

Michael J. and Lisa LaPlant
3622 Vineyard Ridge
Cincinnati, OH 45241

April 29, 2016

Lisa Lucas Longshore
Clerk, SC Board of Health and Environmental Control
SCDHEC Office of General Counsel
SCDHEC
2600 Bull Street
Columbia, S. C. 29201

Re: Request for Final Review Conference
Peter J. Kuhns
OCRM-15-211-B

Dear Ms. Longshore:

The purpose of this letter is to invoke the procedures of S. C. Code Ann. Sec. 44-1-60(E) and (F) and request that the Board of Health and Environmental Control ("the Board") review the above-referenced permitting decision of the staff of the Office of Ocean and Coastal Resource Management ("OCRM"). We are enclosing a check for the filing fee for this request in the amount of \$100.00 (One Hundred Dollars), made payable to the South Carolina Department of Health and Environmental Control ("SCDHEC"). We are also enclosing a copy of the Department Decision that is the subject of this Request, attached as Exhibit A. Although the Department Decision is dated September 1, 2015, this Request is timely as is noted on the cover letter from Steven Brooks. We were entitled to notification of this permit application and of the Department's Decision regarding this permit application as adjoining property owners but we never received notification. This lack of notification is attributed to the applicant's failure to provide proper contact information for adjoining landowners upon submittal of the permit application.

We own a developed lot in the Rivertowne Pointe development identified as TMS# 583-13-00-032, 1921 Lone Oak Point. Our Rivertowne property shares a common boundary line with TMS# 583-13-000-031 (1917 Lone Oak Point) which is owned by Peter J. Kuhns and is one of the three lots that will utilize the joint use dock authorized by the above-referenced permit. The proposed dock will be located off of a shared boundary line between 1917 and 1913 Lone Oak Point and will extend almost 1,000 feet through a cove of marsh directly behind our property before reaching the Wando River.

Importantly, Dock Master Plans ("DMP") were adopted to guide dock permitting in Rivertowne. The applicable Plan to the area of Lone Oak Point is the Parkers Island Dock Master Plan. When we purchased 1921 Lone Oak Point we relied on the DMP in selecting our property for purchase, since the marsh cove behind our property was not designated as a dock corridor.

Additionally, in 2003 an identical permit application for a shared dock for the properties owned by Peter Kuhns was denied. In accordance with the notification sent to the applicant "OCRM staff must consider the value and enjoyment of adjoining property owners who relied on the approved DMP when purchasing lots knowing other lots would never possess a dock." A copy of this denial letter is attached as Exhibit B to this Request. We request that the Board consider Exhibits C and D also attached. In 2003 OCRM advised that the DMP could not be revised because of reliance of other property owners. (Ex. C) Upon appeal of the permit denial in 2003 the Administrative Law Court was advised by a realtor of the economic impact of allowing a joint use dock in an area where property owners relied on having an unobstructed view. (Ex. D) Our grounds for seeking review are as follows:

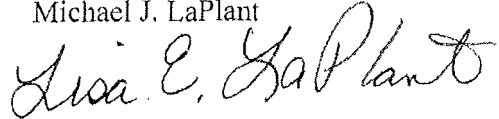
- SCDHEC is bound by principles of administrative estoppel to deny this application, based on its action taken in 2003 on an identical permit application.
- The permit application should be denied because the lots that are intended for use of the dock – 1909, 1913, and 1917 **are not waterfront properties** in accordance with OCRM's regulatory definition of waterfront lots. Straight line extensions of any of these lots' property corners at the critical line do not appear to reach navigable water within 1,000 feet without crossing multiple intervening hummocks and other upland areas. These areas above mean high water are not reflected on the permit drawings prepared and submitted by the applicant. We have been advised that in at least two recent permitting matters, OCRM has denied dock permits where extended property lines cross intervening hummock and other upland areas before reaching navigable water. *See S. C. Code Ann. Reg. 30-1(D)(53)*
- SCDHEC failed to give any weight or consideration to the value and enjoyment of adjacent property owners as is required in accordance with *S. C. Code Ann. Reg. 30-11(B)(10)*. The failure to assign any weight when reviewing this application, in light of the 2003 denial, is inexplicable and can only be a result of the failure to notify those parties most affected by the proposed dock. While SCDHEC has acknowledged that we are entitled to notice, there were multiple other interested parties and affected persons who participated in the 2003 permit process who are also entitled to notice in accordance with *S. C. Code Ann. Sec. 44-1-60(E)(1)*.
- The permit violates the policies and procedures adopted in the 1993 Program Refinements to the Coastal Zone Management Program Document regarding Dock Master Plans. Assuming that the Parkers Island Dock Master Plan was intended to be a conceptual DMP, "[t]he conceptual dock master plan will be used as a guideline and an additional consideration when dock permitting applications are made." SCDHEC staff, in departing from the DMP, is required to consider all factors relevant to the development of the DMP. Here multiple purchasers relied on the DMP in selecting their property in the development. The Master Covenants and Restrictions for RiverTowne, recorded in the Charleston County RMC Office at Book K-253, Page 547, provide in Article III, paragraph 3.1.1 that the only docks that can be constructed are in areas identified in "any applicable Dock Corridor Master Plan for River Towne." Consequently, purchasers and property owners in River Towne have a property interest and expectation that those areas which are not designated dock corridors will not be utilized for docks, and particularly a dock that extends almost 1,000 feet behind multiple properties.

We would ask that the Board of Health and Environmental Control grant this request for Final Review Conference, conduct a conference, and reverse the action of the SCDHEC staff and deny this permit application.

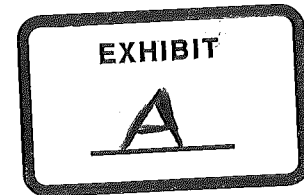
Sincerely,

A handwritten signature in cursive script, reading "Michael J. LaPlant", followed by a horizontal line.

Michael J. LaPlant

A handwritten signature in cursive script, reading "Lisa E. LaPlant".

Lisa E. LaPlant



Catherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

April 22, 2016

Michael J. LaPlant
3622 Vineyard Ridge
Cincinnati, OH 45241

Re: Peter J. Kuhns
OCRM-15-211-B

Dear Mr. LaPlant:

Please find enclosed a copy of the above referenced issued permit. Due to an incorrect address provided to the Department, you did not receive notice of this activity when it was originally advertised. As a result, Paul & Nancy Pisarski (the previous property owners of 1921 Lone Oak Point) were inadvertently notified. At the time the permit was issued, the Department was unaware the property had been sold.

Since proper notice of this permit decision was not provided to you, enclosed is a copy of the Department decision and procedures for aggrieved parties.

Please call me at 843-953-0235 should you have any additional questions.

Sincerely,

Steven Brooks
Senior Regulatory Project Manager
Regulatory Programs Division

Enclosures

CC: Blair Williams, SCDHEC-OCRM, Wetland Section Manager
Michael A. Maucher, Law Office of Deluca & Maucher, LLP



Carherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

September 1, 2015

Peter J. Kuhns
3495 Stockton Drive
Mount Pleasant, SC 29466

**SEE SPECIAL
CONDITIONS(S)**

Re: **OCRM-15-211-B**
Peter J. Kuhns

Dear Mr. Kuhns:

The SCDHEC Office of Ocean and Coastal Resource Management has reviewed your application to construct a joint-use dock at 1909, 1913 & 1917 Lone Oak Point, The Point at Rivertowne, Mount Pleasant, Charleston County, South Carolina, and has issued a permit for this work. You should carefully read the description of the authorized project and special conditions that have been placed on the permit, as these conditions may modify the permitted activity. In addition, there are a series of general conditions that should be reviewed. The original and one photocopy of the permit, as issued, are enclosed. After carefully reading the permit, if you wish to accept the permit as issued, sign and date in the signature block entitled "PERMITTEE" on the original version of the permit and return it to this Department. Keep the photocopy for your records.

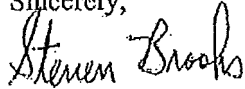
PLEASE READ CAREFULLY: You are required to sign and return the original version of your permit to this Department. If this permit is not signed and returned within thirty (30) days of issuance, *OR* appealed within 15 days as described on the enclosed "Guide to Board Review", the Department reserves the right to cancel this permit. Please carefully review the enclosed "Guide to Board Review" for information and deadlines for appealing this permit.

We have also enclosed a "request for a construction placard" card. You must send in this card before the time you wish to start construction. At that time a construction placard will be sent to you to post at the construction site.

PLEASE NOTE: You are not authorized to commence work under the permit until we have received the original version of the entire permit signed and accepted by you, and a construction placard has been issued and posted at the construction site. The receipt of this permit does not relieve you of the responsibility of acquiring any other federal or local permits that may be required. Please return the signed permit to the following address:

DHEC-OCRM
1362 McMillan Ave, Suite 400
Charleston, SC 29405

Sincerely,



Steven Brooks
Senior Regulatory Project Manager
Regulatory Programs Division

Cc: Mr. Blair Williams, Wetland Section Manager
Mr. Robert E. Crawford, Carolina One Real Estate

Enclosure

**SEE SPECIAL
CONDITIONS(S)**

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with the Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day. RFRs will not be accepted after 5:00 p.m.
2. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - mailing address, email address, if applicable, and phone number(s) at which the requestor can be contacted.
3. RFRs should be filed in person or by mail at the following address:

South Carolina Board of Health and Environmental Control
Attention: Clerk of the Board
2600 Bull Street
Columbia, South Carolina 29201

Alternatively, RFR's may be filed with the Clerk by facsimile (803-898-3393) or by electronic mail (boardclerk@dhec.sc.gov).
4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor. All personal and financial identifying information will be redacted from the RFR and accompanying documentation before the RFR is released to the Board, Department staff or the public.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.
8. The Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within eight (8) working days. Upon receipt of the Department Response, the Clerk will forward the RFR and Department Response to all Board members for review, and all Board members will confirm receipt of the RFR to the Clerk by email. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will

respond to the Clerk's email within forty-eight (48) hours and will request further review. If no Board member requests further review of the RFR within the forty-eight (48) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described above end on a weekend or State holiday, the time is automatically extended to 5:00 p.m. on the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Presiding Member of the RFR Committee and the Chairman that further review is requested by the Board. RFR Committee meetings are open to the public and will be public noticed at least 24 hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will request Department staff provide the Administrative Record.
3. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publically noticed and should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by committee, include a copy of the Chairman's order appointing the committee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
4. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

**SEE SPECIAL
CONDITIONS(S)**

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [10 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site
 - Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [15 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [15 minutes]
 - Rebuttal by Requestor(s) [10 minutes]

Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
5. All Conferences are open to the public.
6. The officers may deliberate in closed session.
7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
8. The Clerk will mail the written final agency decision (FAD) to parties within 30 days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent by certified mail, return receipt requested.
9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT**

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s): Peter J. Kuhns

Permit Number(s): OCRM-15-211-B

Date of Issuance: September 1, 2015

Expiration Date: September 1, 2020

Location: On and adjacent to Wando River at 1909, 1913 & 1917 Lone Oak Point, The Point at Rivertowne, Mount Pleasant, Charleston County, South Carolina. TMS: 583-13-00-029, 030 & 031.

**SEE SPECIAL
CONDITIONS(S)**

This permit is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et seq.*, and 23A S.C. Code Ann. Regs. 30-1 through 30-18 (Supp. 2005). Please carefully read the project description and special conditions that appear on this permit/certification as they will affect the work that is allowed and may modify the work from that shown on the submitted plans. All special conditions attached to the permit will take precedent over submitted plans. The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as S.C. Code Ann. Section 40-11-5 through 430, requires that all construction with a total cost of \$5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes. Your signature on and acceptance of this permit denotes your understanding of the stated law regarding use of licensed contractors. All listed special and general conditions will remain in effect for the life of the permit. This applies to permittee, future property owners, or permit assignees.

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The permitted work consists of constructing a joint-use dock. Specifically, the permittee is authorized to construct 4' x 952' walkway, with handrails and (1) 6' x 10' "wide-out", leading to a covered 10' x 30' pierhead. Channelward of the pierhead, a 3' x 18' ramp will access a 10' x 30' floating dock. The work as described is for joint-recreational use.

SPECIAL CONDITIONS

1. The overall length of the dock structure cannot exceed 1,000 feet.
2. The handrails must be constructed to a maximum height of 36" above the walkway or pierhead decking.

3. The maximum height of the roof is limited to 15' above MHW.
4. The authorized walkway and fixed pierhead decking must be constructed at a minimum of 3' above mean high water.
5. No materials are allowed to be stored in the critical area adjacent to the construction site and that all debris, litter, concrete spillage, etc be cleaned up at least weekly.
6. Any disturbed critical area adjacent to the construction site must be restored to original contours and conditions upon project completion.
7. Any discharge of any kind of waste into state waters, including, but not limited to, garbage, refuse, trash or debris, will be prohibited at this dock.
8. Once project construction is initiated, it should be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
9. An as-built survey of the joint-use structure must be submitted to the Department within 90 days from completion of construction. The survey must be performed by a registered land surveyor, must show all components of the dock, and must list the starting and ending coordinates of the dock in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.
10. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

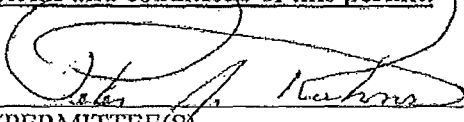
**SEE SPECIAL
CONDITIONS(S)**

PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (5). BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE.

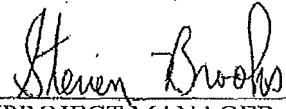
Permit Number: OCRM-15-211-B

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE(S))
Peter J. Kuhns

09/10/15
(DATE)

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.


(PROJECT MANAGER, WETLAND SECTION)
Steven Brooks
or his Designee Other Authorized State Official

9/1/15
(DATE)

SEE SPECIAL
CONDITIONS(S)

GENERAL CONDITIONS:

This construction and use permit is expressly contingent upon the following conditions which are binding on the permittee:

1. The permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save OCRM and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. If the activity authorized herein is not constructed or completed within five years of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than thirty days prior to the expiration date.
3. All authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. This permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further, to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. This permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. The permittee shall permit OCRM or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. Any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by OCRM.
8. This permit may not be transferred to a third party without prior written notice to OCRM, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit and thereby agreeing to comply.
9. If the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. The permit construction placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. The structure or work authorized herein shall be in accordance with the permit, as issued, and shall be maintained in good condition. Failure to build in accordance with the permit, as issued, or failure to maintain the structure in good condition, shall result in the revocation of this permit.
12. The authorization for activities or structures herein constitutes a revocable license. OCRM may require the permittee to modify activities or remove structures authorized herein if it is determined by OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or

removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the Permittee is notified that OCRM intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.

13. OCRM shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is in violation of the terms and/or conditions, including any special conditions of the permit. That the permittee, upon receipt of OCRM's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, OCRM shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to OCRM. (South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. Any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against OCRM or the State of South Carolina or any employee, agent, or representative of OCRM or the State of South Carolina.
15. All activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. Extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of others. This permit authorizes no invasion of adjacent private property, and OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

**SEE SPECIAL
CONDITIONS(S)**

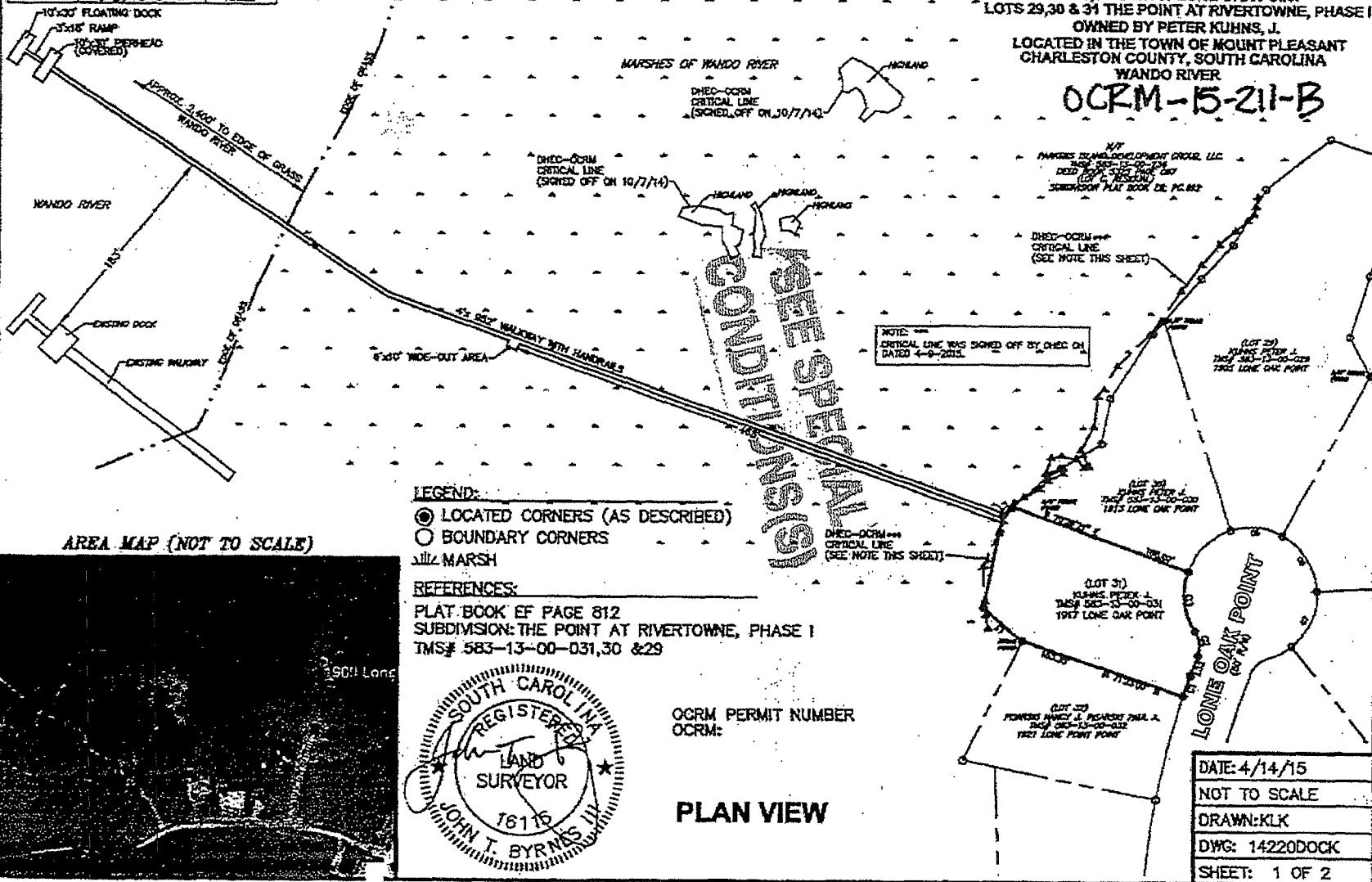
DOCK CONSISTS OF:
4'x 952' WALKWAY
6'x 10' WIDE-OUT AREA
10'x 30' COVERED PIERHEAD
10'x 30' FLOAT
3'x 18' GANGWAY

SWA
surveying

1035-B Jenkins Road
Charleston, SC 29407
(843) 795-9330

**A JOINT RECREATIONAL DOCK
1905, 1913 & 1917 LONE OAK POINT
LOTS 29, 30 & 31 THE POINT AT RIVERTOWNE, PHASE I
OWNED BY PETER KUHN, JR.
LOCATED IN THE TOWN OF MOUNT PLEASANT
CHARLESTON COUNTY, SOUTH CAROLINA
WANDO RIVER**

OCRM-15-211-B



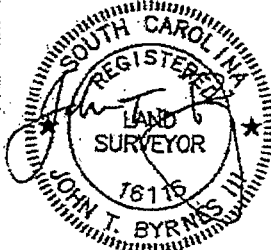
AREA MAP (NOT TO SCALE)

LEGEND:

- ☒ LOCATED CORNERS (AS DESCRIBED)
☐ BOUNDARY CORNERS
 MARSH

REFERENCE

PLAT BOOK EF PAGE 812
SUBDIVISION: THE POINT AT RIVERTOWNE, PHASE I
TMS# 583-13-00-031.30 & 29



OCRM PERMIT NUMBER
OCRM:

PLAN VIEW

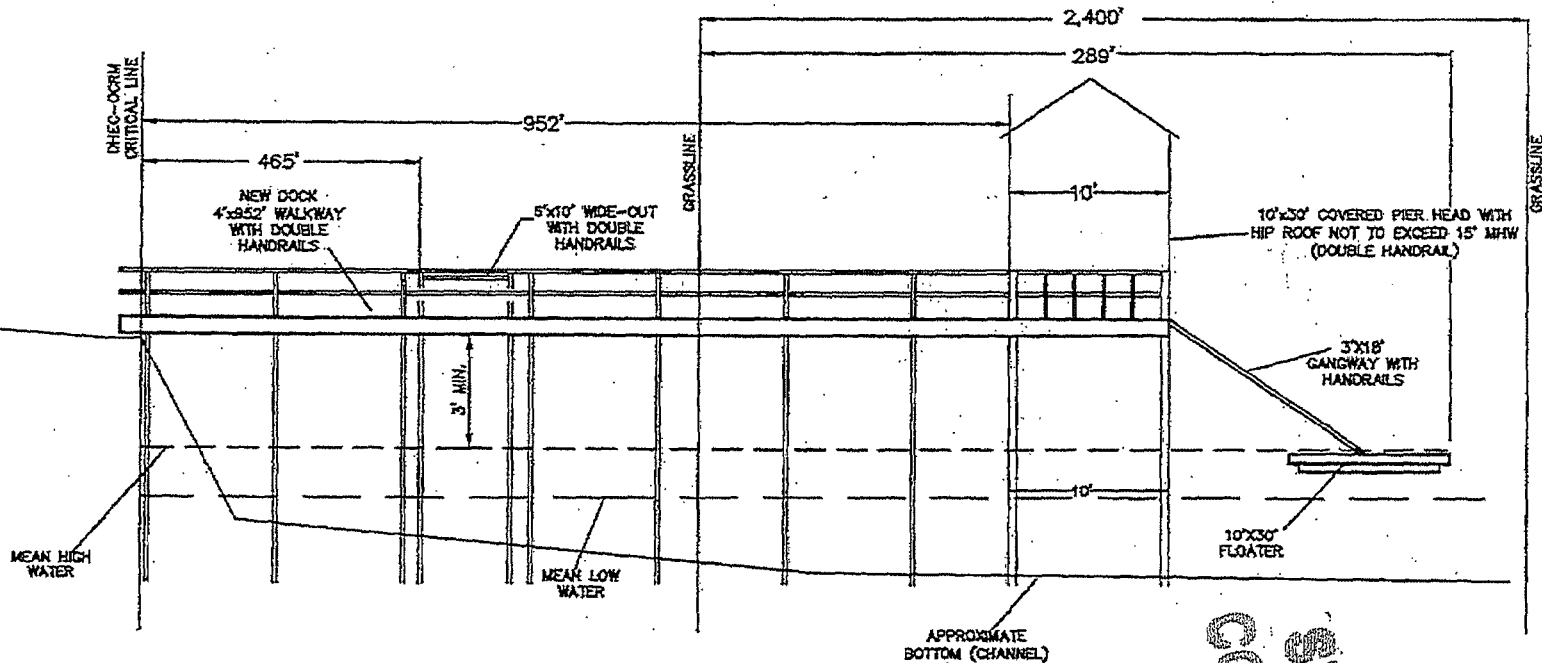
DATE: 4/14/15
NOT TO SCALE
DRAWN: KLK
DWG: 14220DOCK
SHEET: 1 OF 2

DOCK CONSISTS OF:

- 4' x 952' WALKWAY
- 6' x 10' WIDE-OUT AREA
- 10' x 30' COVERED PIERHEAD
- 10' x 30' FLOAT
- 3' x 18' GANGWAY



1035-B Jenkins Road
Charleston, SC 29407
(843) 795-8330



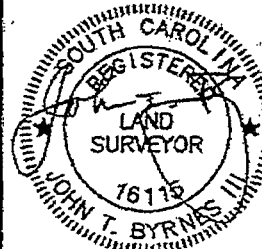
APPLICANT: PETER KUHN, J.
ADDRESS: 1905, 1913 & 1917 LONE OAK POINT
LGTS 29, 30 & 31 THE POINT AT RIVERTOWNE, PHASE I
THE TOWN OF MOUNT PLEASANT
CHARLESTON COUNTY, SOUTH CAROLINA
TMS #: 583-13-00-031
BODY OF WATER: WANDO RIVER
PIN NUMBER _____
OCRM DOCK

OCRM-5-211-B

A JOINT RECREATIONAL DOCK

PROFILE VIEW

DATE: JANUARY 29, 2015
SCALE: NOT TO SCALE



**SEE SPECIAL
CONDITIONS(S)**

DATE: 4/14/15
NOT TO SCALE
DRAWN: KLK
DWG: 14220DOCK
SHEET: 2 OF 2

**STORMWATER FACILITIES
DESIGNER'S CERTIFICATION**

FOR THE SALE
OF PHENS
LLC

I, STUART D. WHITESIDE, AM A
REGISTERED PROFESSIONAL ENGINEER, NO. 9437, IN THE STATE
OF SOUTH CAROLINA, AND THAT THE DESIGN OF THE DRAINAGE
FACILITIES FOR PHASES II & III CONSTRUCTION FOR TRACT "C" AT PARKER ISLAND,
DATED AUGUST 30, 1999 HAS BEEN UNDERTAKEN UNDER MY DIRECTION.
I HEREBY AVER THAT THE CONSTRUCTION OF THE PROJECT, ACCORDING TO THE
PLANS PRESENTED TO THE TOWN OF MOUNT PLEASANT, WILL NOT INCREASE THE
RATE OF RUNOFF FROM THE SITE FOR THE 2, 5, 10, 25, 50, OR 100 YEAR
FREQUENCY STORMS.

DRAINAGE:

THE OWNER OF RE
INTEREST, SPECIFIC
RESPONSIBILITY FOR
FROM HIGH WATER
DRAINAGE EASEMENT
THE EMERGENCY F
WATERCOURSES A
PLANNING AND DE
OPERATIONS WITH
EMERGENCY MAINT
EXCAVATION, FILL
THE JUDGMENT OF
THE PUBLIC ROAD
FOR THE COMMON
MAINTENANCE OBL

Stuart D. Whiteside

NAME

8/30/99



* joint-use recreational dock
for Lots 29, 30, and 31.

30' TOWN OF MT. PLEASANT
SETBACK
(SEE SHEET 3 FOR PLANNED
DEVELOPMENT GUIDELINES.)

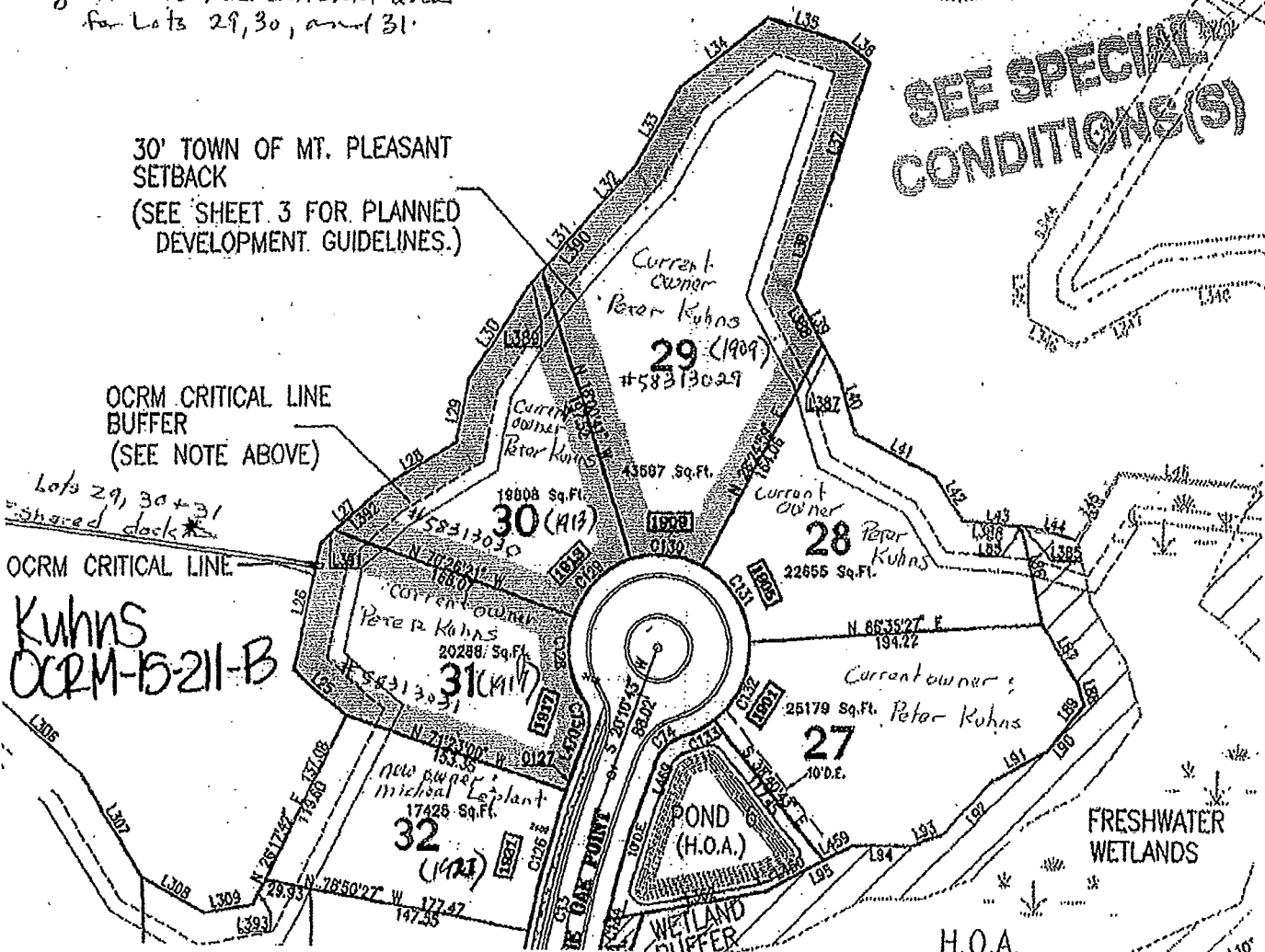
**SEE SPECIAL
CONDITIONS(S)**

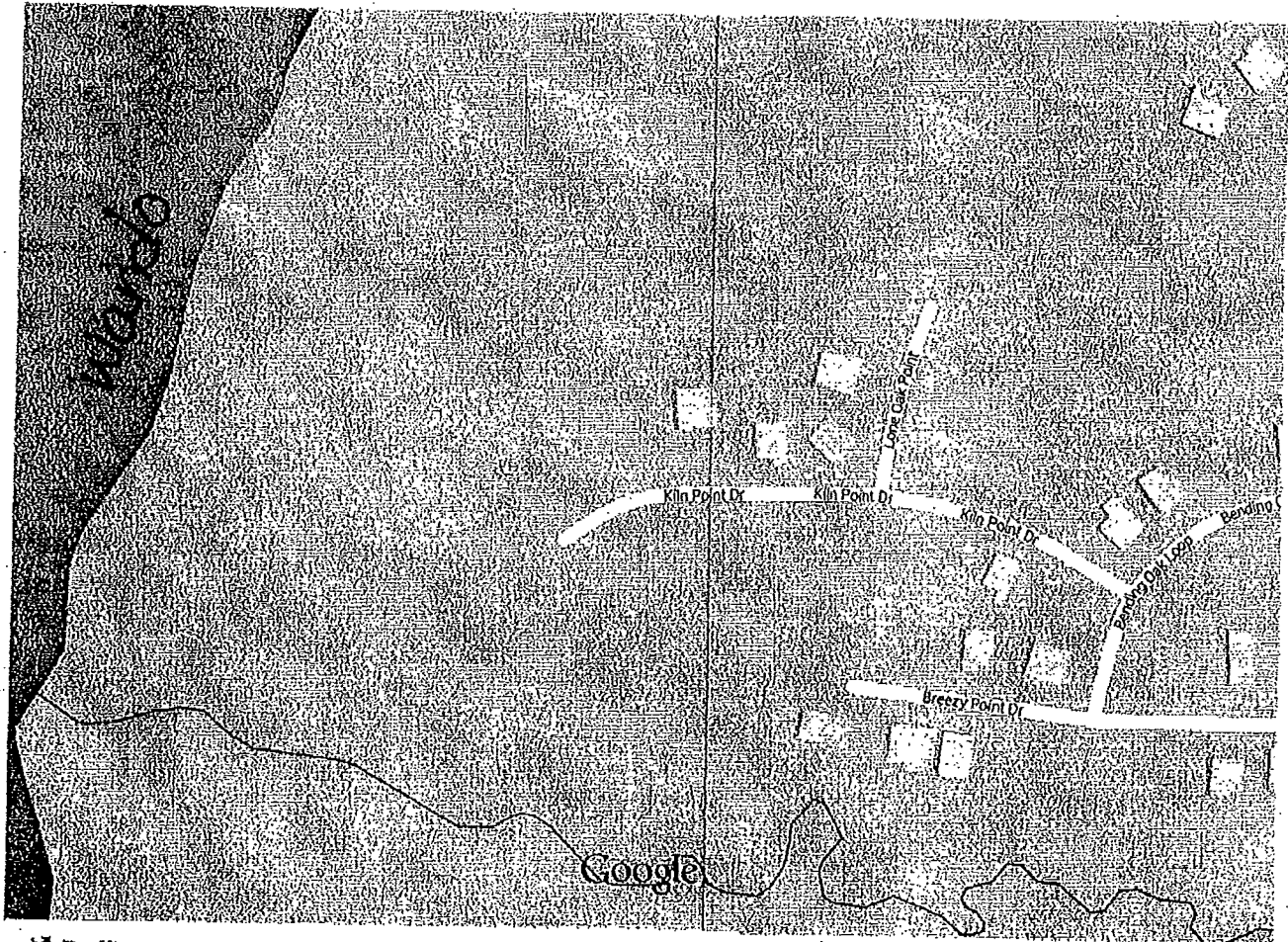
OCRM CRITICAL LINE
BUFFER
(SEE NOTE ABOVE)

Lots 29, 30 & 31
shared dock

OCRM CRITICAL LINE

KUHNS
OCRM-15-211-B





Y Traffic, Bicycling, Terrain, Directions

Map data © 2015 Google
SEE SPECIAL
CONDITIONS(S)

Peter Kuhns, Joint-use dock
 OCRM-15-211-B

1909, 1913, & 1917 Lone Oak Point
 River town

SECTION 48-39-150. Approval or denial of permits; appeal to council.

(A) In determining whether a permit application is approved or denied the department shall base its determination on the individual merits of each application, the policies specified in Sections 48-39-20 and 48-39-30 and be guided by the following general considerations:

- (1) The extent to which the activity requires a waterfront location or is economically enhanced by its proximity to the water.
- (2) The extent to which the activity would harmfully obstruct the natural flow of navigable water. If the proposed project is in one or more of the State's harbors or in a waterway used for commercial navigation and shipping or in an area set aside for port development in an approved management plan, then a certificate from the South Carolina State Ports Authority declaring the proposed project or activity would not unreasonably interfere with commercial navigation and shipping must be obtained by the department prior to issuing a permit.
- (3) The extent to which the applicant's completed project would affect the production of fish, shrimp, oysters, crabs or clams or any marine life or wildlife or other natural resources in a particular area including but not limited to water and oxygen supply.
- (4) The extent to which the activity could cause erosion, shoaling of channels or creation of stagnant water.
- (5) The extent to which the development could affect existing public access to tidal and submerged lands, navigable waters and beaches or other recreational coastal resources.
- (6) The extent to which the development could affect the habitats for rare and endangered species of wildlife or irreplaceable historic and archeological sites of South Carolina's coastal zone.
- (7) The extent of the economic benefits as compared with the benefits from preservation of an area in its unaltered state.
- (8) The extent of any adverse environmental impact which cannot be avoided by reasonable safeguards.
- (9) The extent to which all feasible safeguards are taken to avoid adverse environmental impact resulting from a project.
- (10) The extent to which the proposed use could affect the value and enjoyment of adjacent owners.

(B) After considering the views of interested agencies, local governments and persons, and after evaluation of biological and economic considerations, if the department finds that the application is not contrary to the policies specified in this chapter, it shall issue to the applicant a permit. The permit may be conditioned upon the applicant's amending the proposal to take whatever measures the department feels are necessary to protect the public interest. At the request of twenty citizens or residents of the county or counties affected, the department shall hold a public hearing on any application which has an effect on a critical area, prior to issuing a permit. Such public hearings shall be open to all citizens of the State. When applicable, joint public hearings will be held in conjunction with any such hearings required by the U. S. Army Corps of Engineers. On any permit application pertaining to a specific development which has been approved by the department, the department may support the applicant with respect to any federal permit applications pertaining to the same specific development.

(C) The department shall act upon an application for a permit within ninety days after the application is filed. Provided, however, that in the case of minor developments, as defined in Section 48-39-10, the department shall have the authority to approve such permits and shall act within thirty days. In the event a permit is denied the department shall state the reasons for such denial and such reasons must be in accordance with the provisions of this chapter.

(D) An applicant having a permit denied or a person adversely affected by the granting of the permit has the right of direct appeal from the decision of the administrative law judge pursuant to Section 1-23-610. An applicant having a permit denied may challenge the validity of any or all reasons given for denial.

(E) Any permit may be revoked for noncompliance with or violation of its terms after written notice of intention to do so has been given the holder and the holder given an opportunity to present an explanation to the department.

(F) Except for maintenance dredging permits, work authorized by permits issued under this chapter must be completed within five years after the date of issuance. Maintenance dredging permitted under this chapter must be completed within ten years after the date of issuance. The time limit may be extended for good cause showing that due diligence toward completion of the

work has been made as evidenced by significant work progress. An extension only may be granted if the permitted project meets the policies and regulations in force when the extension is requested or the permittee agrees to accept additional conditions which would bring the project into compliance. The time periods required by this subsection must be tolled during the pendency of an administrative or a judicial appeal of the permit issuance.

HISTORY: 1977 Act No. 123, Section 15; 1982 Act No. 410, Section 2; 1993 Act No. 126, Section 1; 1993 Act No. 181, Section 1235; 2006 Act No. 387, Section 31; 2011 Act No. 41, Section 3, eff June 7, 2011.

Editor's Note

2011 Act No. 41, Section 6 provides as follows:

"Nothing in this act shall be construed to expand or increase the department's jurisdiction or to require permits for activities or projects that are not currently subject to regulation by the department. Except for the extension of the permit duration for maintenance dredging permits to ten years, nothing in this act shall be construed to impact any pending request or application for any license or approval from the department."

Effect of Amendment

The 2011 amendment, in subsection (F), in the first sentence, substituted "Except for maintenance dredging permits, work" for "Work"; and inserted the second sentence.



Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405

(843) 744-5838 FAX (843) 744-5847

October 23, 2003

Mr. John Wade
P O Box 686
Isle of Palms, SC 29451

Re: P/N# OCRM-03-084-R
Kuhns, Landis, Pisarski

Dear Mr. Wade:

In accordance with the provisions of the 1977 Coastal Zone Management Act, S. C. Code Sections 48-39-10 et seq., a review of your permit application has been completed. The work, as proposed consists of constructing a 4-way joint use dock at 1909 & 1921 Lone Oak Point, Rivertowne Country Club, Mount Pleasant, Charleston County, South Carolina.

The Office of Ocean and Coastal Resource Management (OCRM), through its Permitting staff, has determined that this permit request should be denied.

OCRM staff has determined that lots 29-32 should not receive a construction permit for a 4-way joint use dock in view of the fact that the approved Parkers Island Dock Master Plan did not indicate respective dock corridors for these subject lots. These lots were not included on the submitted Dock Master Plan by the developer for unknown reasons, and furthermore OCRM staff asserts that lots 29 and 32 were never waterfront to the Wando River anyway. It could also be argued that lot 30 is not waterfront because of the existence of a small island that restricts access to the river from this lot. Secondly, OCRM staff must consider the value and enjoyment of adjoining property owners who relied on the approved DMP when purchasing lots knowing other lots would never possess a dock. Similarly, it is OCRM's charge to consider the cumulative effects that a project may have on the surrounding area when considering the context of other possible development. Approval of this dock would create an atmosphere of change to the DMP which would result in OCRM revisiting past pressures to change the Parkers Island DMP in other areas of the island. Therefore, for these reasons, OCRM staff has determined the application should be denied.

The following is a list of specific references from the Coastal Zone Management Act and the Office of Ocean and Coastal Resource Management's Regulations that the staff relied upon in denying your permit:

Sections 48-39-30 (A) and (B)(1) (B)(2): (Legislature's policies for permitting structures in the critical area); .

Regulation 30-1(D)(52): Waterfront property-For purposes of these regulations, waterfront property will generally be defined as upland sites where a straight-line extension of both, generally shore perpendicular, upland property lines reaches a navigable watercourse within 1,000' of the marsh critical line. Waterfront property may also be identified via an approved dock master plan where designated corridors differing from upland property line extensions are delineated.

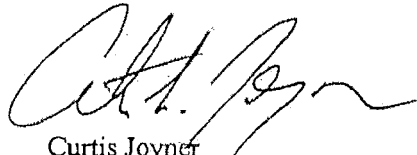
Regulation 30-11(C)(1): The extent to which long-range, cumulative effects of the project may result within the context of other possible development and the general character of the area.

Regulation 30-11(C)(2): Where applicable, the extent to which the overall plans and designs of a project can be submitted together and evaluated as a whole, rather than submitted piecemeal and in a fragmented fashion which limits comprehensive evaluation.

Section 48-39-150(D) of the 1977 Coastal Zone Management Act provides that any applicant having a permit request denied or any person adversely affected by the granting of a permit has the right to appeal the agencies decision to the South Carolina Administrative Law Judge Division. Any applicant having a permit denied may challenge the validity of any or all reasons given for denial. Should you wish to appeal this decision, written notice of your intent to appeal must be filed with OCRM within fifteen (15) days of receipt of this letter. Pursuant to Temporary Amendments of the Rules of the Administrative Law Judge Division, the Division requires a \$100.00 filing fee to be submitted with any written request for an appeal of a final agency decision. The written request for an appeal must be filed with OCRM and a copy of the request, with the \$100.00 fee, sent directly to the Administrative Law Judge Division at P.O. Box 11667, Columbia, SC, 29211. The Administrative Law Judge Division will not process the appeal unless the fee is submitted to them.

If you would like a copy of the Coastal Zone Management Act or the OCRM's Regulations please feel free to contact this Office or one of our regional Offices (Myrtle Beach at 626-7217 or Beaufort at 846-9400 or Columbia 803-737-0880). If I can be of any further assistance, please do not hesitate to call.

Sincerely,



Curtis Joyner
Manager, Critical Area Permitting

cc: Steve Brooks, Manager Enforcement
Tess Rodgers, Project Manager
Leslie Stidham, Chief Counsel
Kuhns, Landis & Pisarski



Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
(843) 747-4323 FAX (843) 744-5847

EXHIBIT

C

June 12, 2003

Mr. John E. Wade Jr.
P.O. Box 686
Isle of Palms, S.C. 29541

Re: Parker's Island Tract C
DMP Revision
Charleston County

Dear Mr. Wade:

Attached please find copies of correspondence concerning the above referenced Dock Master Plan (DMP). The staff of SCDHEC-OCRM has reviewed the latest revision you sent us, marked "Received Jun 09, 2003 DHEC-OCRM Charleston Office". This revision does not reflect the terms of Curtis Joyner's approval letter of January 14, 2000, or my letter of September 18, 2001. Instead, the latest revision you submitted shows lots 50, 51, and 52 as dock lots, and a joint use dock for lots 29-32. These additions are not in keeping with the previously approved DMP for Tract C.

In addition, as per Curtis' approval letter of January 14, 2000, **"Reference must be given to this dock master plan in all contracts for sale of affected lots. OCRM strongly suggests the developer record this DMP in the local RMC office. This would place potential buyers on notice that their property may be affected by the DMP and would protect the developer from potential legal liability by prospective buyers."** Clearly, the intent of this letter was to ensure that those buying lots in Tract C would be made aware of this document, and that they could rely upon it. Lots have been sold in Tract C since the DMP approval date, and several of these may be negatively impacted by the addition of the docks shown on your latest revision (for example, the unnumbered lots between Lot 32 and the Common Area, to the south of the proposed four lot joint use dock).

For these reasons, it would be inappropriate to approve your proposed revisions to the existing DMP.

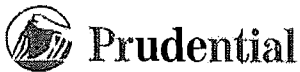
If you have any questions, please contact me.

Sincerely,

Fritz Aichele
Dock Master Plan Coordinator

EFIS # 3417

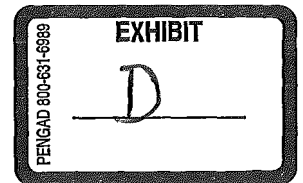
CC: Richard Chinnis, Curtis Joyner, Tess Rodgers



**Carolina Real Estate
New Homes**

4024 Salt Pointe Parkway, North Charleston SC 29405
Bus 843 202-2020 Fax 843 202-2035
www.prudentialcarolina.com

February 9, 2004



The Honorable Carolyn C. Matthews
Administrative Law Judge Division
Post Office Box 11667
Columbia, SC 29211-1167

RE: Kuhns, Landis and Pisarski vs SC DHEC
Docket No: 03-ALJ-07-0481-CC

Having been a full-time licensed South Carolina realtor for the past seventeen years, I feel I must make a comment regarding the appeal for the proposed dock for lots 29, 30, 31, 32, 34, 35, and 36 in "The Point" at Rivertowne. These lots were marketed and sold by a fellow Prudential sales agent within the last two and one half years. These lots were marketed and sold without dock corridors, and the purchase price clearly reflects this fact. If these lots had available direct water access, then their value when sold would have been at least \$300,000 (twice the sales price without direct water access). The owners of these lots are members of the Homeowners Association, and as such they are joint owners of a community dock.

I am an on-site agent for the adjacent subdivision to "The Pointe". "The Pointe" and "Northcreek" are both covered by a single Dock Master plan. Selling lots and homes in these communities, myself and other Prudential sales agents have relied on the Dock Master Plan in our sales presentations and I can state with firm conviction that the location of dock corridors and the preservation of scenic view has been a material factor in the purchase decisions of my clients. If the proposed Kuhn's dock is granted, then it will negatively affect the views from the Stone residence, the Maucher lot, and also negatively impact the views of other homeowners. In my expert opinion, the average devaluation of these lots would be in the 5-25% range. The Stone residence and the Houser lot on Lone Oak Lane would be most effected and the devaluation would be at the upper end of the range. The Maucher lot and the homes on Ballast Point would come next and fall mid range. Other homes and lots would be at the lowest en of the range depending on how much their view was affected.

I would conclude The Kuhn dock application represents a substantial departure from the planned community that was marketed. There exists no compelling reason to alter a Dock Master Plan relied upon by so many in their purchase decisions. For this reason, I would urge that the Kuhn dock application be denied.



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4024 Salt Pointe Parkway, North Charleston, SC 29405

Bus 843 202-2020 Fax 843 202-2035

www.prudentialcarolina.com

Thank you for your time and consideration.

Respectfully,

M. Hammond Raders

M. Hammond Raders

New Homes Sales

Prudential Carolina Real Estate

Signed before me this 12 day of February 2004. Notary Public South Carolina

My commission expires 2/16/11.

Patsy J. Salemore

Cc

Leslie W. Stidham, Esquire OCRM

Mary D. Shahid, Esquire

Mr. and Mrs. Jeff Houser

Mr. and Mrs. Dwight Stone

Mr. and Mrs. Mike Maucher