

# CAROLINA BEACH

Continued Town Council Regular Meeting

Thursday, May 30, 2024 – 9:00 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



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## AGENDA

### CALL TO ORDER

### CONFLICT OF INTEREST

*Members of Town Council shall not vote on recommendations, permits, approvals, or other issues where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member or a member has a close familial, business, or other associational relationship. No member shall be excused from voting except upon those matters as noted, above, or upon those others involving the consideration of his own financial interest or official conduct. (160D-109)*

### PUBLIC HEARINGS

1. Consider a Special Use Permit Modification for additional boat slips located at 401 Marina Street PID 313115.74.1321.000, 313115.64.9002 & 313115.64.8036 in the Marina Business & R-1B District. Applicant: CBYC, LLC

### ITEMS OF BUSINESS

2. Discussion on Sidewalk from Carolina Beach Lake to Carolina Sands
3. Discussion on Canal Drive Flooding Remediation Efforts
4. FY24/25 Town Manager's Budget Message

### COUNCIL COMMENTS

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Jeremy Hardison, Planning & Development Director      **DEPARTMENT:** Planning & Development

**MEETING:** Town Council May 14<sup>th</sup> 2024

**SUBJECT:** Consider a Special Use Permit Modification for additional boat slips located at 401 Marina Street PID 313115.74.1321.000, 313115.64.9002 & 313115.64.8036 in the Marina Business & R-1B District. Applicant: CBYC, LLC

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### **BACKGROUND:**

The Applicant, Carolina Beach Yacht Club and Marina, is requesting a Special Use Permit (SUP) modification (Attachment 1 - Application). In 2019 the applicant applied to add an eating and drinking establishment and a ship store located on a barge to the Marina located at 401 Marina St (Attachment 2 - 2019 Site Plan). In January 2020 a Special Use Permit was denied because it was not passed by Town Council (2-2 vote). Subsequently, the Applicant filled a petition seeking an appeal. The Oceana Owners Association then filed a verified motion to Intervene. The hearing of the appeal was cancelled based upon the parties entering into an agreement (Attachment 3 CUP Filed Consent Order). The agreement was executed in December 2020 to issue the Special Use Permit with conditions.

The modification under consideration includes expanding the number of boat storage spaces. The Marina is approved for 69 boat storage spaces (slips). During a zoning final inspection of the barge, it was discovered that several boat storage spaces were added including multiple boats being parked in one designated space. Upon another inspection the added boat storage spaces were removed, but the applicant would like to pursue expanding the Marina's boat storage spaces from 69 to 89. By adding boat storage spaces, it also increases the number of required parking spaces. The parking requirement for Commercial Marinas per Article V. is 1 parking space per wet boat storage space, 1 per 2 dry storage, 1 per service bay, 1 per 2 employees + required for all other on-site uses. Parking is being provided for the wet boat storage space, employees, and for all other on-site uses.

The modification consists of splitting 22 boat storage spaces from 45' storage spaces into two 22.5' boat storage spaces. Below are the modifications to the plan (Attachment 4 - Proposed Site Plan).

- Removed ground floor office space from the building to convert as part of the existing residential unit on second floor.

- Reduced one boat storage space for the floating barge. It was depicted as two designated boat storage spaces. Staff approved modification.
- One of the original 69 boat storage spaces that was counted did not transfer to the current owner as it was previously sold to a property owner of a lot in the Oceana neighborhood.
- The footprint of the approved barge, 40' x 120', is larger than what was built on site, 24' X 96', thus decreasing the amount of parking needed for the eating and drinking establishment and retail area.
- Relocating the dumpster closer to Georgia Ave to accommodate additional parking.
- Expanding parking area with spaces being added closer to the property lines that do not meet the landscaping requirements, applicant is requesting a wavier.
- Proposed food truck that will be located in the 30' CAMA setback buffer - It cannot be permanent and would need to be mobile.

Eleven parking spaces are proposed to be added to accommodate the modifications.

- Four additional spaces are proposed to be located in the parking lot adjacent to the marina building.
- Seven spaces are proposed in the Oceana parking lot.

The marina building parking area is located in the MB-1 zoning district. The Oceana parking lot is located in the R-1B zoning district. The Oceana parking lot is in a residential zoned area and is considered non-conforming. Meaning, it would not be allowed under the current ordinance to have a parking lot serving a commercial business located in a residential area. Sec. 40-425. - Extension or enlargement of nonconforming situations, including land uses and buildings states that increase in volume, intensity, or frequency of nonconforming use may be allowed. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and in no violations of other subsections.

Note: When Staff did a final inspection in the Oceana parking lot a transformer was encroaching on two parking spaces. There was also a neighbor's block fence that was encroaching on a parking space in the parking lot of the marina building (Attachment 5 - Encroachments). Neither encroachment was depicted on the approved site plan. The applicant opt to relocate these spaces in the Oceana parking lot under a minor modification approved by staff. There has been an appeal to staff's determination that these spaces located in the Oceana Subdivision are not allowed under Sec 40-425 Extension or enlargement of a non-conforming situation. The Board of Adjustment upheld staff's determination.

**Specific standards. Applicant must make provisions for:**

*(1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;*

Due to the Increase congested usage and density of the area to support traffic demands, trash service and public safety staff proposes a condition to convert the existing Georgia Ave 30' town access easement to a 30' town public right-of-way.

*(2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;*

The required parking is provided below.

PARKING CALCULATIONS	
REQUIRED OFF-STREET PARKING:	103.2 (104)
BOAT SLIP - 1 PER SLIP ( 89 SLIPS)	89
RETAIL (FLOATING PLATFORM)	
1 SPACE PER 200 SF (312/200)	1.6
EATING & DRINKING ESTABLISHMENTS (FLOATING PLATFORM)	
1 SPACE PER 110 SF (INDOOR)	
328 SF/110 SF	3.0
1 SPACE PER 220 SF (OUTDOOR)	
LOWER LEVEL 689 SF/220 SF	3.1
UPPER LEVEL 560SF/220 SF	2.5
RESIDENTIAL	2.0
EMPLOYEE SPACES 1 PER 2 EMPLOYEES	2.0
TOTAL EXISTING AND PROPOSED	104

*(3) Refuse and service area, with particular reference to the items in (1) and (2) above;*

Proposing to move the existing trash and recycling containers to where the monument sign is located adjacent to Georgia Ave that will service the site and will be enclosed.

*(4) Utilities, with reference to locations, availability, and compatibility;*

No upgrades are required with the modification.

*(5) Screening and buffering with reference to type, dimensions, and character;*

The addition will require additional parking spaces. The location of the spaces will trigger landscaping. The applicant is requesting a waiver of landscaping requirements.

*(6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;*

The applicant is proposing to move the existing sign.

*(7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;*

No new upland structures are proposed, surface parking is increasing.

**General conditions.**

*(1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;*

The orientation of the boat storage spaces will be double parking boats in existing slip. This is the first design of this type of layout for boat storage spaces. The ordinance does not address the design of boat storage spaces. It is consistent with CAMA regulations who is the state agency that approves structures over the water.

*(2) That the use meets all required conditions and specifications;*

After review by staff the plan has been determined to meet all conditions and specifications except for the landscaping requirements with the additional parking spaces.

*(3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and*

The proposed use is in keeping with the character of the MB-1 area and meets the non-conforming regulations with expansion of parking spaces.

*(4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies*

The desired Future Land Use of the Marina Mixed Use area includes commercial uses that includes water-oriented restaurants and services.

**Proposed Conditions**

1. Type B 10' landscaping requirements to be waived for the additional proposed new parking spaces.
2. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

3. Record the south area and paved area of the Georgia Ave 30' town easement to a town public right-of-way prior to the issuance of a permit for the increased boat storage spaces see attachment 6.
4. Outdoor artificial lighting fixtures shall be designed and positioned so that the point source of light from a light fixture is not directly visible from adjacent properties and/or right-of-way's.
5. Must meet all local, state, and federal requirements.

**ACTION REQUESTED:**

**Approval** must be consistent with the findings in the Zoning Ordinance as follows:

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by issuance of the C.U.P.
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies.

**Denial** should be directly related to one or more of the following findings.

Reasons for denial must be specifically stated by Town Council :

- (1) That the use will materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by issuance of the C.U.P.
- (2) That the use does not meet all required conditions and specifications;
- (3) That the use will substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will not be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies

**RECOMMENDED MOTION:**

The use meets all required conditions and specifications. The location and character of the use if developed according to the plan as submitted with staff conditions and approved will be in harmony with the area in which it is to be located and in general conformity with the town Land Use Plan and policies.

1121 N. Lake Park Blvd.  
 Carolina Beach, NC 28428  
 Phone (910) 458-2999  
 Fax (910) 458-2997



Permit # \_\_\_\_\_ Item 1.

## TOWN OF CAROLINA BEACH SPECIAL USE PERMIT MAJOR MODIFICATION

Each application must be printed or typewritten and have all information answered. **It is required that the applicant set up a meeting with Planning Staff prior to the submission deadline to ensure the application is complete.** The Town of Carolina Beach requires a licensed attorney to appear in a representative capacity to advocate the legal position of another firm, or corporate entity that is the applicant/owner of record.

The Planning Department, Planning and Zoning Commission and/or Town Council reserves the right to require additional information if needed to assure that the use in its proposed location will meet the be developed in accordance with the Code of Ordinances of the Town of Carolina Beach.

Major changes to approved plans and conditions of development may be authorized only by the Town Council after review and recommendation by the Planning and Zoning Commission in the same manner as original submission. Major changes include, but are not limited to:

1. Change in use;
2. Increase in intensity of the development; such as increase in density of units, whether residential, office, commercial or industrial; an increase in number of off-street parking or loading spaces; or an increase in impervious surface area;
3. An increase in overall ground coverage by structures;
4. A change in any site dimension by more than ten percent;
5. A reduction in approved open space or screening;
6. A change in access and internal circulation design

**Major Modification to Minor SUP = \$ 350.00**  
**Major Modification to Major SUP = \$ 350.00**

This permit modification will be scheduled for the next possible Technical Review Committee.

 <b>2023 Submission Deadlines &amp; Meeting Dates</b>					
Technical Review Committee		Planning & Zoning Commission		Town Council	
Submission	Meeting	Submission	Meeting	Submission	Meeting
Jan 2	Jan 17	Jan 26	Feb 9	Feb 28	Mar 14
Feb 6	Feb 21	Feb 23	Mar 9	Mar 28	Apr 11
Mar 6	Mar 21	Mar 30	Apr 13	Apr 25	May 9
Apr 3	Apr 17	Apr 27	May 11	May 30	June 13
May 1	May 15	May 25	June 8	June 27	July 11
June 5	June 19	June 29	Jul 13	July 25	Aug 8
July 3	July 17	July 27	Aug 10	Aug 29	Sept 12
Aug 7	Aug 21	Aug 31	Sept 14	Sept 26	Oct 10
Sept 1	Sept 18	Sept 28	Oct 12	Oct 31	Nov 14
Oct 2	Oct 16	Oct 26	Nov 9	Nov 28	Dec 12
Nov 6	Nov 20	Nov 30	Dec 14	Jan 2024	Jan 2024
Dec 4	Dec 18	Jan 2024	Jan 2024	Feb 2024	Feb 2024
Jan 2024	Jan 2024	Feb 2024	Feb 2024	March 2024	March 2024
Board	# Copies Full Size	# Copies Electronic	Recipients		
TRC	9	1	1 Manager, 3 Planning, 1 Fire, 1 Police, 2 Operations, 1 Admin		
P&Z	9	1	7 P&Z, 1 Manager, 2 Planning, 1 Secretary, 1 Island Gazette		
Town Council	9	1	5 Town Council, 1 Manager, 1 Planning, 1 Clerk, 1 Island Gazette		



Please complete all sections of the application.

**A. Property Information**

Address(es): 401 Marina Street, Carolina Beach NC 28428

PIN(s): R08519-002-002-000, R08519-002-028-000, R08807-002-010-000

Project Name CBYC Boatslip and Parking Modification

Size of lot(s): No Change

**B. Application for Special Use Permit Major Modification**

Application is hereby made for a Special Use Permit for use of the property described above as a (please provide a brief description of the use):

CBYC, LLC is proposing additional parking spaces and adding 22 additional boat storage spaces and modifying lower level of current

commercial building 460 sqft for residential use. CBYC is also proposing adding a food truck at the Southwest corner of the current building.

**C. Applicant Contact Information**

CBYC, LLC

Company/corporate Name (if applicable):

Courtney Sloan

Applicant's Name

4310 Sharon Rd Suite T01A

Mailing Address

Charlotte, NC 28211

City, State, and Zip Code

704 995 0086

Telephone

csloan0010@aol.com

Email

**D. Owner Contact Information (if different)**

Same as applicant

Owner's Name

Mailing Address

City, State, and Zip Code

Telephone

Email

General conditions. Council, when granting a special use permit, shall find that all four of the following factors found in Chapter 40 Article XI exist. In the spaces provided below, indicate the facts and arguments that prove you meet the following conditions:

- 1. Indicate how the proposed SUP will not adversely affect health or safety if located where proposed and developed according to the plan submitted:

The uses of the spaces are not changing, CBYC is proposing just adding additional capacity for smaller boats in order to meet customer trends. CBYC has seen an increase in customers with smaller vessels that do not use the entire 45ft or 50ft slips. Cooking in the food truck will have all code required health and safety precautions taken.

- 2. Indicate if the proposed Special Use Permit meets all required conditions and specifications or if any waivers are requested:

All required conditions are not met, Due to Landscape waiver being requested.

- 3. Indicate how the proposed Special Use Permit will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity:

The current operations are remaining the same. The parking lot is currently already in use as a parking lot and the boat slips are currently being utilized. Therefore adjoining or abutting property will not be effected. The addition of cooking will be no different than a neighbor grilling.

- 4. Indicate that the location and use of the proposed Special Use Permit, if developed according to the plan as submitted, will be in harmony with the area in which it is to be located and in general conformity with the Town of Carolina Beach's Land Use Plan and policies.:

The zoning is Marina Business and the additional boat space will add access to the waterway for the town of Carolina Beach citizens which is one of the goals of the latest Land Use Plan updates. The addition of cooking will only be another amenity for the people of Carolina Beach to have a meal on Intracoastal waterway.

*Specific standards.* No special use shall be granted by Town Council unless the following provisions and arrangements where applicable, have been made to the satisfaction of the council.

- 1. Indicate how the Ingress and egress to the property and proposed structures in reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe:

Vehicle Ingress and egress will be handled by Georgia Ave and Florida Ave. Pedestrian traffic will likely be small but also be handled by Georgia and Florida Ave.

The current standpipe system will provide fire protection to additional boat storage spaces.

- 2. Indicate how the off-street parking and loading areas met, and how the economic, noise, glare, or odor of the propose use will affect the adjoining properties.

The total required off street spaces of 104 will be met with the additional parking. The current loading zone will remain the same with no additional requirements.

There is no proposed additional noise or glare. The cooking will be no different than when a neighbor is grilling in the neighborhood.

- 3. Indicate how the refuse and service area, will be handled.

Refuse and service will be handled by the current dumpster and recycling service.

- 4. Indicate how adequate and proper utilities, with reference to locations, availability, and compatibility are to be provided or how the item listed are not applicable to the proposed SUP.

No additional utilities are proposed.

- 5. Indicate how screening and buffering with reference to type, dimensions, and character will be provided or why it is not provided for;

None required.

- 6. Indicate how signs, if any, and the proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

No additional signage is proposed.

- 7. Indicate the required yards and other open space and preservation of existing trees and other attractive natural features of the land.

Not applicable to this project.

Check the box beside each item verifying that the item has been submitted with this application

**I. Site Plan Criteria**

For new construction all boxes in this section shall be marked yes by the applicant to be considered a complete application.

- | <u>Yes</u>               | <u>No</u>                | <u>N/A</u>               |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The name, address, and phone number of the professional(s) responsible for preparing the plan if different than the applicant.     |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Engineers scale 1 inch = 40 ft or larger   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Title block or brief description of project including all proposed uses  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Date   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | North arrow  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Property and zoning boundaries   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | The square footage of the site   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Lot coverage (buildings, decks, steps)   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of all existing and proposed structures and the setbacks from property lines of all affected structures to remain on-site |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Design of driveways and parking  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adjacent right-of-ways labeled with the street name and right of way width   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of all existing and/or proposed easements   |

Additional information or data as determined necessary by town staff and/or other reviewing agencies including but not limited to the following may be required:

- | <u>Yes</u>               | <u>No</u>                | <u>N/A</u>               |   |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location and design of refuse facilities  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Approximate locations and sizes of all existing and proposed utilities  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Existing and/or proposed fire hydrants (showing distances)  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adjacent properties with owners' information and approximate location of structures   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Distances between all buildings   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Number of stories and height of all structures  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Locations of all entrances and exits to all structures  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Calculate the gross floor area with each room labeled (i.e. kitchen, bedroom, bathroom)   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be use       |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of flood zones and finished floor elevations   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | CAMA Areas of Environmental Concern (AEC) and CAMA setbacks   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Delineation of natural features and wetlands with existing and proposed topography with a maximum of two-foot contour intervals |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Proposed landscaping including percentages of open space  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Stormwater management systems   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Cross-sectional details of all streets, roads, ditches, and parking lot improvements  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Building construction and occupancy type(s) per the building code   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Location of fire department connection(s) for standpipes  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Turning radii, turnarounds, access grades, height of overhead obstructions  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Dimensions and locations of all signs   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A vicinity map drawn with north indicated   |

- I have provided a scaled electronic version of each required drawing
- I have folded all plans to 8 1/2" x 11" size and am prepared to pay the application fee today

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**SUPPLEMENTAL INFORMATION REQUIRED WITH THE APPLICATION**

1. Detailed project narrative describing the proposed site and request.
2. Agent form if the applicant is not the property owner.
3. Request for site specific development plan shall be submitted in accordance with Chapter 40 Article XI.

**OWNER'S SIGNATURE:** In filing this application for a special use permit major modification I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief. I hereby designate Chad Cooke

to act on my behalf regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to speak for me in any public meeting regarding this application.

Courtney Slaw  
Signature

9/11/23  
Date

**AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF**

The undersigned owner, Courtney Slow, does hereby appoint Chad Cooke to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; b) a change to the zoning map; c) approval of a special use permit; d) approval of a special use district; and/or, e) street closing, as applicable to the property described in the attached petition. The owner does hereby covenant and agree with the Town of Carolina Beach that said person has the authority to do the following acts for and on behalf of the owner: (1) To submit a proper petition and the required supplemental materials; (2) To appear at public meetings to give testimony and make commitments on behalf of the owner; and (3) In the case of a special use permit, to accept conditions or recommendations made for the issuance of the special use permit on the owner's property. (4) To act on the owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of any petition. This appointment agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Date: 9/11/2023

Appointee's Name, Address & Telephone:

22555 John bumble Road  
Cornelius NC 28031  
(704)-778-8994

Signature of Owner: Courtney Slow

## **Project Narrative CBYC**

CBYC is proposing subdividing 22 of the current 45ft slips to create 22 additional 22.5ft storage spaces. All 20 spaces of B dock will become 40 22.5ft spaces. The two 45ft spaces on the T-head of C dock will become 4 22.5ft spaces. To serve the additional boat slips, 8 pervious gravel vehicle parking spaces will be added. A 10' landscape buffer waiver is requested for the handicapped parking spot adjacent to 403 Marina Street. One 45ft transient finger dock will be added adjacent to the current barge walkway. The current office/commercial lower floor will be converted into 460 sf residential use. CBYC is also proposing adding a food truck/trailer to serve from the south west corner of the property. A waiver of the 10' landscape buffer is requested for the food truck.

# Attachment 2

**MC<sup>2</sup> ENGINEERING**  
 MC<sup>2</sup> ENGINEERING, INC.  
 2110 BEN CRAIG DR., STE. 400  
 CHARLOTTE, NC 28262  
 PHONE 704.510.1977



THE DESIGNS AND DRAWINGS SHOWN ARE THE PROPERTY OF MC<sup>2</sup> ENGINEERING, INC. REPRODUCTION OR USE FOR ANY PURPOSE OTHER THAN THAT AUTHORIZED BY MC<sup>2</sup> ENGINEERING, INC. IS PROHIBITED.

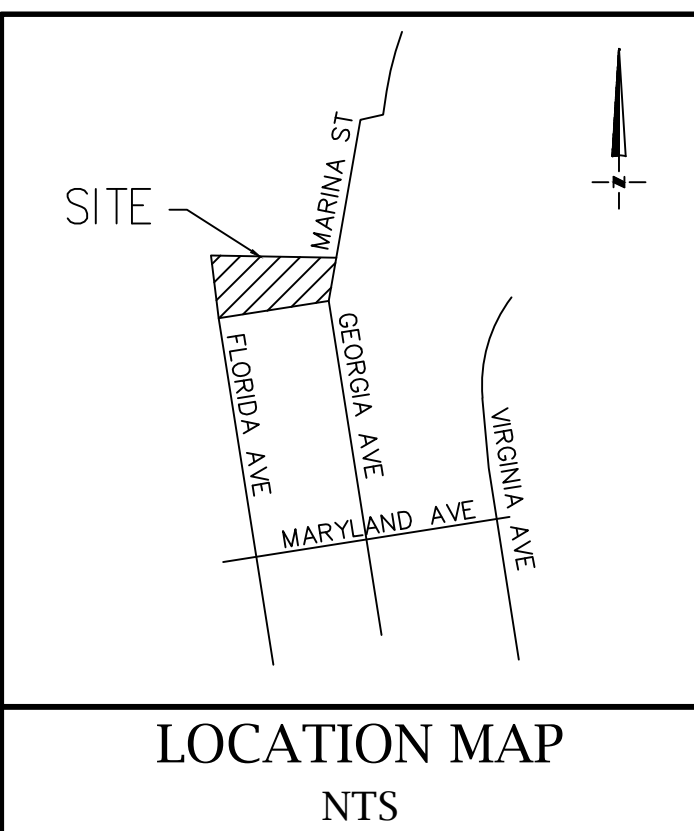
**CAROLINA BEACH MARINA AND YACHT CLUB**  
 401 MARINA STREET  
 CAROLINA BEACH, NC

## SKETCH PLAN

REVISIONS	
1	9/25/2018 CAROLINA BEACH REVISIONS
2	9/27/2018 CAROLINA BEACH REVISIONS
3	10/17/2018 CAROLINA BEACH REVISIONS
4	11/2/2018 CAROLINA BEACH REVISIONS
5	11/8/2018 CAROLINA BEACH REVISIONS
6	11/20/2018 CAROLINA BEACH REVISIONS
7	12/4/2018 CAROLINA BEACH REVISIONS
8	12/7/2018 CAROLINA BEACH REVISIONS
9	3/5/2019 CAROLINA BEACH REVISIONS
10	9/22/2019 CAROLINA BEACH REVISIONS

CAD FILE: 18-026 BASE.DWG  
 PROJECT NO.: 18-026  
 DESIGNED BY: TAP  
 REVIEWED BY: JDM  
 DATE: AUGUST 31, 2018

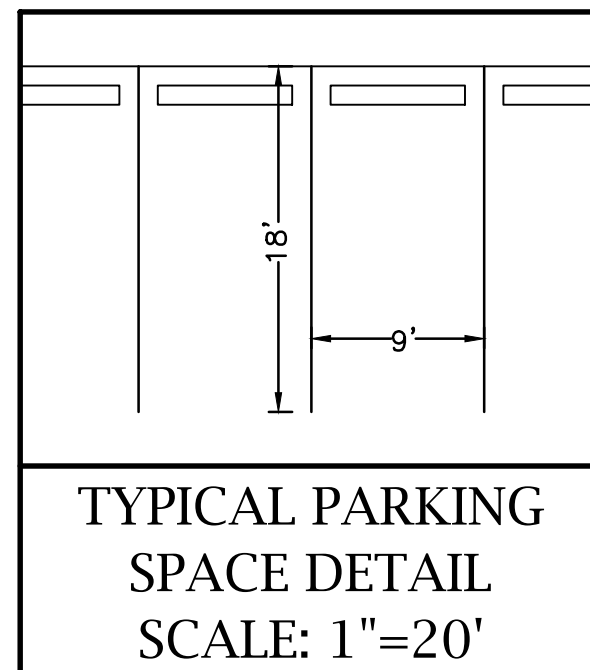
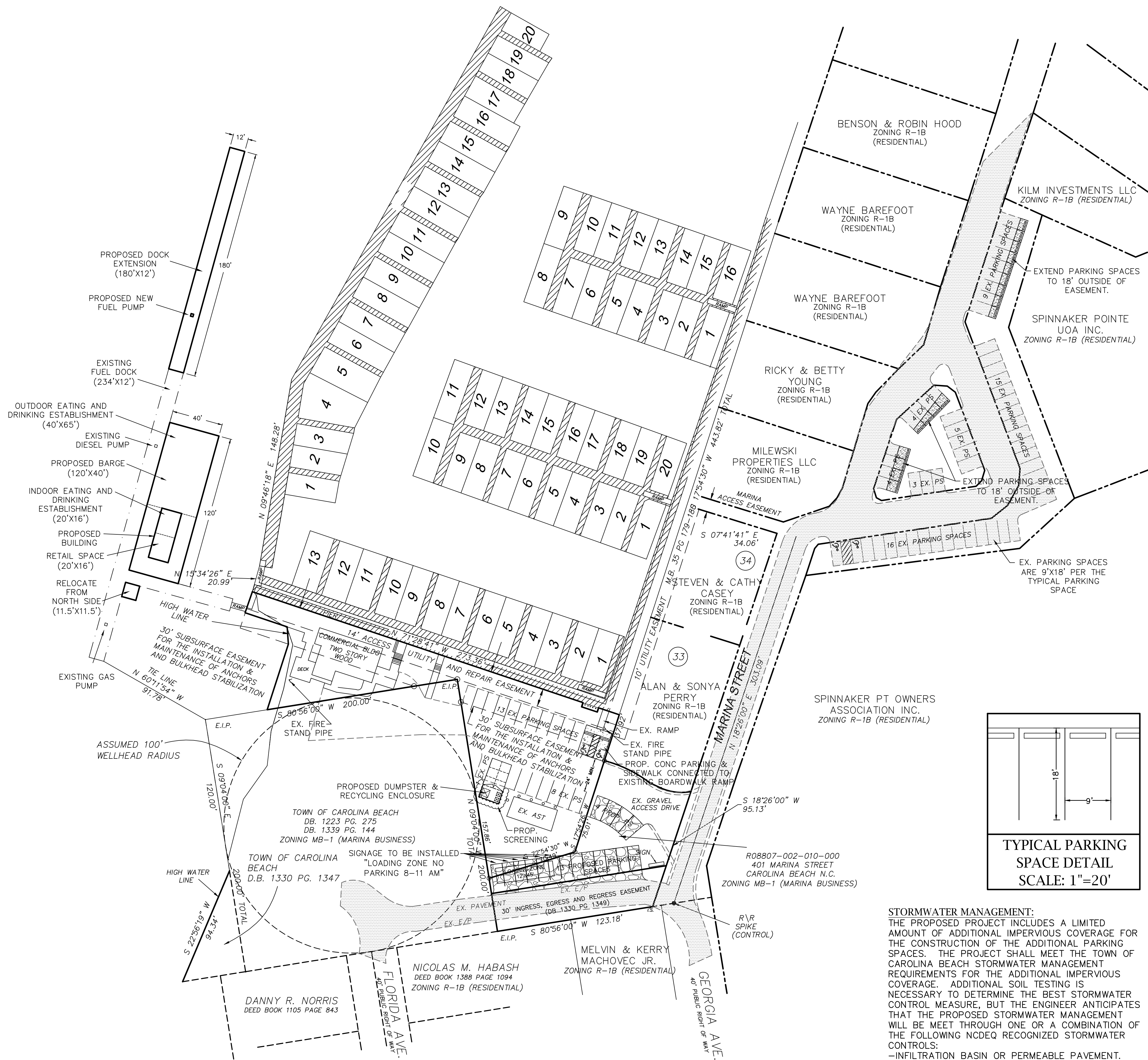
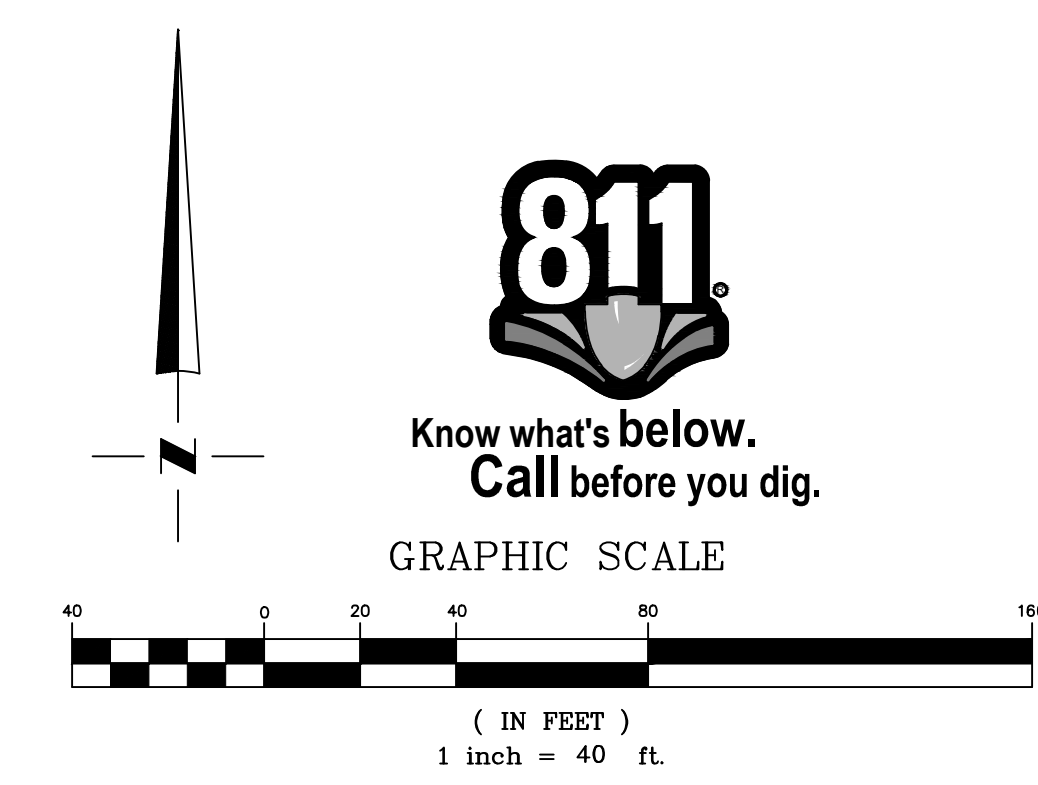
# SP1.0



PROPERTY OWNER PER GIS:	
JOYNER MARINA LLC	RALEIGH, NC 27602
<b>SITE AREA:</b>	
±1.36 AC (±59,237 SF)	
0.53 AC (±23,087 SF)	
0.24 AC (±10,450 SF)	
0.59 AC (±25,700 SF)	
<b>PARCEL IDS:</b>	
R08519-002-028,	
R08807-002-010,	
R08519-002-002	
<b>JURISDICTION:</b> TOWN OF CAROLINA BEACH	
<b>CURRENT ZONING:</b> MB-1-MARINA	
<b>PARKING CALCULATIONS</b>	
REQUIRED OFF-STREET PARKING:	94 (93.2)
<b>BOAT SLIP</b>	
-1 SPACE PER WET SLIP	69
<b>RETAIL (BARGE)</b>	
-1 SPACE PER 200 SF	1.6
-1/2 OF STRUCTURE (16' X 20')=320 SF	
<b>EATING &amp; DRINKING ESTABLISHMENTS (BARGE)</b>	
-1 SPACE PER 110 SF (INDOOR)	2.9
-1/2 OF STRUCTURE (16' X 20')=320 SF	
-1 SPACE PER 220 SF (OUTDOOR)	11.8
-(40'X65')=2,600 SF	
<b>RESIDENTIAL ABOVE EXISTING COMMERCIAL</b>	
-1 SPACE PER 1,000 SF	1.2
-1,200 SF APARTMENT	
<b>OFFICE (EXISTING COMMERCIAL BUILDING 1ST FLOOR)</b>	
-1 SPACE PER 300 SF	2
-600 SF	
<b>RETAIL (EXISTING COMMERCIAL BUILDING 1ST FLOOR)</b>	
-1 SPACE PER 200 SF	4.7
-933 SF	
<b>EXISTING OFF-STREET PARKING:</b> 79	
PROPOSED OFF-STREET PARKING:	16
TOTAL OFF-STREET PARKING:	95
<b>LOT COVERAGE</b>	
EXISTING BUILDING/FUEL TANK:	2,144 SF
EXISTING CONCRETE/ASPHALT/GRAVEL:	25,640 SF
TOTAL EXISTING IMPERVIOUS:	27,784 SF
PROPOSED GRAVEL:	1,975 SF
TOTAL PROPOSED IMPERVIOUS AREA:	29,759 SF
<b>LOADING SPACE REQUIREMENTS</b>	
LESS THAN 15,000 SF (MUST SUBMIT A LOADING PLAN)	
-PROPOSED OFFICE, RETAIL AND RESTAURANT USE IS A TOTAL OF 4,973 SF. THE ANTICIPATED DELIVERIES FOR THE OFFICE AND RETAIL SPACE CONSIST OF TYPICAL DELIVERIES FROM UPS/FEDEX. THE RESTAURANT DELIVERIES WILL BE SCHEDULED TO OCCUR BETWEEN 8-11 AM SO AS TO OCCUR PRIOR TO THE NORMAL BUSINESS OPERATING HOURS AND THEREFORE TO NOT IMPACT THE PARKING LOT CAPACITY. SIGNAGE TO BE INSTALLED AS NOTED. THE ANTICIPATED LOADING PERIOD WOULD BE ANTICIPATED TO NOT LAST LONGER THAN 1 HOUR. THE TYPICAL TRUCK FOR DELIVERIES TO THE RESTAURANT WOULD BE A WB-40 WHICH IS A TRACTOR TRAILER WITH A OVERALL LENGTH OF 45 FEET.	

## DEVELOPMENT SUMMARY

**PROJECT DESCRIPTION:**  
 PROJECT INCLUDES PROPOSED DOCK EXTENSION WITH NEW FUEL PUMP AND NEW BARGE WITH BUILDING TO HOUSE SMALL RETAIL AREA AND EATING AND DRINKING ESTABLISHMENT.



**STORMWATER MANAGEMENT:**  
 THE PROPOSED PROJECT INCLUDES A LIMITED AMOUNT OF ADDITIONAL IMPERVIOUS COVERAGE FOR THE CONSTRUCTION OF THE ADDITIONAL PARKING SPACES. THE PROJECT SHALL MEET THE TOWN OF CAROLINA BEACH STORMWATER MANAGEMENT REQUIREMENTS FOR THE ADDITIONAL IMPERVIOUS COVERAGE. ADDITIONAL SOIL TESTING IS NECESSARY TO DETERMINE THE BEST STORMWATER CONTROL MEASURE, BUT THE ENGINEER ANTICIPATES THAT THE PROPOSED STORMWATER MANAGEMENT WILL BE MET THROUGH ONE OR A COMBINATION OF THE FOLLOWING NCDEQ RECOGNIZED STORMWATER CONTROLS:  
 -INFILTRATION BASIN OR PERMEABLE PAVEMENT.



STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
COUNTY OF NEW HANOVER **2020 09 21 A. 9 50** 20-CVS-1444

**NEW HANOVER CO. CLERK**  
*IN RE* REQUEST BY CBYC, LLC, )  
Petitioner, )  
v. )  
TOWN OF CAROLINA BEACH, a North )  
Carolina Municipal Corporation and )  
Body Politic, )  
Respondent, )  
OCEANA OWNERS ASSOCIATION, )  
INC. )  
Intervenor-Respondent. )

CONSENT ORDER

THIS MATTER appears before the Court for entry of a Consent Order granting the application and request for a conditional use permit submitted to the Respondent Town of Carolina Beach (“Town”) by Petitioner CBYC, LLC (“CBYC”) (collectively, “Consent Order”).

ALL PARTIES, including Intervenor Oceana Owners Association, Inc. (“Oceana”), now consent, by and through their undersigned counsel, to the granting of this Consent Order and CBYC’s application and request for a conditional use permit that was submitted to the Respondent on or about 25 September 2019, premised upon the following:

FINDINGS OF FACT

1. Jurisdiction and venue of this action are properly before this Court.
2. By virtue of that General Warranty deed dated 31 July 2019 and recorded on 2 August 2019 in Book 6235 at Page 2175 of the New Hanover Country Registry of Deeds

**A TRUE COPY**  
CLERK OF SUPERIOR COURT  
NEW HANOVER COUNTY  
BY: *Leni M. Knowles*  
Deputy Clerk

(“Registry”), CBYC owns the real property located at 401 Marina Street in New Hanover County, North Carolina (“Property”).

3. On or about 25 September 2019, CBYC applied to the Town for a conditional use permit (hereinafter “Permit”) for certain limited improvements to its Property.

4. CBYC’s Property consists of an existing commercial marina including fuel docks, a ship store, an office, residential unit, parking, and related facilities which have been in place for more than 20 continuous years preceding CBYC’s Permit application (collectively, “Marina”).

5. CBYC’s Permit application seeks to (i) extend and widen its existing fuel dock; (ii) add and relocate its fuel pumps; (iii) place a barge adjacent to CBYC’s existing dock, where the existing office and ship store will be relocated; (iv) add thirteen (13) parking spaces, a designated loading zone, and two (2) ADA compliant parking spaces within the Property’s existing boundary; and, (v) add an outdoor eating establishment to serve hot food and drinks to the Marina’s patrons.

6. The 2007 Town of Carolina Beach CAMA Land Use Plan sets forth the Town’s desire to encourage “low intensity water-oriented restaurant or other low intensity water-oriented commercial services with public docking and water access.”

7. The Town’s existing Code of Ordinances permits restaurants, bars, eateries, retail sales, office space, and other marina related uses in the MB-1 zoning district in which CBYC’s Property is located.

8. The Town’s Ordinances require an applicant for a conditional use permit to meet seven (7) specific and four (4) general standards before being approved. *Carolina Beach, N.C. Code of Ordinances*, § 40-327(c) and (d).

9. The Town's Ordinances also set forth standards for particular uses such as eating and/or drinking establishments, which are specifically permissive uses within the Property's MB-1 zoning district. *Id.* § 40-261.

10. On 14 January 2020, a quasi-judicial hearing was held on CBYC's application for its Permit.

11. At the hearing, CBYC and Oceana presented evidence concerning the seven (7) specific and four (4) general standards before being approved. *Carolina Beach, N.C. Code of Ordinances*, § 40-327(c) and (d).

12. On 30 March 2020, the Town issued its written Order denying CBYC's Permit application based on the 2-2 tied vote of the Town's Council's vote.

13. On 29 April 2020, CBYC timely and properly filed its Petition for Writ of Certiorari to this Court seeking to appeal the Town's Order denying its Permit application.

14. On 29 April 2020, CBYC's Petition for Writ of Certiorari was granted; the Town submitted the record for the appeal; and this Court was scheduled to conduct the appellate hearing on CBYC's appeal on 23 September 2020.

15. On 29 May 2020, Oceana filed its Verified Motion to Intervene of Oceana Owners Association, Inc., and its proposed Response of Intervenor-Respondent Oceana Owners Association, Inc (collectively, "Intervention Motion").

16. On September 15, 2020, Oceana filed an Objection to Notice of Hearing and Motion to Continue the noticed appeal hearing. Thereafter, counsel for CBYC informed counsel for Oceana that CBYC would consent to Oceana's Intervention Motion to keep the noticed date for the appeal hearing.

17. Ultimately, the hearing on CBYC's appeal was canceled based upon the parties' agreement and resolution of the matters between them.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the parties and this Court agree to the following Conclusions of Law:

1. This Court has jurisdiction over the parties and the subject matter of this proceeding.
2. Oceana's Intervention Motion is hereby granted, thus binding Oceana to the rights and obligations of this Consent Order.
3. Conditional use permits are issued for uses that an ordinance expressly permits in a designated zone. *Humble Oil & Refining Co. v. Bd. of Aldermen*, 284 N.C. 458, 467, 202 S.E.2d 129, 136 (1974).
4. To effectuate the parties' settlement and the entry of this Consent Order, the parties agree that CBYC produced competent, material, and substantial evidence establishing that CBYC's Permit application met all relevant standards, specifications, and requirements set forth under the Town's Ordinances for issuance of a conditional use permit.

Based upon the foregoing, including the consent and request of the parties, and upon a review of the terms herein, the Court believes that the entry of this Consent Order is fair, in the interests of justice, and should be entered.


NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. CBYC's application for a Permit shall be and the same is hereby GRANTED upon the following conditions/restrictions:


- a. All of the terms and provisions contained in CBYC's Permit Application, except as may be expressly modified hereinbelow and said modifications shall supplement and amend CBYC's Permit Application.
  - b. CBYC shall fully comply with all Town, New Hanover County, State, and/or Federal rules and regulations, including the departments and agencies of each such entity.
  - c. CBYC shall not play music, whether recorded or live, before 12:00 p.m. each day, will stop playing any such music one (1) hour before closing time each day, and will at all times comply with the Town's noise ordinance.
  - d. CBYC's store, restaurant, fueling and other sales and activities shall cease by 9:00 p.m. beginning on the Friday of Memorial Day weekend of each calendar year through and including the Labor Day holiday of each calendar year. At all other times (i.e., the off-season), said activities shall cease by 7:00 p.m.
  - e. CBYC's restaurant operations will open on a daily basis no earlier than 7 a.m.
  - f. Any newly installed lighting within CBYC's Marina shall be directed downward and away from the residential homes in the Oceana Subdivision.
  - g. CBYC will ensure that trash is picked-up on a daily basis within all areas of its operation, including along its walkways along the Marina and also within the parking lot and spaces owned by CBYC within the Oceana Subdivision.
  - h. Any future conditional or special use permit application by CBYC requesting additional uses of the Property not contemplated in the current Permit may be contested by Oceana notwithstanding this Consent Order. Alternatively, Oceana may choose to require the same restrictions specified herein to be imposed on the use proposed by any such future conditional or special use permit application.
2. Nothing herein shall be construed so as to waive, limit or otherwise prejudice CBYC and its successors and assigns from seeking additional uses and/or improvements to its subject property and marina as may be allowed by the Town's ordinances. Nothing herein shall be construed so as to waive, limit or otherwise prejudice the legal and/or factual arguments of any opponents possessing legal standing to any future applications by CBYC and/or its successors and assigns to make any additional uses and/or improvements to its subject property.

- 3. The terms and provisions of this Order shall be fully enforceable by the Court with all of its authority including, without limitation, the Court's powers of contempt, including an award of attorney's fees for any prevailing party.
- 4. Each party shall bear its own respective costs and attorneys' fees, except in any proceedings under Paragraph 3.
- 5. The provisions of this Consent Order shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

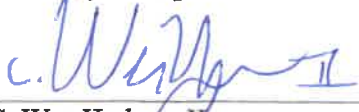
So ORDERED this the 21<sup>st</sup> day of December 2020.

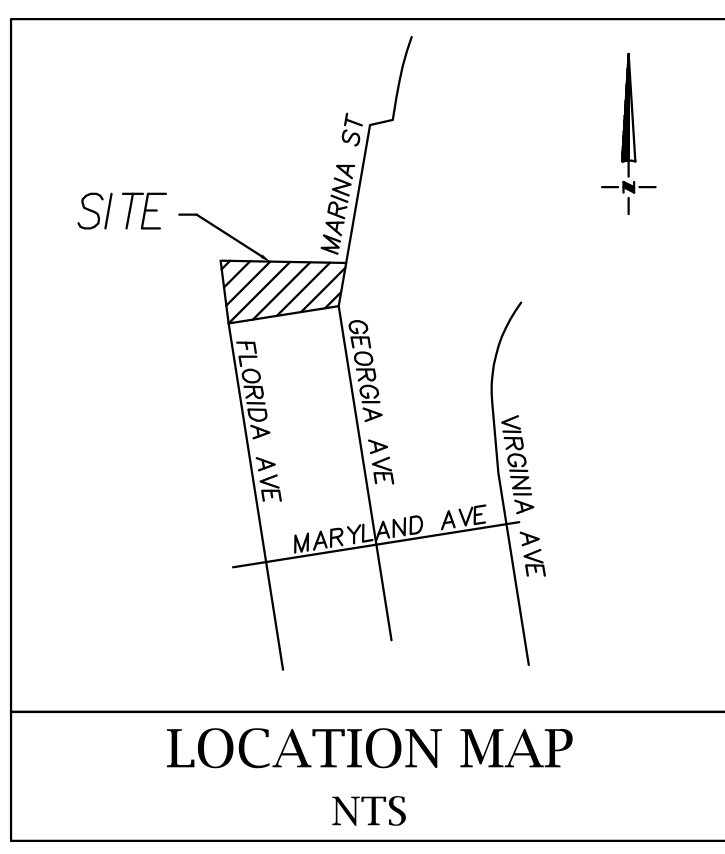
  
 \_\_\_\_\_  
 THE HONORABLE George F. Jones  
 Resident Superior Court Judge Presiding  
 New Hanover County, North Carolina

WE CONSENT:

  
 \_\_\_\_\_  
 G. Grady Richardson, Jr.  
 Counsel for Petitioner, CBYC, LLC

  
 \_\_\_\_\_  
 Charlotte Noel Fox  
 Counsel for Respondent Town of Carolina Beach

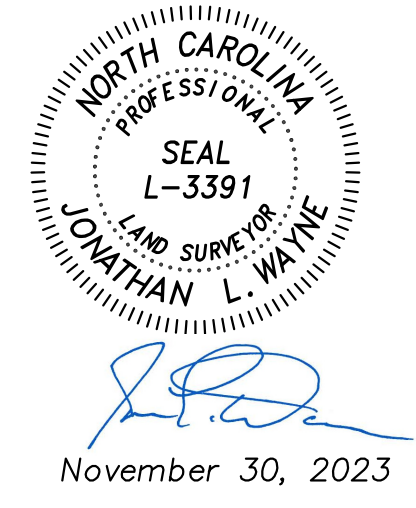
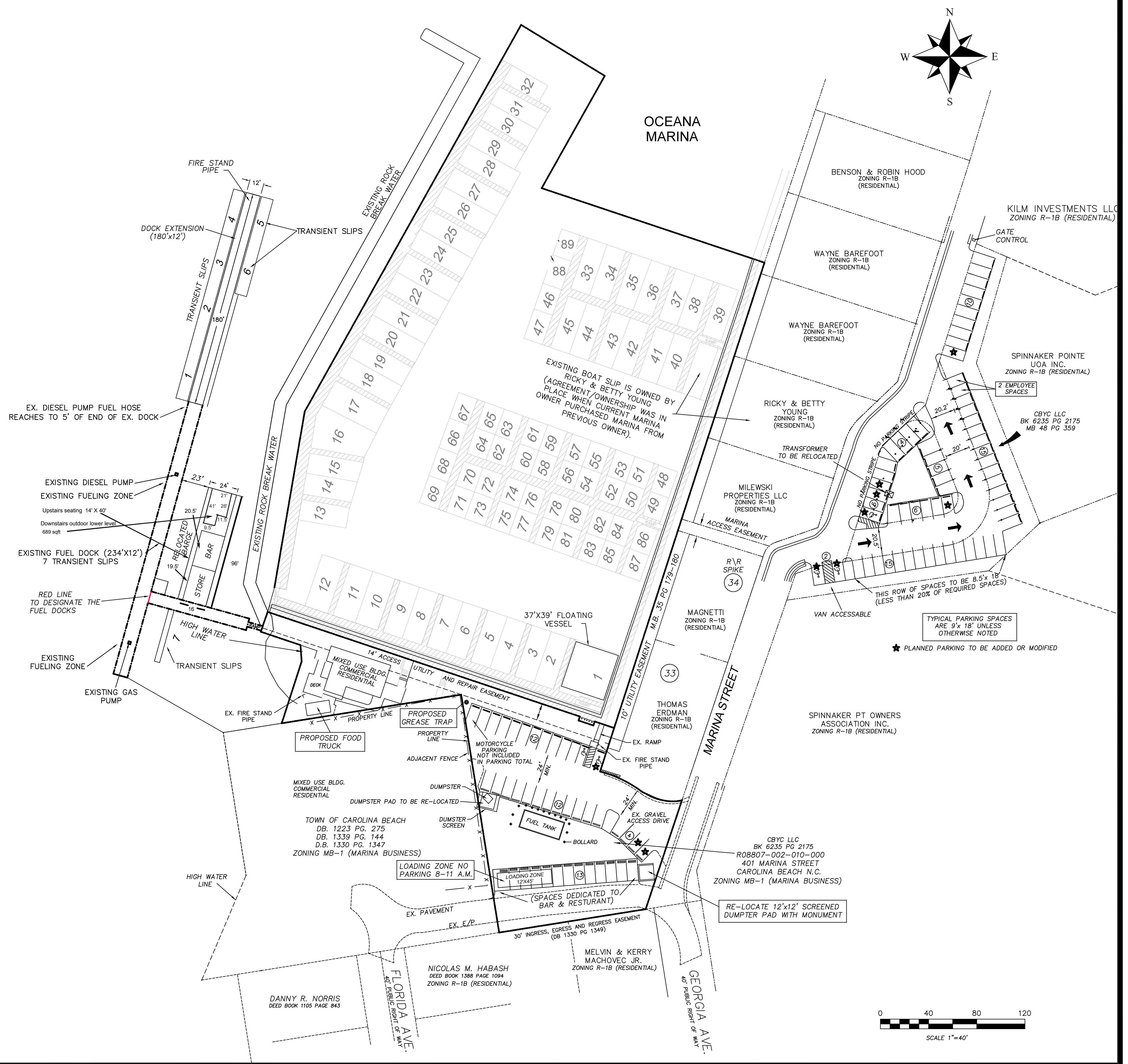
  
 \_\_\_\_\_  
 C. Wes Hodges, II  
 Counsel for Intervenor-Respondent,  
 Oceana Owners Association, Inc.



**PARKING CALCULATIONS**

REQUIRED OFF-STREET PARKING:	103.2 (104)
BOAT SLIP - 1 PER SLIP ( 89 SLIPS)	89
RETAIL (FLOATING PLATFORM)	
1 SPACE PER 200 SF (312/200)	1.6
EATING & DRINKING ESTABLISHMENTS (FLOATING PLATFORM)	
1 SPACE PER 110 SF (INDOOR)	3.0
328 SF/110 SF	
1 SPACE PER 220 SF (OUTDOOR)	3.1
LOWER LEVEL 689 SF/220 SF	
UPPER LEVEL 560SF/220 SF	2.5
RESIDENTIAL	2.0
EMPLOYEE SPACES 1 PER 2 EMPLOYEES	2.0
TOTAL EXISTING AND PROPOSED	104

RETAIL, EATING & DRINKING SF DATA PROVIDED BY THE OWNERS.



**Notes**  
 The original as-built survey was completed in May of 2008 by Hanover Design Services, P.A. This survey updated the following items only:

1. Barge re-location, Dock Addition
2. Dumpster re-location - Asbuilt
3. Updated Parking based on recent addition & future Additions/Alterations

All Proposed Changes and Alterations to be approved by the Town of Carolina Beach.

NO.	TOWN COMMENTS, ADDITIONS	DATE
1		10/13/23
2		11/2/23
3		11/30/23
REVISIONS		DATE

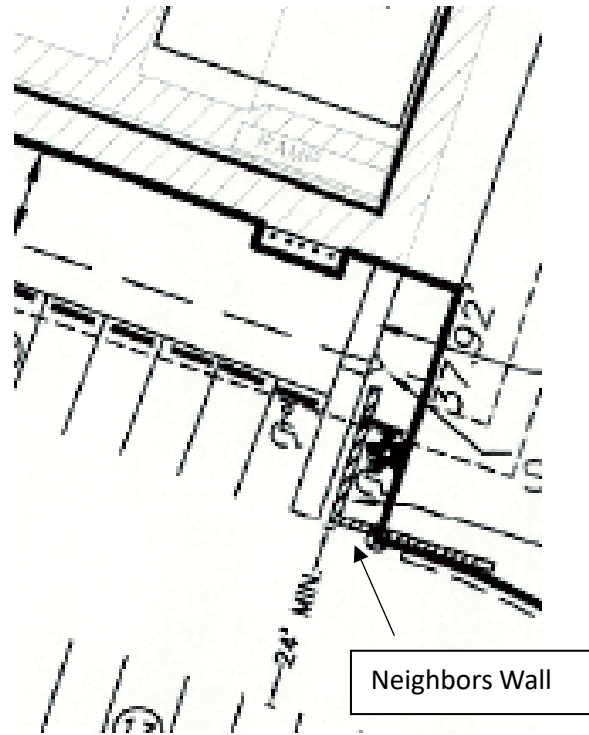
**Partial As-Built/Parking Layout Revisions  
 CAROLINA BEACH MARINA  
 AND YACHT CLUB**  
 401 MARINA STREET  
 CAROLINA BEACH, NC

**HANOVER DESIGN SERVICES, P.A.**  
 LAND SURVEYORS, ENGINEERS & LAND PLANNERS  
 1123 FLORAL PARKWAY  
 WILMINGTON, N.C. 28403  
 PHONE: (910) 353-8002  
 LICENSE # P-0597

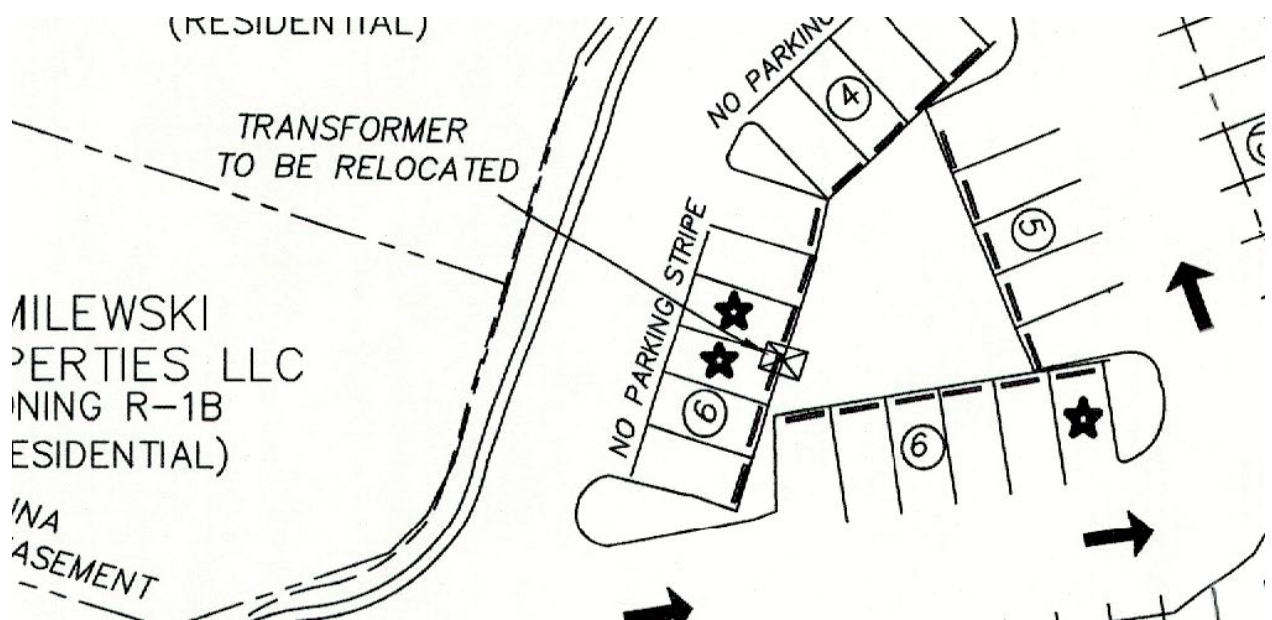
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### Encroachments

#### Wall

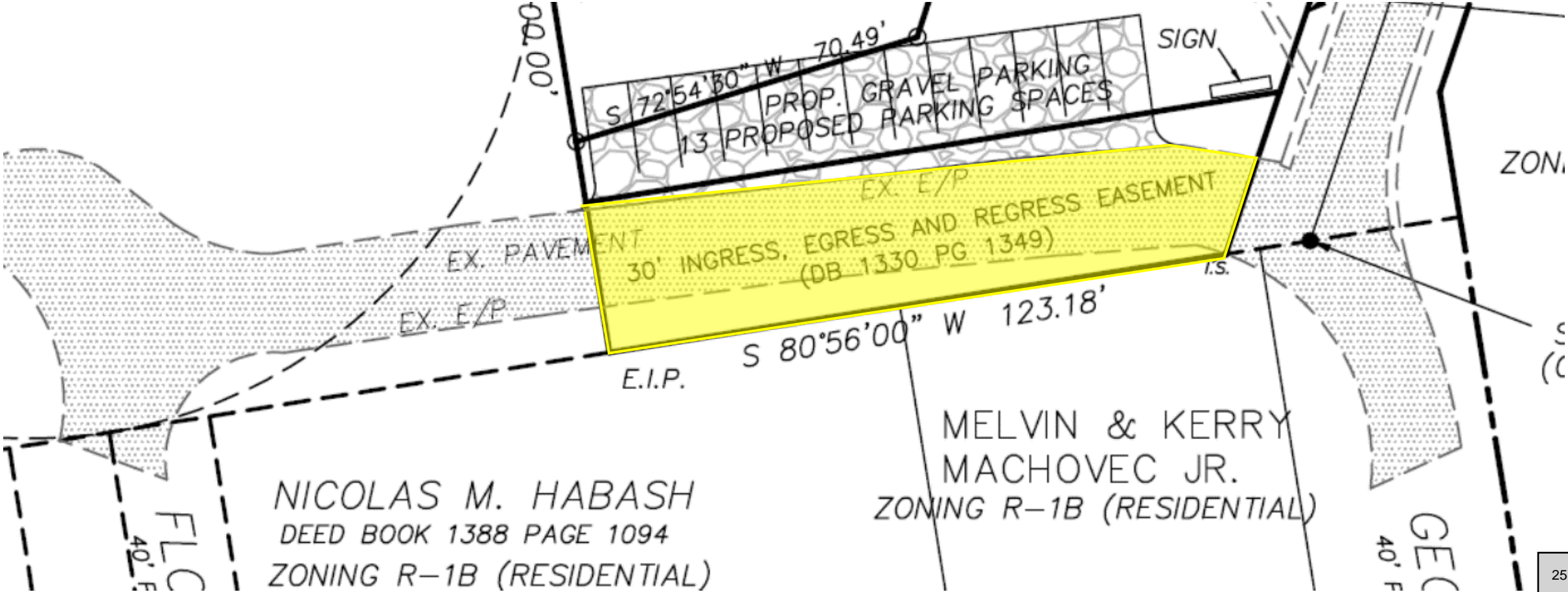


#### Transformer





# Proposed dedicated town right-of-way





## AGENDA ITEM COVERSHEET

**PREPARED BY:** Ed H. Parvin, Deputy Manager

**DEPARTMENT:** Executive

**MEETING:** Town Council – 30 May 2024

**SUBJECT:** Discussion on Sidewalk from Carolina Beach Lake to Carolina Sands

### **BACKGROUND:**

In May of 2023 the Town Manager was in discussions with North Carolina Department of Transportation (DOT) about how we could get sidewalks added from Carolina Sands to the Lake. Later that summer funding from DOT was earmarked for this project. Several on-site meetings occurred with Town staff and DOT. In November a plan was given to the town. The plan showed the sidewalk meandering from DOT right of way to private property. There were multiple conflicts with power poles, mailboxes, utilities, trash bins, signage, etc. Costs of purchasing the additional needed right-of-way was also a significant concern.

Staff worked with DOT on an alternative that would bump out curb and gutter and avoid all the conflicts. DOT met with staff on-site again and determined there was adequate drive aisle width to accomplish this task. However, when the estimate came back to the Town it was going to cost \$1,691,153.08.

Staff talked to Town Council about this issue and direction was given to see if we could get any aspect of the project completed (i.e. one or two blocks). Staff went back to DOT and they agreed to look at the costs again on a block by block basis.

During the second review by DOT, their field crews identified some discrepancies in the stormwater infrastructure that was shown on their as-built surveys. This discovery allowed them to significantly reduce the costs. They were also able to break down the costs by block.

### **ACTION REQUESTED:**

There are no funds allocated in the current proposed budget for this project.

This project will be run completely separate from the resurfacing of Lake Park.

DOT will manage the project if approved by Town Council.

The project must be approved for connecting full block sections (i.e. not 1 ½ blocks and no breaks).

Money agreed to be allocated by DOT: **\$183,118**

**DOT COST ESTIMATES:**

Section 1: Lake - Lake Dr.	\$	115,000.00
Section 2: Lake Dr. – Sumter Ave.	\$	105,000.00
Section 3: Spartanburg Ave. - Spartanburg Ave	\$	150,000.00
Section 4: Sumter Ave. - Greenville Ave.	\$	120,000.00
Section 5: Greenville Ave. - Carolina Sands Dr.	\$	150,000.00
Total:	\$	640,000.00

**RECOMMENDED MOTION:**

If Town Council would like to move forward staff is requesting a motion that will:

1. Identify specific sections to be included in the scope of the project.
2. Allocate “x” amount of funds for the project utilizing the general fund’s fund balance.  
This should be total cost plus 15% minus funds allocated by DOT (see table below).

SIDEWALK TO BE COMPLETED	DOT COST ESTIMATE	RECOMMENDED AMOUNT TO BE ALLOCATED BY THE TOWN
Section 1: Lake – Lake Dr.	\$ 115,000.00	\$0
Section 2: Lake Dr. – Sumter Ave.	\$ 105,000.00	\$69,882
Section 3: Spartanburg Ave. - Spartanburg Ave	\$ 150,000.00	\$242,382
Section 4: Sumter Ave. - Greenville Ave.	\$ 120,000.00	\$380,382
Section 5: Greenville Ave. - Carolina Sands Dr.	\$ 150,000.00	\$552,882
Total:	\$ 640,000.00	

FORMULA: SUM(Sections) +15% - DOT Contribution



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Kim Ward, Town Clerk

**DEPARTMENT:** Clerk

**MEETING:** Town Council Meeting 5/30/2024

**SUBJECT:** Discussion on Canal Drive Flooding Remediation Efforts

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**BACKGROUND:**

Mayor Barbee will lead the discussion.

**ACTION:**

Discussion only



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Kim Ward, Town Clerk

**DEPARTMENT:** Clerk

**MEETING:** Town Council Workshop 5/30/224

**SUBJECT:** FY24/25 Town Manager's Budget Message

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**BACKGROUND:**

Town Manager Bruce Oakley will present the FY24/25 budget message.

**ACTION REQUESTED:**

Presentation and discussion – no action needed