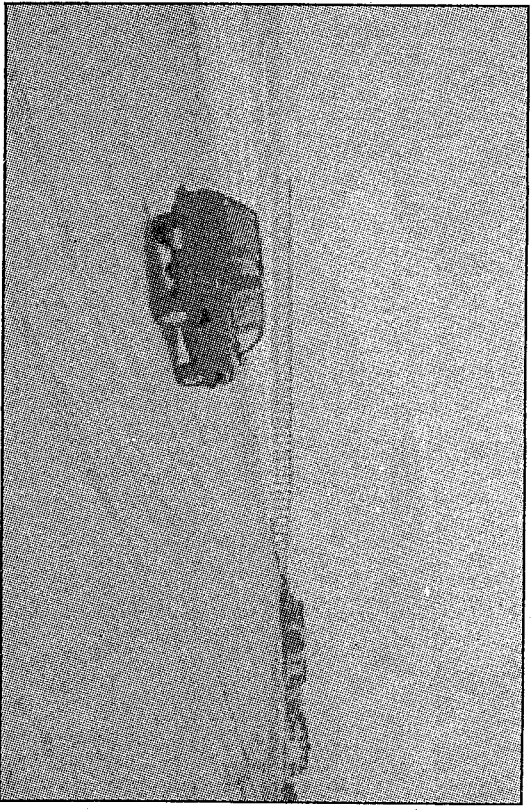


# Island Gazette, Carolina Beach

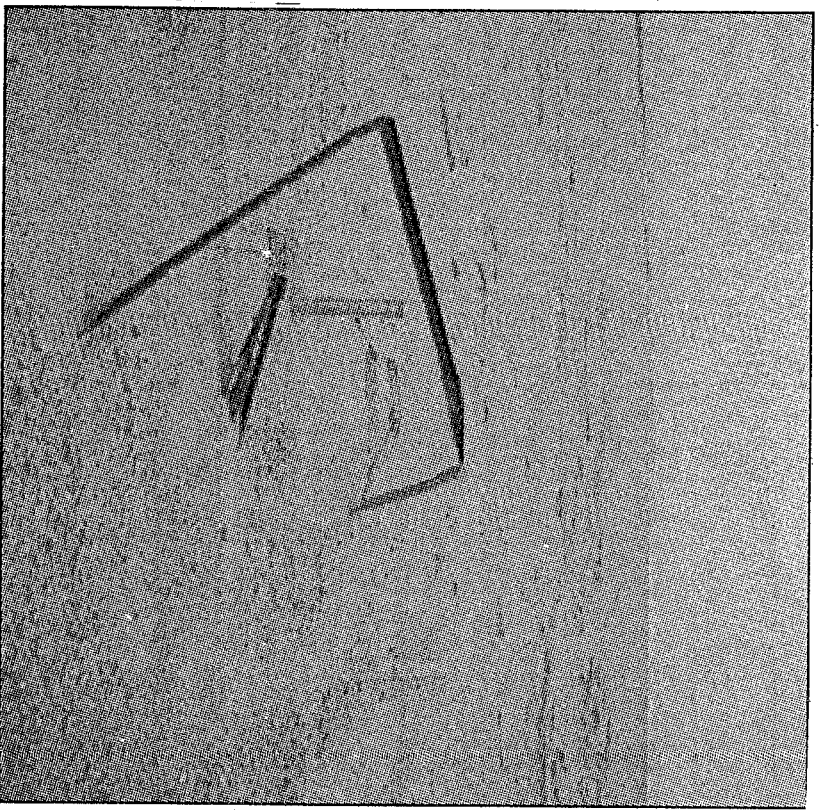
WEDNESDAY, FEBRUARY 19TH, 2003

Still Just 25¢

## NORTH END ISSUE; BELYNDA BILLBROUGH ADDRESSES COUNTY COMMISSIONERS



*(Pictured Above: ) Automobile riding on the beach at the North End of Carolina Beach. 2-17-2003.*



*(Pictured Above: ) The bent and mangled frame of what was once a "No Trespassing" sign posted after the northern boundary of the Town's limits on the North End.*

By Willard H. Killough III  
Managing Editor

CAROLINA BEACH - During the February 17th new Hanover County Commissioners' meeting, local resident of the North End ment written by Ms. Evelyn Williams, Attorney at Law and owner of the Freeman track of property located on the North End, the largest track of land in that area.

## North End from page 1

Statutes are clearly meaningless chatter when they are ignored. The failure to ban over night camping, camp fires or to enforce the ban of vehicular driving on the North End of Carolina Beach encourages the degradation of the beach environment, destruction of sand dunes, destruction of endangered species; creates beach erosion; rewards the lawless at the expense of property owners and the citizens of North Carolina. And violates Federal and North Carolina State Constitutions, North Carolina State General Statutes and New Hanover County Ordinances you are mandated to enforce. They are:

### FEDERAL LAW:

1. The U.S. Constitution, Fifth and Fourteenth Amendments.
2. Title 42, Chapter 21, Subchapter (1), Section 1983.
3. Migratory Bird Treaty Act, Title 16, Chapter 7, Subchapter 11, Section 703 (191.8)
4. Endangered Species Act of 1973, Title 16, Chapter 55, Section 1531 and Chapter 55, Section 3501.
5. Coastal Zone Management Act of 1972, 86 Stat. 1280, as amended, 16 U.S.C., Section 1451 et seq.
6. U.S. regulatory division: United States Department of the Interior, Fish and Wildlife Service, who advised me on December 12, 2002, that "The Service is aware of the adverse impacts resulting from vehicles on your property to nesting waterbirds and shorebirds and, potentially, to federally-endangered and threatened species, such as nesting loggerhead sea turtles, piping plovers ... and the beach-dune plant, seabeach amaranth.... The Service supports your position to eliminate vehicle

traffic from the beach at the North End of Carolina Beach for the protection of all species..."

o 6. *Nollen v. California Coastal Commission*, 483 U.S. 825, (1967), where the Supreme Court of the U.S. held. "We have repeatedly held that, the right to exclude others is one of the essential sticks in the bundle of rights that are commonly characterized as property."

### NORTH CAROLINA STATE LAW:

1. North Carolina Constitution, Article 1, Declaration of Rights.
2. North Carolina Constitution, Article 4, General laws: The General Assembly may enact general laws regulating matters set out in this section.
3. North Carolina General State Statutes, Chapter 153A, Article 1, Section 153A-) Definitions: Sub Section (4) General Law: Act of the General Assembly that applies to all units of local government, to all counties...."
4. The North Carolina Environmental Policy Act of 1971 (SEPA)
5. North Carolina Coastal Area Management Act (CAMA)
6. The North Carolina State Statute, Section 14, Chapter 159.3 "Trespass to Land On Motorized All Terrain Vehicles". (violation a misdemeanor)
7. The North Carolina State Statute, Chapter 14, Article 22A - "Trespassing Upon "Posted" Property to Hunt, Fish, Trap, etc., Section 14159.6 (violation a misdemeanor) 8. The North Carolina State Statute, Chapter 14, Article 22, Section 159.8  
"Mutilation of "Posted" signs. (violation a misdemeanor)  
Re: items # 7 and #8 above, please

be advised that Freeman's Beach, located at the North End of Carolina Beach, has been posted no trespassing over the years, and, more recently, in December, 2002 - notice to the County Attorney and County Sheriff. The signs were torn down on the same day they were put up.

9. North Carolina General Statute 153A-123: Enforcement of Ordinances: "(a) A county may provide for fines and penalties for violation of its ordinances..."

### NEW HANOVER COUNTY ORDINANCES:

1. Article 11, Chapter 53, Section 53-31 et seq. "OPERATION OF VEHICLES IN DUNE AREA" (Civil penalty imposed if on private property without the consent of the owner)

7. The Sand Dune Protection Ordinance of New Hanover County, Sec. 59-32 - "PURPOSE: This article is adopted to preserve and promote the protection of the banks and shores of the county by maintaining the existence of natural or constructed dunes which provide a protective barrier from the actions of sand, wind and water .... This article is therefore adopted for the health, safety and welfare of persons living, visiting or sojourning in the outer banks area of the county and for the protection of public and private property." (violation Is a misdemeanor plus a fine).

It is to be noted that the private owners do not seek to exclude pedestrians from using their property in a reasonable manner. Nor do they seek to prevent fishermen from recreational pursuit. Their specific objective is to exclude vehicular traffic over their private areas of the beach for all of the above-mentioned reasons.

Please. reconsider approval of the

ban on campfires and fires as proposed by the County Attorney and, please enforce existing law banning vehicular traffic on the North End.

Sincerely,  
Evelyn A. Williams

A Property owner, Freeman's Beach, located at the North End of Carolina Beach cc: Members of New Hanover County Commission

Following her reading the letter to the Commissioners, she also read a statement from another property owner who was in opposition to vehicles traveling on their private property and trespassing. Ms. Billbrough explained that it is a violation of state law and County ordinances to not protect the beach environment within a "conservation zone" established by the County itself. In addition, she cited that it is a violation of the federal endangered species act to not protect endangered species such as shore birds (piping plover) and logger head turtles which frequent the beach to lay eggs under the sand. No action was taken by the Board of Commissioners.

Local fishermen and beggers have expressed harsh feelings regarding closing the North End.

Questions have risen to the surface regarding what parts of the north end the owners in question actually own, and what areas will be restricted from vehicle use. As it stands now, on public record with New Hanover County and the State of North Carolina, we were only able to gather the following information at this time. This information is of course always arguable under legal terms, however, it does indicate some surprising things.

First, Article 3 of Chapter 77 NC General Statutes states, "Article 3. Lands Adjoining Coastal Waters.

§ 77-20. Seaward boundary of coastal lands.

(a)The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark. Provided, that this section shall not apply where title below the mean high water mark is or has been specifically granted by the State.

(b) Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any

rule or regulation issued by any agency.

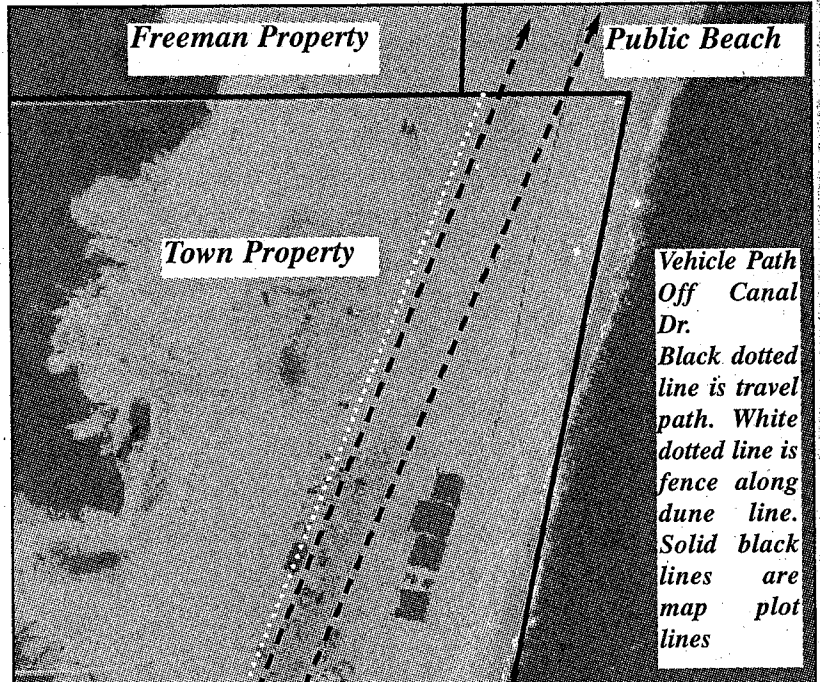
(c) For purposes of this Article, "agency" means any part, branch, division, or instrumentality of the State; any county, municipality, or special district; or any commission, committee, council, or board established by the State, or by any county or municipality.

(d) The public having made frequent, uninterrupted, and unobstructed use of the full width and breadth of the ocean beaches of this State from time immemorial, this section shall not be construed to impair the right of the people to the customary free use and enjoyment of the ocean beaches, which rights remain reserved to the people of this State under the common law and are a part of the common heritage of the State recognized by Article XIV, Section 5 of the Constitution of North Carolina. These public trust rights in the ocean beaches are established in the common law as interpreted and applied by the courts of this State.

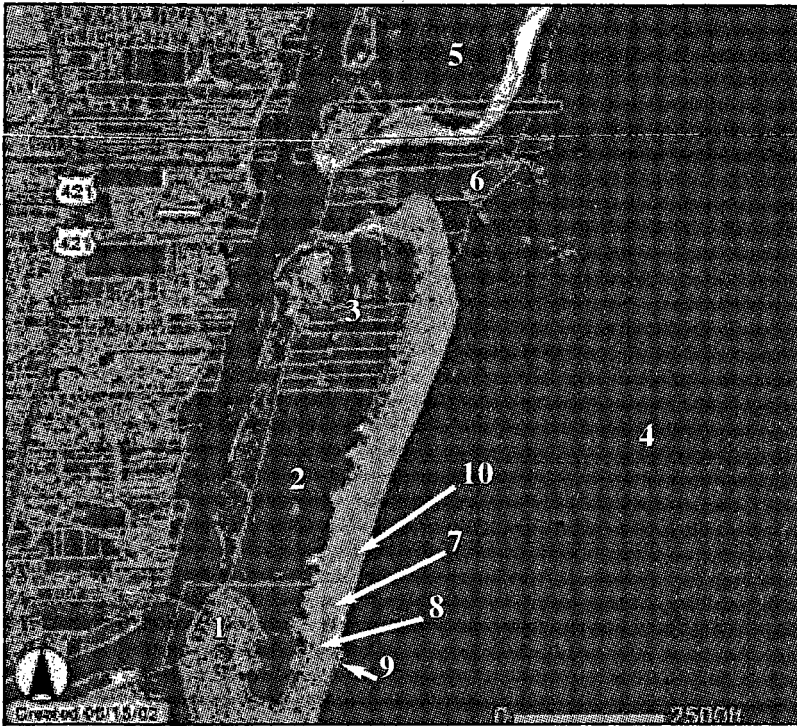
(e) As used in this section, "ocean beaches" means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. This area is in con-

stant flux due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm. The landward extent of the ocean beaches is established by the common law as interpreted and applied by the courts of this State. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line. (1979, c. 618, s. 2; 1998-225, s. 5.1.)

Reading that General Statute and then examining the tax map below obtained from the County, the lines become clear as to where the public may be allowed to pass while not infringing on private property owner rights. However, the issue of where public areas and private property begins and ends will surely become an issue in the months to come as the 2003 summer season approaches.



(Pictured Above: ) Satellite photo and map with plot lines for property boundaries as obtained via the New Hanover County web site under tax records (GIS Department). Lines enhanced and doted lines added later. See larger map on back page... (Page 22)



(Pictured Above: ) 1: Oceana Neighborhood. Primary location for residents complaining of damage to environment and safety issues. Average price of homes is 300,000 to 600,000 tax value. First home built in 1994 following addition of roads and leveling of dune area. More homes followed and one home remains under construction at this time. (2). Freeman family private property. No trespassing allowed. (3). Other private property tracks of land. (4). Come on now, it's the Atlantic Ocean! (5) Masonboro Island. Primary nesting spot for shore birds and loggerhead turtles. Extends up to Wrightsville Beach Area. Owned by a conservatory group. Masonboro Island is cut off from land with no bridges, thus no vehicles are allowed on the Island. (6) Snow's Cut. Where the fishing boats exit waterway to go deep sea fishing. It to is owned as a track of land. In the water, but nevertheless, owned by the N.C. Division of Marine Fisheries. (7). Town of Carolina Beach public property. (8). Canal Drive ends and the North End vehicle/pedestrian area begins. (9). North End Pier. (10) Public beach area as indicated by New Hanover County Tax Map property boundary lines. They appear as light gray lines within the photo. On the County's web site, the lines are bright neon green in color. Visit their web site at <http://www.nhcghov.com>

**DISCLAIMER:** The Island Gazette does not condone trespassing on private property. These maps are not legally binding. They do not make claims to anything more than what was obtained via the New Hanover County GIS department's web site which contains photos of land and property lines for individual plots including measurements of plots, street names, and tax information including values for each plot as recorded by the tax office. In addition, the County's web site also carries a disclaimer which appears on the GIS department's web site front page. As for tearing down trespassing signs, that is childish and doesn't benefit either sides wishes. In the end, it will become a designation of public areas and private property, as well as protecting the environment from vehicle and pedestrian damage through law enforcement and education. After all, it is illegal to walk or drive on the dunes. Keep off the dunes, pick up your trash, and be mindful of the wild life.

# THE NORTH END

Dear Ms. Pritchett,

According to the Island Gazette you are on record for closing of the north end of Carolina Beach.

There are great deal of people who live here and many more that come from every corner of NC to enjoy that area. You truly have a tiger by the tail.

Those who enjoy and have enjoyed this beach strand for decades are not organized or vocal at this point. Not like the newly transplanted do-gooders who are trying to restrict the north end for their own property value concerns. But just try to close the northend to fishermen who enter surf fishing tournaments, camp, build fires and keep our bait & tackle stores in business.

Just try to close it to the surfers and families that moved here because of the northend. First and foremost the northend is the local beach. We don't go to the public beach accesses.

We drive our 4-wheel drives with our children, dogs, parents and friends

to the beach on the northend.

We take our boys and girls on camping trips to the northend where we teach them to crab, ski and surf. I am adamantly opposed to closing this area for the benefit of animals. I like birds and turtles just as much as the next person, but the way I see it, we humans, being at the top of the food chain and all for now, deserve a place to play as well.

A place that is not regulated out the ying yang. A place that is free and open where you can just be. Those who are trying to close this area down because of "environmental concerns" have no clue as to the culture and tradition at Carolina Beach.

There are people who move to Carolina Beach but refuse to embrace the culture and attitude that makes us different from other beach towns in the area.

They reject the fact that we are a town of fishermen, sportsmen, carpenters, restaurateurs, real estate agents, teachers etc. What do we all have in common, we work.

Why are we not attending every Wilmington City Council meeting

scheduled at 9:00 a.m. or Carolina Beach Town Council meeting?

We work.

Carolina Beach is a working mans' beach like it or not. It is not Wrightsville Beach or Myrtle Beach nor do we want it to be. The other thing that sets us apart is attitude. We are pretty independent down here. A whole lot of us that are year round residents own our own businesses.

That's because we don't like to be told what to do. We may not be the vocal majority right now, but close that north end and your going to awaken a hornets nest. I get the feeling that some folks purchase property here because they can't afford Wrightsville but busy themselves with attempts to remake this area into the place from whence they've come. I've seen them come and go.

They say things like " oh this place would be paradise if only...". So they buy a piece of property close to something that they think they can change or deal with and then dedicate themselves to trashing our town, our officials, and especially "the way we do things down

here".

Some restrictions are necessary but closing the north end to vehicular traffic is an extreme in the same vein as the extremes that are visible at peak season on the north end.

We need a way to educate the tourists who come here as to what we expect in the way of respecting and preserving this area. We need volunteers and law enforcement to unite with the goal of enforcing a set of rules that will prevent chaos and disorder in the summer.

I will personally walk the northend to hand out instructions on how to haul out what you haul in and trashbags. No camping or fires from Memorial to Labor Days OK.

Everybody off the beach by 10PM Memorial to Labor days OK. But when the tourists depart, please, leave us alone. Let us enjoy why a very important part of our culture and our Island.

Thank you,  
Tamara Cairns  
Carolina Beach Resident