

Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

January 27, 2003

George Merlin, President
George Merlin Associates, Inc.
7729 Holiday Drive, Snug Harbor Village
Sarasota, Florida 34231

Dear Mr. Merlin:

SUBJECT: DEP Consultation File CNS-ST0478

This letter is in response to your letter of November 15, 2002, regarding exemptions, design standards, and permitting requirements for improvements to an existing residential dwelling (i.e. habitable major structure) located seaward of the coastal construction control line (CCCL). Please be advised that the building design standards enforced by the Department of Environmental Protection (DEP) under Rule 62B-33.007, Florida Administrative Code, only apply to those projects received prior to the effective date of the Florida Building Code. Following are responses to the questions raised in your letter:

1.

- Q. If an existing building's roof and walls are removed to the foundation level, but the foundation itself is unmodified, the construction of new walls, floors and roof over that unmodified foundation is exempt from DEP permitting requirements and elevation requirements. This is correct or not?
- A. Exemption Determination - According to Paragraph 161.053(12)(a), Florida Statutes, the coastal construction control line permitting requirements, including the requirements of the thirty-year erosion projection pursuant to Subsection 161.053(6), Florida Statutes, do not apply to any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Therefore, the proposed construction described above would not require a permit from this agency if it met this criteria, regardless of building height, number of floors or costs involved. The design standards of Rule 62B-33.007, Florida Administrative Code, cannot be enforced by DEP on proposed projects which are exempted from permitting.

Conversely, proposed improvements to an existing structure would not be exempted from the DEP permitting requirements if the improvements extended outside the limits of the existing foundation or involved modification of the foundation. Additions that are attached to an existing foundation constitute an extension and modification of the foundation, and therefore, would not be exempt from the DEP permitting requirements.

Detached additions obviously require a permit as they would clearly be outside the limits of the existing foundation. However, in this case, the existing building structure and improvements inside the existing structure will remain exempt from permitting provided they met the exemption criteria aforementioned, therefore, and would not have to comply with the design standards of the rule.

In the above cases both attached (whether they are structurally attached or not) and detached additions require permits from DEP for the same reasons.

2.

Q. Additions to an existing structure are exempt from piling and elevation requirements if they are non-substantial improvements to the existing structure. This is correct or not?

A. Design Standards - The elevation and pile foundation standards (along with all other standards) of Rule 62B-33.007(5)(c), F.A.C., apply only to all proposed habitable major structures and all proposed non-exempt improvements to existing habitable structures, except improvements to an existing structure which do not advance farther seaward than the existing building and improvements which do not constitute rebuilding of the structure. Rebuilding is defined as a substantial improvement to the building as defined under S. 161.54(12), F.S.

Please note that these standards apply to dwellings (i.e. habitable major structures as defined by rule) only and not other buildings or structures.

Non-exempt improvements have to meet the appropriate design standards of the rule, including pile foundation and elevation standards, if required. The elevation and pile foundation standards would apply only if the improvements, including additions, were considered rebuilding (i.e. a substantial improvement) or extend farther seaward than the existing dwelling. Otherwise, the additions would not be required to meet the elevation and pile foundation requirements.

Detached additions which extend farther seaward or constitute rebuilding of the existing structure also have to meet pile foundation and elevation standards.

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The pile foundation and elevation requirements for habitable major structures do not apply to garages or porches, or other non-habitable major structures which are separated structurally from the main dwelling if the structural separation is clearly demonstrated from the foundation up to and including the roof system.

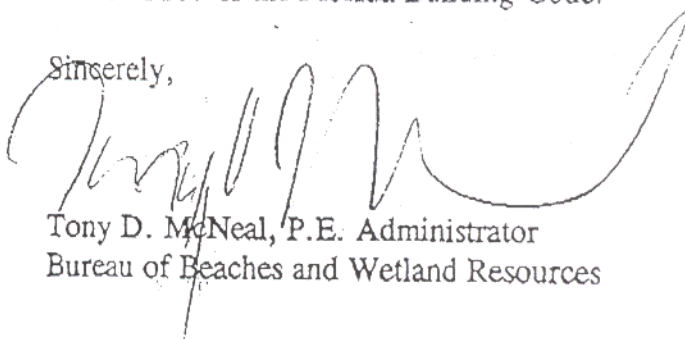
3.

Q. DEP permits as well as local permits are required for any construction outside the limits of an existing foundation. This is correct or not?

A. Permitting Requirements - An proposed activity seaward of the CCCL requires a permit from this Department unless it is exempted by law or rule. Moreover, the FBC also requires an applicant to obtain an environmental permit from the Department in addition to a local building permit for structures seaward of the CCCL.

If you have any additional questions concerning this matter, please call Dr. Muthuswamy Subbuswamy (aka Dr. Swamy) or me at (850) 487-4475, extensions 143 and 147, respectively, or you may write to us at the letterhead address. Moreover, we are available to assist the local building department in interpreting the design standards of Rule 62B-33.007, F.A.C., that were transferred to and are specified under Section 3107 of the Florida Building Code.

Sincerely,



Tony D. McNeal, P.E. Administrator
Bureau of Beaches and Wetland Resources

TDM/jg

cc: Dr. Swamy, Engineer