



Development Potential of McLeod Property

Kerri Allen, Coastal Advocate

October 9, 2019

Recent news reports published in [Port City Daily](#) and [Coastal Review Online](#) have highlighted substantial public interest in the listing of an 110-acre tract of undeveloped land located at the southern tip of Topsail Island. The property is owned by the McLeod Family LLC. Residents of Topsail Island, in addition to the general public and regional conservation groups have expressed interest in the protection of this land.

Potential impediments to the development of the property as a result of local, state and federal designations are described below. Most simply stated, the McLeod Tract:

- 1) is not zoned for development;
- 2) is located within an Inlet Hazard Area;
- 3) is located within a Coastal Barrier Resources Act unit;
- 4) is not eligible for public utilities nor federal flood insurance; and
- 5) development is not compatible with the Town of Topsail Beach's zoning ordinances or CAMA Core Land Use Plan.

Public acquisition of the McLeod Tract is consistent with Town policies that encourage protection of land parcels with high resource value and should be fully explored.

1. Local policies

1.1 Town of Topsail Beach Land Development Code

The Topsail Beach zoning ordinance contains three designations of land use referred to as "Conservation Areas."¹ These include C-1 Ocean Front, C-2 Sound Side, and C-4 Inlet Area (Figure 1). The C-4 Inlet Area is an undeveloped parcel of land that abuts New Topsail Inlet, and lies between Topsail Sound, the Atlantic Ocean, and the area locally known as Serenity Point. The area includes land that is designated as an inlet hazard area, and includes public trust beaches on both the ocean side and the sound side that are important public trust recreation areas. The purpose of this district is to preserve and protect the areas of environmental concern as identified by G.S. 113A-113 and 15A NCAC 07H .0200 and 07H .0300. The C-4 district is identified as all land included in the inlet hazard area and that is not zoned for residential use (Ord. No. 2019-001, 1-9-2019). Further, in the table of permitted and conditional uses within the land development code, beach access and

¹https://library.municode.com/nc/topsail_beach/codes/code_of_ordinances?nodeId=PTIICOR_CH16LADE_ARTIVZO_S16-82ZODIES

pedestrian water access walkways are the only permitted uses within the C-4 district (Sec. 16-86).

Future Land Use Plan Compatibility Matrix												
Consistency Review of Future Land Use Map Designations and Existing Zoning Districts (Note the following regulations are current as of December 1, 2012. All development must be consistent with regulations in effect at the time the development is proposed)												
Existing Zoning Districts	R1	R2	R3	R4	PRD1	PRD2	B1	B2	C1	C2	C4	
Minimum Lot Size ^a (single family, sq. ft.):	5,000	5,000	5,000	5,000	NA	NA	5,000	5,000	NA	NA	NA	
Minimum Lot Size ^a (two family, sq. ft.):	8,500	8,500	8,500	8,500	NA	NA	8,500	8,500	NA	NA	NA	
Maximum Impervious Surface	35%	35%	35%	35%	35%	35%	35%	35%	NA	NA	NA	
Maximum Single Dwelling units/acre	9.7	9.7	9.7	9.7	8.7	2.9	9.7	9.7	NA	NA	NA	
Maximum Duplex units/acre	11.4	11.4	11.4	11.4	15.4	2.9	11.4	11.4	NA	NA	NA	
Maximum Multifamily Units/Acre	NA	NA	NA	NA	15.4	2.9	NA	NA	NA	NA	NA	
Maximum Building Height (ft.):	41	41	41	41	41	41	41	41	NA	NA	38	
Land Use Designations & Compatibility												
Conservation									OK	OK		
Conservation w/ Limited Residential											OK ±	
Commercial/Residential							OK	OK				
Residential	OK	OK	OK	OK	OK	OK						
OK "generally consistent" X "inconsistent" NA "not applicable"												
Comment on Inconsistencies: C-4 Conservation district: Current zoning prohibits development; Future land use policy recognizes the possibility of development												
"OK*" in the above table means that the development is not allowed because it is in a conservation district.												

Figure 1. Town of Topsail Beach Future Land Use Plan Compatibility Matrix. The McLeod Tract is zoned C-4, wherein development is not allowed.

1.2 Town of Topsail Beach CAMA Core Land Use Plan

Topsail Beach town policy is to preserve, protect, and enhance the area's natural resources. The Town works to pursue protection of these resources in a regional context, with neighboring jurisdictions, and with area-wide planning through a process which favors long-term goals over short term interests. Town policy is to support resource protection

efforts and to encourage the acquisition of land parcels with a high resource value by the State of North Carolina or area conservation organizations or land trusts.²

The Town acknowledges expected growth within the planning period and believes in managing and directing this growth. As such, within the *Policies for Growth and Development* section of the land use plan, it is policy that development within the Town should be based on: 1) the suitability of land to accommodate the use; 2) the capacity of the environment; 3) compatibility with Town goals and ordinances; 4) densities allowable in sensitive areas; and 5) the availability of support facilities and services.

Further, Part 4 of the Coastal Area Management Act states: no permit shall be issued for development which is inconsistent with the approved land-use plan for the county in which it is proposed. No local ordinance or other local regulation shall be adopted which, within an area of environmental concern, is inconsistent with the land-use plan of the county or city in which it is effective; any existing local ordinances and regulations within areas of environmental concern shall be reviewed in light of the applicable local land-use plan and modified as may be necessary to make them consistent therewith. All local ordinances and other local regulations affecting a county within the coastal area, but not affecting an area of environmental concern, shall be reviewed by the Commission for consistency with the applicable county and city land-use plans and, if the Commission finds any such ordinance or regulation to be inconsistent with the applicable land-use plan, it shall transmit recommendations for modification to the adopting local government (§ 113A-111).³

1.3 Future land use goals

The future land use goals of the Town are representative of the Town's vision for future growth and development. Specific goals and policies applicable to assessing the value and development potential for the McLeod Tract are listed here:

- I. Public Access Goal: to increase and enhance public access opportunity to the ocean and sound waters of Topsail Beach.

Providing Public Access & Meeting Federal Standards — It is the policy of Topsail Beach to continue to provide access to public trust waters through the acquisition, development, and redevelopment of beach and sound access areas, parks, and boat launching areas. This development and redevelopment activity shall be consistent with the need to protect the areas natural resources. Topsail Beach will, in the future, seek financial assistance from state and federal sources to support the development, and/or expansion, of parks and recreational facilities in appropriately sited locations.

²http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

³ https://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_113A/Article_7.html

- II. Land Use Compatibility Goal: To ensure that development and use of resources or preservation of land minimizes direct and secondary environmental impact, avoids risks to public health, safety and welfare and is consistent with the capability of the land based on considerations of interactions of natural and man-made features.

Development Must Be Consistent with Existing Regulations — As a means of controlling any inappropriate or damaging development activities within AEC's, the Coastal Area Management Act calls upon the CRC, in cooperation with coastal local governments, to implement a permitting program. The intent of this program is not to stop development but rather to ensure the compatibility of development with the continued productivity and value of critical coastal land and water areas. These areas are defined as Areas of Environmental Concern (AEC's). The Town of Topsail Beach endorses this permitting system as a means of managing and protecting the coastal resources of North Carolina.

- III. Natural Hazards Areas Goal: to conserve and maintain barrier dunes, beaches, flood plains, and other coastal features for their natural storm protection functions and their natural resources giving recognition to public health, safety, and welfare.

Acquisition of Parcels of Land in Hazardous Locations — It is the policy of the Town of Topsail Beach to consider acquisition of parcels located within hazard areas or rendered unbuildable by storms or other events for the purpose of recreation or public access. Developers may also be required to provide such properties as open space under circumstances related to the issuance of a conditional use permit or as a part of the subdivision approval process.

Policy of the Location of Growth Inducing Public Facilities — It is Topsail Beach Town policy that the development of growth-inducing public facilities such as sewers, water lines, roads, bridges, and erosion control measures occurs in cases where: a) national, state, or local interest, and public benefits are overriding factors; b) facilities would not exacerbate existing hazards or damage natural buffers; and c) facilities would be reasonably safe from flood and erosion control related damage.

- IV. Water Quality Goal: to maintain, protect and where possible, enhance water quality in Topsail Sound, coastal wetlands, creeks, streams, and estuaries. Policies contained within this goal include

Protect Public Trust Uses — It is the policy of Topsail Beach to mitigate degradation of area water quality and to prevent the loss of public trust uses on the oceanfront and on the sound side beaches and in the waters of Topsail Sound.

Acquisition of Buffers — The Town policy is to pursue Clean Water Management Trust Fund grants and other available funding sources for the acquisition of land

bordering the ocean or sound/inlet beaches so as to protect water quality and to provide for public recreational access.

1.4 Implications for development

The 110-acre tract, herein referred to the “McLeod Tract,” is wholly contained within the C-4 Inlet Area zoning district. Per Town zoning ordinances and the *Future Land Use Plan Compatibility Matrix* found within the Town’s land use plan, current and future zoning prohibits development within this district. Additionally, the matrix notes that the category labeled “Conservation” shall be limited to essential *public* facilities, with no commercial or residential structures.⁴

Further, the Coastal Area Management Act excludes a CAMA permit from being issued if it allows development that is inconsistent with local development ordinances.

It is important to note that this land use plan recommends no zoning changes.⁵ The Town of Topsail Beach is an established small town with spatial patterns of development already established. The *Future Land Use Map* shows development patterns which are not greatly different from the *Existing Land Use Map* nor the current *Town of Topsail Beach Zoning Map* (Figure 2).⁶ Through its policies as described in the land use plan, the Town of Topsail Beach is unwavering in their vision for the Town, which includes no foreseen zoning changes.

In a questionnaire administered to Town residents and included in the 2015 land use plan,⁷ 91% of residents believe the Town should continue its’ efforts to preserve the character of the town; 81% believe local officials should regulate the character and location of new development in order to protect nearby property values and broad community interests; and 73% believe the Town should not encourage residential development that would disturb existing sand dunes. Based on these results, development of the McLeod Tract is not harmonious with overall Town vision.

Future land use goals, as described above, prioritize public beach access, land use compatibility, protections for natural hazard areas, and local water quality. The McLeod Tract is located within an AEC and provides natural storm protection to the area. Protection of this land not only prevents future damage to the property itself, but also functions to protect greater town resources by acting as a natural buffer. Development on the McLeod Tract could easily exacerbate existing hazards, especially in the wake of an increasing number of severe storms afflicting the North Carolina coast.

⁴http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

⁵ Consistency between Land Use Plan Policy & Future Land Use Map; 2015 CAMA Land Use Plan

⁶http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/2019-06-05_TB_Zoning_Map.pdf?ver=2019-08-19-120048-307

⁷http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

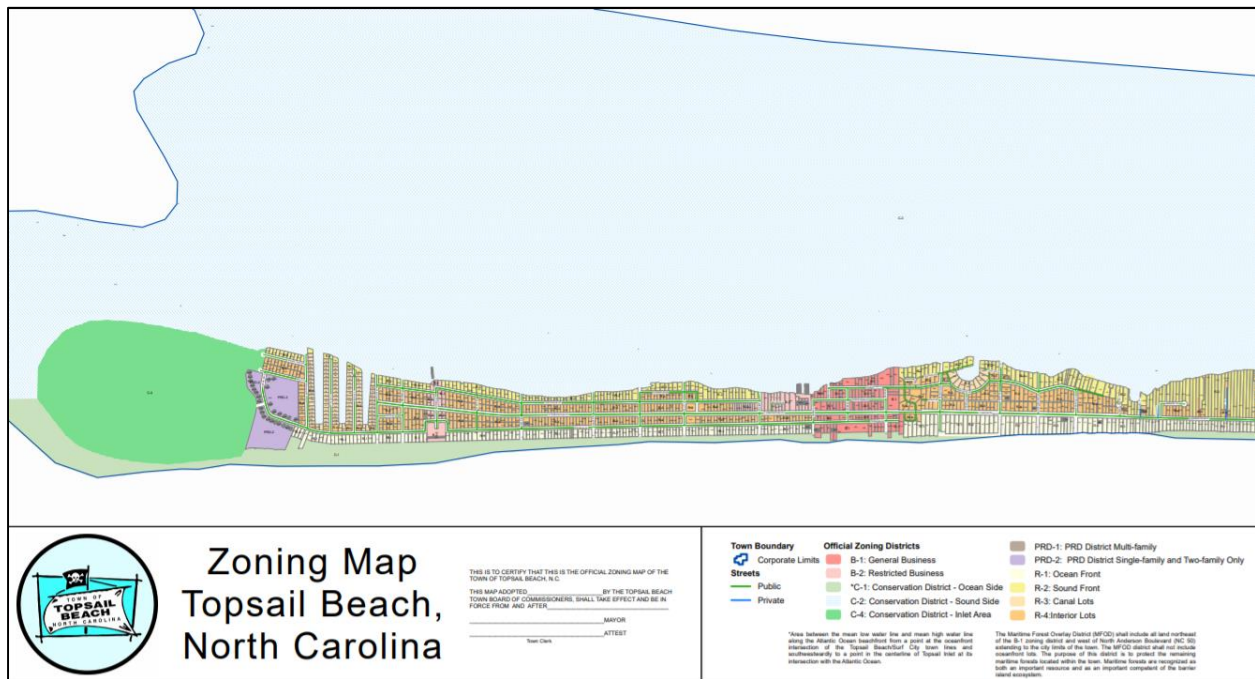


Figure 2. Southern portion of Topsail Beach Zoning Map. The McLeod Tract (in green) is shown as C-4: Conservation District – Inlet Area.

2. State regulations

2.1 Inlet Hazard Areas

Ocean hazard Areas of Environmental Concern (AEC's) are so named because these areas are considered by the North Carolina Coastal Resources Commission (CRC) to be natural hazard areas along the Atlantic Ocean shoreline where, because of their special vulnerability to erosion or other adverse effects of sand, wind, and water, uncontrolled or incompatible development could unreasonably endanger life or property. Ocean hazard areas include: the ocean erodible area, the high hazard flood area, the inlet hazard area, and the un-vegetated beach area.

The inlet hazard areas (IHA's) are natural-hazard areas that are especially vulnerable to erosion, flooding and other adverse effects of sand, wind, and water because of their proximity to dynamic ocean inlets. This area extends landward from the mean low water line a distance sufficient to encompass that area within which the inlet shall migrate, based on statistical analysis, and shall consider such factors as previous inlet territory, structurally weak areas near the inlet, and external influences such as jetties and channelization. In all cases, the IHA shall be an extension of the adjacent ocean erodible areas and in no case shall the width of the inlet hazard area be less than the width of the adjacent ocean erodible area.⁸

⁸15A NCAC 07H .0304

Per North Carolina Administrative Code (NCAC), development within IHA's shall be permitted in accordance with the following standards: 1) All development in the inlet hazard area shall be set back from the first line of stable natural vegetation a distance equal to the setback required in the adjacent ocean hazard area; 2) Permanent structures shall be permitted at a density of no more than one commercial or residential unit per 15,000 square feet of land area on lots subdivided or created after July 23, 1981; 3) Only residential structures of four units or less or non-residential structures of less than 5,000 square feet total floor area shall be allowed within the inlet hazard area, except that access roads to those areas and maintenance and replacement of existing bridges shall be allowed; 4) Established common-law and statutory public rights of access to the public trust lands and waters in Inlet Hazard Areas shall not be eliminated or restricted. Development shall not encroach upon public access ways nor shall it limit the intended use of the access ways.⁹

Further, no development shall be allowed in any AEC which would result in a contravention or violation of any rules, regulations, or laws of the State of North Carolina or of local government in which the development takes place.¹⁰

2.2 Coastal Resources Commission Science Panel

In Science Panel Recommendations presented to the CRC in February 2019, the panel worked to develop inlet shoreline change rate calculation methodology and re-evaluate points along the oceanfront shoreline where inlet processes are the dominant influence over shoreline position.

They found New Topsail Inlet's rapid migration results in a reduction of risk on the north side as the inlet moves south. Since a migration reversal is unlikely, in such cases it is recommended to limit the inlet analysis to the most recent 30 years. For the Topsail Beach side of New Topsail Inlet, the computation of the Hybrid-Vegetation Line used the full record (1971-2016) on the oceanfront but was limited to an approximate 30-year data record (1984-2016) within the inlet. Because of the rapid migration, the inlet Hybrid-Vegetation Line is defined by one date, the 1984 vegetation line (Figure 3). It is recommended that this 30-year adjustment should be reevaluated during each IHA update. If the inlet continues to migrate, the IHA should move south with the inlet.

Using the IHAM, the standard deviation suggests that inlet influence extends to transect-27. However, in order to include the area most prone to erosion hazards associated with storm-enhanced inlet processes, transect-42 is recommended as the IHA boundary. From transect-42, the boundary extends landward, north of the canal at Trout Avenue to Topsail Sound connecting with the back boundary of the current IHA (Figure 4).¹¹

⁹15A NCAC 07H .0310

¹⁰ 15A NCAC 07H .0601

¹¹https://files.nc.gov/ncdeq/Coastal%20Management/GIS/2019_Inlet_Hazard_Area_Boundary_Update_2019_0212.pdf

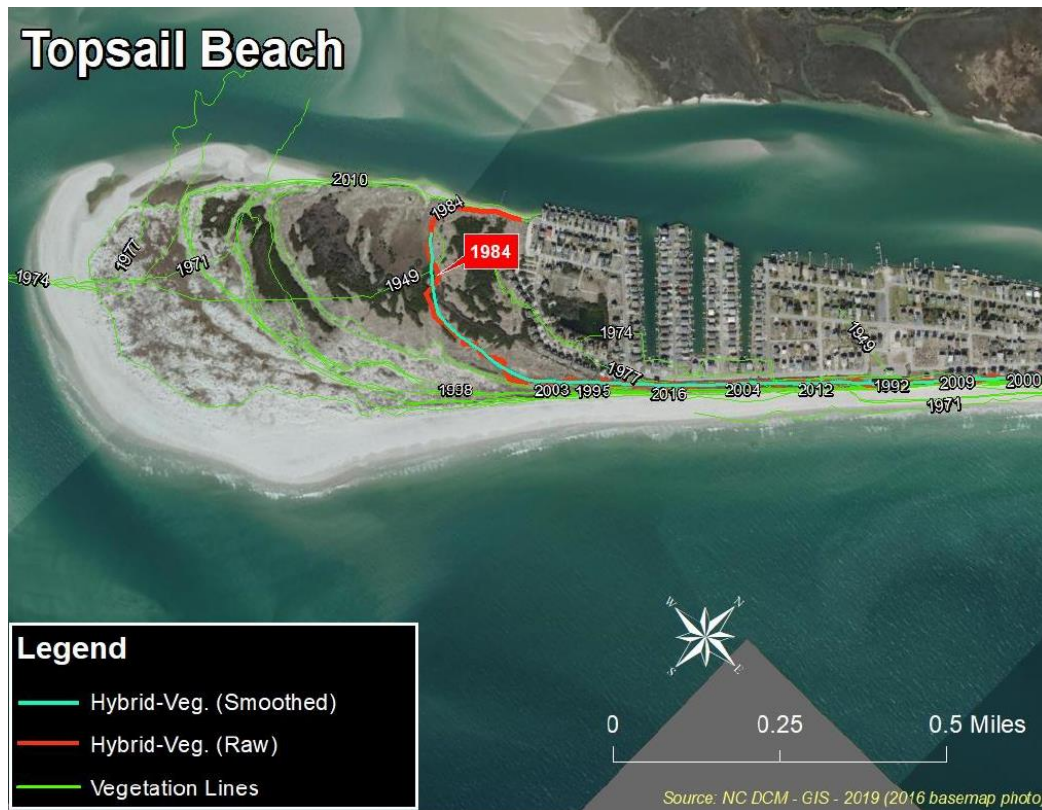


Figure 3. New Topsail Inlet at Topsail Beach. To account for the inlet's rapid migration, the Hybrid-Vegetation Line within the inlet was based on a ~30-year period (1984-2016); all vegetation lines were considered on the oceanfront.

In March 2019, the CRC approved preliminary boundaries and building rules at inlets. The proposed updated IHA includes all of the southernmost end of Topsail Beach. If approved, the IHA at the south end of the island would extend another 170 acres. The N.C. Division of Coastal Management recommends that if the inlet continues its southerly migration, the IHA should move with it.¹²

The Town of Topsail Beach supports the state rules for Ocean Hazard Areas in Subchapters 7H & 7M of 15A NCAC.¹³ The ocean hazard areas designation for Topsail Beach includes the AEC's of ocean erodible areas, high hazard flood areas, and IHA's.

¹² <https://www.coastalreview.org/2019/08/topsail-islands-southern-tip-back-on-market/>

¹³ http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

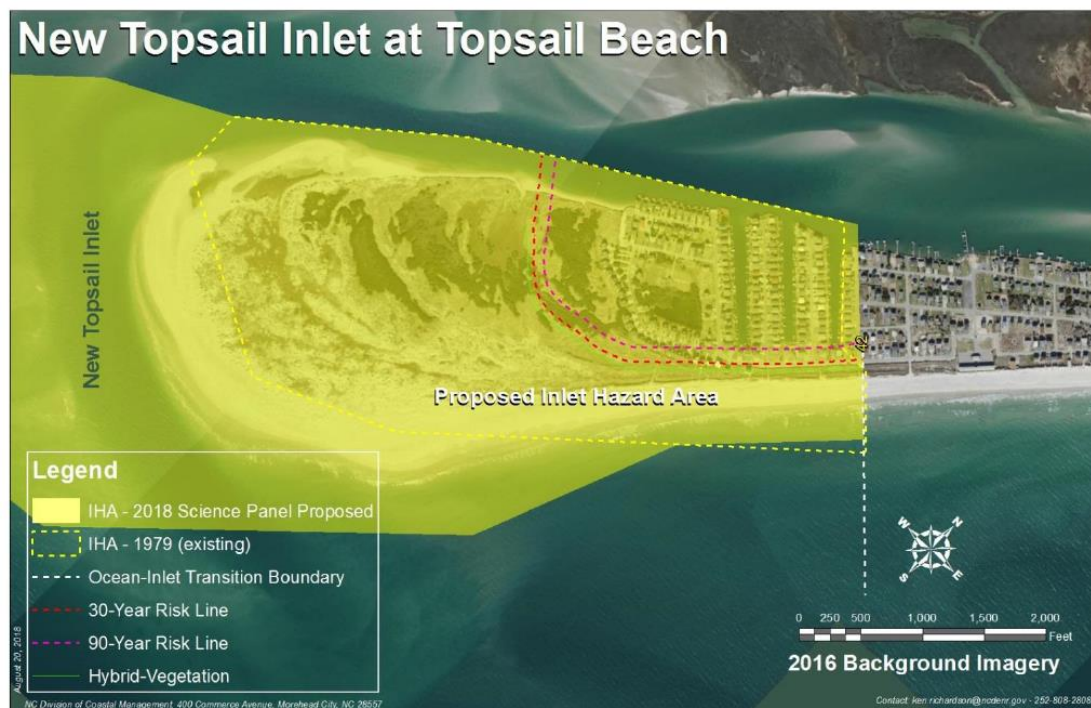


Figure 4. New Topsail Inlet at Topsail Beach. It is recommended that the IHA boundary cross the island by extending transect-42 landward following Trout Avenue, beside the northernmost canal, to Topsail Sound.

2.3 Implications for development

The McLeod Tract falls within an IHA.¹⁴ As such, it falls under Class III designation within the Town's land use plan. Class III lands are those containing serious hazards for development or lands where the impact of development may cause serious damage to the functions of natural systems. These lands (which, as described by N.C. Department of Environmental Quality, include IHA's) account for 87% of the Town's planning area and provide for extremely limited development opportunity.

Further, the Town has determined there are approximately 219 undeveloped acres within town boundaries. Much of this land cannot be developed because of setbacks, commons areas, undevelopable parcels, etc. It is estimated that there may be as many as 110 acres undeveloped with development potential. The actual number of acres is probably closer to the vicinity of 55. For example, consider an acre of undeveloped land which has access to water and sewer infrastructure (a positive 'factor' for development suitability), but also has a wetland area present (a negative 'factor' for development suitability), therefore the overall rating of this land would probably be medium suitability.

¹⁴https://files.nc.gov/ncdeq/Coastal%20Management/GIS/2019_Inlet_Hazard_Area_Boundary_Update_20190212.pdf

A result of its CBRA designation (discussed in the next section), the McLeod Tract does not have access to water and sewer infrastructure, and is also located within an IHA and Conservation C-4 zoning district. By the methodology cited above and described in the Town's land use plan, a reasonable assumption could be made that the McLeod Tract rates 'low' for potential development suitability.

3. Federal designations

3.1 Coastal Barrier Resources Act

Congress passed the Coastal Barrier Resources Act (CBRA) of 1982 to address problems caused by coastal barrier development. CBRA restricts most Federal expenditures and financial assistance that tend to encourage development, including Federal flood insurance, in the John H. Chafee Coastal Barrier Resource System (CBRS).¹⁵

Three important goals of CBRA are to:

1. minimize loss of human life by discouraging development in high risk areas;
2. reduce wasteful expenditure of federal resources; and
3. protect the natural resources associated with coastal barriers.

While building can be permitted in CBRA zones, the federal government discourages development in these hurricane-prone, biologically rich areas by prohibiting federal subsidies, including national flood insurance and Federal Emergency Management Agency (FEMA) aid. Public utilities that have received federal funding are prohibited from providing service to developments within a CBRA zone. Counties and towns that allow developments in a CBRA zone to tap into public utilities run the risk of being cut off from future federal funding.¹⁶

Examples of prohibited federal assistance within CBRA units include subsidies for road construction, channel dredging, and other coastal engineering projects. Federal flood insurance through the National Flood Insurance Program (NFIP) is available in a CBRA unit only if the subject building was constructed (or permitted and under construction) before the unit's effective date.¹⁷

Additionally, Section 5 of CBRA prohibits new federal expenditures or financial assistance within System units¹⁸ which would include all of the property within the McLeod Tract. An expenditure or financial assistance is considered "new" if: (1) no money for construction or purchase purposes was appropriated before the date on which the relevant System unit or portion of the System unit was included within the CBRS; or (2) no legally binding commitment for the expenditure or financial assistance was made before such

¹⁵ <https://www.fws.gov/CBRA/Legislation.html>

¹⁶ <https://www.coastalreview.org/2019/08/topsail-islands-southern-tip-back-on-market/>

¹⁷ <https://www.fws.gov/ecological-services/habitat-conservation/cbra/Docs/CoastalBarrierResourcesAct1982.pdf>

¹⁸ CBRA; 16 U.S.C. § 3504

date.¹⁹ Except as provided in Section 6, no new expenditures or new financial assistance may be made available under authority of any federal law for any purpose within the CBRS, including, but not limited to the following:

1. the construction or purchase of any structure, appurtenance, facility, or related infrastructure;
2. the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and
3. the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 3503 of this title on maps numbered S01 through S08 and LA-07 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land and property immediately adjacent to that unit.²⁰

3.2 Federal Emergency Management Agency

Per FEMA Flood Map Services, the McLeod Tract falls under federal designation as *VE – high velocity wave action* and is located within a Coastal/Storm Wave Flood Zone (Figure 5).²¹ By definition, this zone is subject to inundation by the 1-percent-annual-chance flood event with additional hazards due to storm-induced velocity wave action. These areas have a 26% chance of flooding over the life of a 30-year mortgage. As such, mandatory flood insurance purchase requirements and floodplain management standards apply.²²

The Town of Topsail Beach participates in NFIP²³, which is a federal program that enables property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the federal government. The agreement is that if a community will adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas, the federal government will make flood insurance available within the community as a financial protection against flood losses.

¹⁹ CBRA; 16 U.S.C. § 3504(b)

²⁰ CBRA; 16 U.S.C. § 3505

²¹<https://msc.fema.gov/portal/search?AddressQuery=topsail%20beach#searchresultsanchor>

²²<https://www.fema.gov/zone-ve-and-v1-30>

²³http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

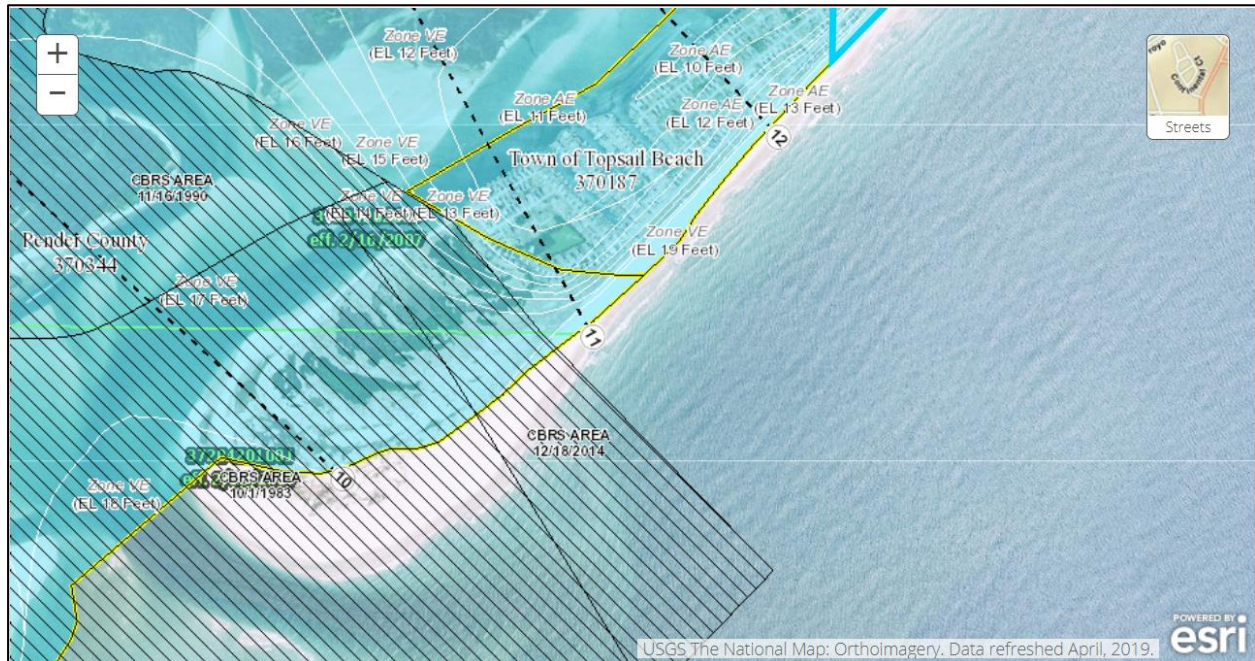


Figure 5. FEMA flood map of the McLeod Tract. Striped lines identify the property's CBRA designation and blue shading reflects special flood hazard areas, specifically "VE."

In support of the NFIP, FEMA has undertaken a nationwide effort of flood hazard identification and mapping to produce Flood Hazard Boundary Maps, Flood Insurance Rate Maps, and Flood Boundary and Floodway Maps. Several areas of flood hazards are commonly identified on these maps. One of these areas is the Special Flood Hazard Area (SFHA), which is defined as an area of land that would be inundated by a flood having a 1-percent chance of occurring in any given year. The standard, in the opinion of the agency, constitutes a reasonable compromise between the need for building restrictions to minimize potential loss of life and property and the economic benefits to be derived from floodplain development. Development may take place within the SFHA, provided that it complies with local floodplain management ordinances, which must meet the minimum federal requirements.

Flood insurance is required for insurable structures within the SFHA to protect federal financial investments and assistance used for acquisition and/or construction purposes within communities participating in the NFIP. Community participation in the NFIP is voluntary. If a community chooses not to participate, flood insurance under the NFIP is not available within that community. Federal officers or agencies may not approve any form of financial assistance for acquisition or construction purposes in a SFHA. This would prohibit, for example, loans guaranteed by the Department of Veterans Affairs, insured by the Federal Housing Administration, or secured by the Rural Housing Services. If a Presidentially declared disaster occurs as a result of flooding in a non-participating community, no federal financial assistance can be provided for the permanent repair or reconstruction of insurable buildings in SFHAs. Eligible applicants may receive those forms of disaster assistance that are not related to permanent repair and reconstruction of buildings.

3.3 Implications for development

The McLeod Tract is located within a federally designated CBRA zone.²⁴ This important legislation has served to save federal dollars, protect human life, and conserve valuable coastal habitat. By limiting federally subsidized development in such dynamic coastal environments, the cost of development and rebuilding is placed on those who choose to live in hazard-prone areas, and not the taxpayer.

In accordance with these requirements, public utilities cannot provide services to developments within the CBRA zone, for fear of being cut off from future federal funding. Running water lines down the McLeod Tract, for instance, would risk any future federal funding the town could receive, as well as post-storm FEMA flood insurance funds. Such irresponsible actions could put the entire town in jeopardy.

Additionally, given that no construction has been permitted to date, any development occurring on the McLeod Tract would not qualify for coverage under the federal flood insurance program, which has proven to be a desirable investment for the Town of Topsail Beach.²⁵ Loss of flood insurance availability would create an economic hardship for the Town and would compromise the ability of all Town residents to provide for and protect individual economic interests.

4. Conclusion

As detailed in Pender County property deeds, the 110-acre tract in question is owned by the McLeod Family LLC. Franklin McLeod III of Wake Forest is listed as the principal on company documents on file with the North Carolina Secretary of State's Office. The real estate holding company was formed in October 2008. The taxable land value of the 110-acre property is \$2.96 million.²⁶

The property is presently listed for sale for \$7,950,000 and boasts "a very unique opportunity to purchase one of the last remaining large oceanfront tracts in the region" with over one mile of water frontage along the Atlantic Ocean, New Topsail Inlet and Bank's Channel.²⁷

It is important to note that there are no existing conflicts between 1992 Land Use Plan policies and current local land use ordinances.²⁸ Policies and zoning limitations set forth by the Town in the current land use plan were in effect when current owners acquired the property. Thus, the lack of development potential should not come as a surprise – nor be

²⁴ <https://www.fws.gov/cbra/Maps/Mapper.html>

²⁵ http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

²⁶ <https://www.coastalreview.org/2019/08/topsail-islands-southern-tip-back-on-market/>

²⁷ https://www.realtor.com/realestateandhomes-detail/110-Acres-S-Topsail-Is_Topsail-Beach_NC_28445_M94294-73460#photo4

²⁸ http://www.topsailbeach.org/Portals/0/Planning%20and%20Zoning/Topsail_Beach_%20CAMA_LUP_9_16_2015.pdf

viewed as a hardship – to the current or future owners of the McLeod Tract. As described above, there are numerous impediments to the development of the McLeod Tract resulting from local, state, and federal policies, rules, laws, statutes, and designations.

Most simply stated, the McLeod Tract:

- 1) is not zoned for development;
- 2) is located within an Inlet Hazard Area;
- 3) is located within a Coastal Barrier Resources Act unit;
- 4) is not eligible for public utilities nor federal flood insurance; and
- 5) development is not compatible with the Town of Topsail Beach's zoning ordinances or CAMA Core Land Use Plan.

Public acquisition of the McLeod Tract is consistent with Town policies that encourage protection of land parcels with high resource value and should be fully explored.