

**NEW (FM), Facility ID 170178**  
Initial Long Form Application for Construction Permit  
Filed February 23, 2007

### **SECTION 307(b) SHOWING**

This is the initial post-auction long-form application for a construction permit for a new FM station, Facility ID 170178. The application proposes a change of community of license from Ocracoke, NC, to Pine Knoll Shores, NC, due to the unavailability of an existing tower that would permit adequate service to Ocracoke and land use restrictions in this seashore area that preclude the construction of a new tower. This application also proposes a downgrade of the allotment from Channel 224C1 to Channel 224C2.

This exhibit demonstrates that the proposals in the application will result in a preferential arrangement under Section 307(b) of the Communications Act. The 307(b) determination is based upon the FM allotment priorities established in *Revision of FM Assignment Policies and Priorities*, 90 FCC 2d 88 (1988), which are as follows:

1. First fulltime aural reception service
2. Second fulltime aural reception service

These factors do not come into play, as the vacant allotment at Ocracoke would not provide a first aural reception service to any area or population, and the proposed station at Pine Knoll Shores will not do so either.

3. First local transmission service: The proposal fulfills this priority.

- a. While there is no other station licensed to Ocracoke, removal of the allotment will not remove an existing aural service, because the station has not been constructed and has never been operated. Therefore, removal is not precluded by the policy against removing a community's sole service. *See, e.g., Dos Palos and Chualar, California*, 16 FCC Rcd 16932 (MB 2001).

- b. There is currently no aural station licensed to Pine Knoll Shores. Thus the proposal will provide a first local transmission service to that community. The net result is that the two communities have equal Section 307(b) priority with respect to local transmission service.

4. Two other public interest factors favor the proposed move.

- a. The 2000 Census reported the population of Ocracoke to be 769 persons and the population of Pine Knoll Shores to be 1,524 persons. Pine Knoll Shores thus has the larger population, which is favored if all other factors are equal.

- b. The population within the 60 dBu contour of a theoretical station at the original Ocracoke allotment coordinates is 162,476. The population within the proposed 60 dBu contour is 102,479 persons. This reduction is an inevitable result of the downgrade of the allotment to Class C2, forced on the applicant because it could not find an available tower that

met spacing requirements for a Class C1 allotment, and local land use and environmental considerations in this coastal resort area preclude construction of a new tower. Because both service areas have five or more other aural services, the total population factor is relevant only to a limited extent; and the proposed loss is not so large as to be disqualifying, particularly because no white or gray area will be created.

Pine Knoll Shores is a legitimate community that is entitled to a first local service. It is a Census Designated Place and is an incorporated governmental entity. See the following website: <http://nc-pineknollshores.civicplus.com/index.asp?NID=57>

Pine Knoll Shores operates under the council-manager form of government. The manager is the chief administrator of the Town and is responsible for administering all municipal affairs placed in his/her charge by the council. The town has a mayor and a five-member Board of Commissioners are elected at large. See also: <http://www.co.carteret.nc.us/links.htm>

Pine Knoll Shores has its own fire and police services, and many organizations and institutions that use the Pine Knoll Shores name. Examples are given below. Addresses are shown in "Atlantic Beach" because that is the primary post office location for the ZIP Code that covers Pine Knoll Shores.

Pine Knoll Association Incorporated  
102 Hemlock Ct  
Atlantic Beach, NC 28512  
(252) 240-1717

Pine Knoll Shores Realty  
320 Salter Path Rd  
Atlantic Beach, NC 28512  
(252) 727-5000

Pine Knoll Shores Town of Police Department  
318 Salter Path Rd  
Atlantic Beach, NC 28512

Pine Knoll Townes  
Phase III Pine Knoll Townes  
Atlantic Beach, NC 28512

Pine Knoll Village Home Owners Association  
320 Salter Path Rd  
Atlantic Beach, NC 28512

Fire Department & Ems of Pine Knoll Shores  
100 Municipal Cir  
Atlantic Beach, NC 28512

Based on the foregoing, it is submitted that Pine Knoll Shores should be preferred over Ocracoke, based on the greater population of Pine Knoll Shores. No other Section 307(b) factors dictate a different result, particularly since there are no areas that would be deprived of existing service or that would be white or gray as a result of the change of community.