Commission the town must decided which method it would like to utilize when measuring oceanfront Setbacks.

RECOMMENDED MOTION:

Approval – Make a motion to approve either the Static Line Exception or the Development Line when determining oceanfront setbacks.