



STAFF PHOTO BY EDDIE SWEATT

JERRY WEST mans the barricade that now limits access to the west end of Holden Beach. West was allowing only property owners and their guests past the barricade, where the state road turns into a private drive.

CAMA Investigates, Motorists Complain As West End Of Holden Beach Closed To The Public

BY TERRY POPE

A sign at the west end of Holden Beach states "Private Property; Property Owners Only," but it went virtually unnoticed until last week when motorists seeking access to the west end were stopped in their tracks.

Holden's west end came under private barricade last week with only property owners and their guests allowed to pass beyond the orange and white blockade. Also passing through the blockade last Thursday were Coastal Area Management (CAMA) officials who conducted an investigation into reports of filling of wetlands along the west end by Holden Beach Realty Corp., owners of the west end tract.

The closing of what town officials have agreed is a "private road" caused alarm among many motorists who are accustomed to parking along the west end for beach access. It also caused concern among CAMA of-

ficials over the clearing of second-row lots along the west side of the private drive.

However, Tuesday afternoon, Fred Ozaka of the Wilmington district CAMA office, said the lots under investigation "have been restored to our satisfaction." Ozaka said he met with representatives of the Holden Beach Realty Corp. last Thursday and requested that the clearing of lots be halted until it is determined if wetlands were filled and how they should be restored.

Jim Griffin, principal partner in the realty company and town commissioner, was unavailable for comment. Attempts to contact Griffin on Thursday, Friday, Monday and Tuesday were unsuccessful and Griffin did not attend Monday's meeting of the town council.

Tuesday evening, after receiving clearance from CAMA officials, the realty company filed nine applications for CAMA permits with Holden Beach to construct

nine, three-bedroom homes on lots located between 1302-1324 Ocean Boulevard West where the lots were cleared. The entire west end tract is zoned residential, or R-1, allowing single and duplex construction.

Ozaka said Tuesday that as a result of the investigation, the company agreed to restore the lots by "pulling back dirt from those areas that had been filled" during the clearing. He gave Holden Beach Building Inspector Dwight Carroll, who is also the town's CAMA official, permission Tuesday afternoon to process the realty company's CAMA applications.

Carroll said Thursday that he had issued no local CAMA permits to the realty company for clearing the lots, but noticed that bulldozers were leveling the dunes last Wednesday.

"I saw what they were doing so I called CAMA down here," Carroll said.

Local CAMA permits cannot be issued for clearing large tracts of land, but instead need state permits, Carroll said. Ozaka said that after contacting the realty company, they were "willing to stop and cooperate with the investigation" and agreed to "begin correcting what the problems are."

The road that provides access to the west end of the beach is "the only private street on the island, that I know of," said Town Administrator Bob Buck. He added that the territory beyond the state-maintained road is within the town limits, but that the town has no claim to the road.

"It is a private road beginning 100 feet west of the right-of-way of Shell Drive," Buck said. "The town has never accepted the road for maintenance nor does the town draw any Powell Bill funds from it."

(See WEST END, Page 2-A)

Ocean Isle Peddling Ordinance Survives First Round Of Court

BY TERRY POPE

A Brunswick County District Court judge Monday refused to rule as "unconstitutional" an Ocean Isle Beach town ordinance that has Shalotte Point resident Donald Ballou charged with peddling without a license.

Judge D. Jack Hooks Jr. of Whiteville instead found Ballou guilty of peddling and fined him \$50, a verdict that Shalotte attorney Mark Lewis said he will appeal to Brunswick County Superior Court.

Lewis argued in court Monday that the town's ordinance is "unconstitutionally vague" and restricts everything from "street vendors, to newspaper stands to Coca-Cola machines."

Police Chief Jerry Gurganus testified in court Monday that he charged Ballou with peddling without a license on July 17 after he spotted the defendant selling drinks and

snacks from the rear of a "Roach wagon," or a three-quarters ton military-style pickup with sides that open up to display goods for sale.

Prior to the trial Monday, Lewis filed a motion to dismiss the case, asking Judge Hooks to rule the ordinance as unconstitutional. Lewis said the N.C. General Assembly in 1963 granted towns the power to restrict peddlers within town limits, but did not grant towns the right to prohibit all peddling.

"Under the Ocean Isle ordinance, no one has the right to sell," Lewis said. "There is no permit process. I don't see what Mr. Ballou did is any different from what the Merita bread man or Lance cracker man does."

After returning to his chambers for 30 minutes to study the North Carolina law, Judge Hooks returned and ruled that the Ocean Isle ordinance was constitutional because

the power to restrict peddling was granted by the state. Lewis said that his research of North Carolina law determined that a town's right to prohibit all peddling has never been challenged in court.

The Ocean Isle ordinance was adopted by the town about five or six years ago, said Police Chief Gurganus. He said that prior to July 17, only two people had been charged under the ordinance, a produce salesman and someone selling T-shirts.

The ordinance mandates that peddling of goods, including but not limited to food and/or ice cream, is prohibited by the town from any non-permanent structure within the town limits.

Gurganus said he advised Ballou prior to filing the charges that he was in violation of the ordinance, and gave him an opportunity to leave the

island without a citation.

Ballou testified Monday that he contacted the town of Holden Beach on July 16, the day before charges were filed against him at Ocean Isle, and was granted a privilege license to sell goods by the town. Ballou said he was operating the truck on July 17 at Ocean Isle for Ginger Walrath, vice-president of Master Marketing Inc., which owns the vending service.

Ballou said he contacted Ms. Alberta Tatum, town clerk at Ocean Isle, in mid-March and was told the company could not obtain a privilege license to sell. He added that Sunset Beach town officials also told him that the company could not obtain a license to sell goods. The Holden Beach and Ocean Isle Beach town ordinances against peddling are identical except Holden Beach adds the phrase "along the beach strand," he

said.

"The fact that Holden Beach granted a permit to Mr. Ballou under a nearly identical ordinance leads one back to the constitutionality question," Lewis stated. But Judge Hooks said he had already ruled on the constitutionality of the ordinance.

At one point in the trial, while studying the ordinance and hearing arguments from Assistant District Attorney Wanda Bryant, Judge Hooks remarked, "Anybody selling anything at Ocean Isle but real estate is guilty of peddling."

(See PEDDLING, Page 2-A)

County Aims For Showdown On Flood Insurance Data

BY SUSAN USHER

Bristling at the thought of coping with more federal red tape, Brunswick County commissioners unanimously agreed Monday night to call for a "political sit-down with top officials in Washington" to discuss flood elevation maps proposed for unincorporated areas of the county.

The meeting will be scheduled soon, within the 90-day period for filing formal objections to the flood rate elevations and insurance rate maps proposed by the Federal Emergency Management Agency (FEMA).

This "one on one, eyeball to eyeball" confrontation was proposed by County Planner John Harvey, who said he had been in regular correspondence with FEMA officials since a public meeting in January, with less than satisfactory results.

"I believe I have—if you'll pardon the expression—exhausted all administrative remedies," he said Monday night.

"You will have a lot of support

from people in the county who have made their own studies and are willing to participate in such a meeting at their own expense," he added.

In a memo to County Manager Billy Carter, Harvey noted two specific problems relating to development, planning and inspections.

Until they are straightened out, he wrote FEMA field representative Carol Campbell in April, he is hesitant to enforce flood insurance program portions of the county building code.

"I will enforce only what is common sense and enforceable," he advised.

The problems he specified are two: 1) base maps with alignments and markings (such as routing of roads) that don't correspond with those on county-made maps and in a scale that's not compatible; and 2) broad sections of unincorporated area for which no specific flood plain elevations or flood hazard factors are given, but that are identified as subject to a 100-year flood.

FEMA's natural hazards branch chief, Richard Mayson, shortly answered Harvey. He wrote that correction of the maps would be given top priority, using maps provided by the county. They were to be completed in about a month and returned to the county.

Nearly four months later, they've not arrived, Harvey said.

In the broadly-defined 100-year-flood or "A" zones, any time a new development involves more than five acres of land, FEMA regulations say the applicant must provide his own flood elevation data. A FEMA computer expert in Atlanta is available to advise developers on how to do the required study.

In one test case of a small proposed subdivision near Holden Beach, Harvey noted, the planning board found a 10-mile survey run would be required.

"We agreed that was excessive burden to place on the public," wrote Harvey. "FEMA still insists that be done."

Harvey also noted that, in his opinion, "FEMA has done not only an absolutely sloppy job to have created such a massive 'Zone A' with so much of the county in effect left up in the air in this undefined area, but also a public disservice."

Mayson said the county maps were also being revised to reflect information provided by Bald Head Island.

While the federal agency cannot change the scale of its insurance rate maps, he said, the county could hire a cartographer to transpose data from one set of maps to another.

In the meantime, he wrote, FEMA expects the county to "utilize your best judgement in the interpretation of the zone requirements. Where the area is questionable, the more restrictive interpretation should be applied."

The sole basis for appeals of flood elevation determinations, under FEMA regulations, is knowledge or information that indicates the proposed elevations are scientifically or technically incorrect.



STAFF PHOTO BY TERRY POPE

Shark Tourney Winners

Second place winners in the Poor Boys Shark Tournament this past weekend are, from left, Ronnie Cheers and Linwood Robinson of Shalotte, and Capt. Homer Garrett, with their 233½-pound and 235-pound tiger sharks. The story and more photos are in section B of this issue.