CAROLINA BEACH

Planning and Zoning Meeting
Thursday, March 13, 2025 — 6:00 PM
Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



AGENDA

CALL TO ORDER

CONFLICT OF INTEREST

Members of Planning and Zoning 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)

APPROVAL OF MINUTES

1. February 13, 2025 – P&Z Minutes

STAFF REPORT ON RECENT COUNCIL MEETINGS

STAFF REPORT ON RECENT DEVELOPMENTS

PUBLIC DISCUSSION

DISCUSSION ITEMS

Consider a Special Use Permit Modification for additional boat storage spaces 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

NON-AGENDA ITEMS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Senior Planner DEPARTMENT: Community

Development

MEETING: Planning & Zoning Commission – March 13, 2025

SUBJECT: February 13, 2025 – P&Z Minutes

Action:

Approve the February 13, 2025 Minutes

CAROLINA BEACH

Planning and Zoning Commission Meeting
Thursday, February 13, 2025 - 6:00 PM
Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Chairman Rouse called the meeting to order at 6:00 PM.

PRESENT

Chairman Wayne Rouse
Vice Chairman Jeff Hogan
Commissioner Melanie Boswell
Commissioner Ethan Crouch
Commissioner Todd Piper
Commissioner Bill Carew
Commissioner Lynn Conto

ALSO PRESENT

Community Development Director Jeremy Hardison Senior Planner Gloria Abbotts Planner Haley Moccia

CONFLICT OF INTEREST

Members of Planning and Zoning 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)

APPROVAL OF MINUTES

1. January 9, 2025 – P&Z Minutes

ACTION: Motion to approve the minutes

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto Motion passed unanimously

STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported the following:

February 11 Council actions

- Council approved a text amendment to amend Article 3, Sec. 3.49 Reconstruction,
 Maintenance, Full or Partial Demolition and Renovation of Nonconforming Situations.
- Council approved a resolution to close the 15-foot alleyway on Glenn Avenue between Lots 17-23.
- Council approved the draft Beach Management Plan.

Project updates

- Ocean Boulevard sidewalk: This project is on schedule and making progress.
- **Centennial:** The kickoff celebration is March 6 at Centennial Park.
- **Parking lot paving Marina:** In addition to paving, improvements include installing a sign, sod, and flagpole.
- **1810 Canal Drive paving/beach crossover:** The street before Freeman Park will be paved, and the Town will install a beach access crossing over to get to the rocks.
- Lake Park pump house: A bid has been awarded to a contractor, and work should start soon.
- **Boardwalk bathroom:** Demolition was Monday, and portable restroom facilities hooked up to water and sewer will go up soon a little further to the north.

Permitting

- 51 permits (renovation, repair, grading, additions, fences)
- 10 residential new construction
- 8 certificates of occupancy

Demos

- 1203 South Lake Park Boulevard (pool building at Golden Sands)
- 1300 Carolina Beach Avenue North

Upcoming

- Mini golf: Work has begun at the property behind Walgreens.
- Duke Energy substation: The existing structure will be demolished and reconstructed further back from the road.
- 2 minor Planned Units Developments (PUDs): The Technical Review Committee (TRC) has reviewed plans for 2 single-family homes on each lot.
 - o 308 Lewis Drive
 - o 1109 Swordfish Lane

Chairman Rouse asked if there was already a beach access in the 1810 Canal Drive area. Mr. Hardison said no. Chairman Rouse asked if the access will be straight out from the middle or go to the north. Mr. Hardison said it will be to the north because there is an existing easement to access the beach on the pier property, so that will be used.

Commissioner Piper asked when beach renourishment starts. Mr. Hardison said winter 2026.

PUBLIC COMMENT

None

PUBLIC HEARING

 Zoning Map Amendment to Consider a Request to Rezone 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD) Applicant: STLNC, LLC

This item was removed from the agenda.

3. Consider a Preliminary Plat for a 9-Lot Subdivision Located at 1215 Saint Joseph Street Applicant: Wescott Butler

Wescott Butler has submitted a request for a preliminary plat approval for Phase 1 of the Fisher's Reserve subdivision at 1215 Saint Joseph Street. This is considered a major subdivision preliminary plat because there are more than 6 lots to be subdivided. Due to recent changes in the Unified Development Ordinance (UDO), the Planning and Zoning Commission shall review and take final action.

The property is 5.05 acres. This subdivision will consist of 9 lots with a minimum lot size of 7,000 square feet. The existing single-family home on the property will be demolished. The proposed 9 lots comply with the minimum standards for R-2. Single-family dwellings are permitted by right in the R-2 zoning district, which has a minimum lot size of 7,000 square feet. Setbacks for structures in this district are 25 feet from the front, 10 feet from the rear, 7.5 feet from the side yards, and 12.5 feet required on corner lots. The maximum height for structures is 45 feet, with a maximum lot coverage of 40% and a maximum impervious coverage of 65% per lot. A portion of the subdivision is in an AE 11 flood zone. Those lots will have a finished floor elevation of 13 feet to meet the base flood elevation (BFE) + 2 feet of freeboard requirement.

The applicant proposes installing a 50-foot right-of-way, Hooks Road. The design of the road will be in accordance with N.C. Department of Transportation (DOT) minimum design and construction criteria and guidelines. Per UDO section 4.12, in no case shall right-of-way widths be less than 40 feet and pavement widths less than 26 feet, unless approved by the Fire Marshal. The applicant proposes a 24-foot pavement width, which was approved by the Fire Marshal at the December 2024 TRC meeting. A fire hydrant will be installed at the compliant hammerhead turnaround at the end of the road.

A dedicated 5-foot pedestrian easement is proposed at the rear of the property for future connectivity. All subdivisions of 6 or more lots shall be required to install sidewalks along the street. The proposed sidewalk will be 4 feet wide and meet all Americans with Disabilities Act (ADA) requirements. The proposed 8-foot Saint Joseph Street multi-use path will be in the right-of-way in front of the subdivision. The subdivider will also install streetlamps in accordance with Ch. 34, Art. 5. The subdivider will also be responsible for installing street signs, stop signs, cluster mailbox units, and street trees. The subdivider shall plant at least 1 understory tree for each 50 feet of frontage; existing vegetation can be used and is encouraged.

It is the policy of the U.S. Postal Service that mail delivery to all new subdivisions is centralized through use of a cluster box unit (CBU). The location of the CBU has been approved by TRC. N.C. Building Code requires a handicap space for the CBU, which has been provided by the applicant.

The applicant shall obtain a State stormwater permit. There is a proposed stormwater infiltration basin to be installed at the front of the property. Utilities will be located within the right-of-way, and power lines will be buried. Each lot will be serviced with a 3-quarter-inch water service and meter, a 1-inch irrigation service and meter, and 6 inches of PVC sewer lateral and cleanout at the public right-of-way.

The applicant has provided a report completed by Tidewater Atlantic Research, Inc., which has concluded that the proposed development will not have an impact on any preserved Confederate earthworks or any other potentially significant archaeological features.

Ms. Abbotts presented details. She said the subdivider shall, within 24 months of the date of minor or major subdivision preliminary plat approval or approval with conditions, submit to the UDO administrator a complete application for approval of a final plat. She also reviewed required improvements and permits:

- Streets within the subdivision: Improvements to existing streets/road network are required for safe and adequate access to subdivision
- Traffic control devices, street name signs, and cluster mailbox units
- Pedestrian facilities
- Street trees
- Water and sewer systems
- State stormwater drainage approval and erosion control facilities
- Underground utilities
- Any other improvement required as a condition for preliminary plat approval

Ms. Abbotts said the applicant has addressed TRC comments, and staff recommends approval of the preliminary plat.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto Motion passed unanimously

Richard Collier, representing the applicant, reviewed project highlights. He said there is a Phase 2 planned on the rear of the property if building on wetlands in permitted there in the future: Phase 1 is 9 lots on 2.85 acres, and Phase 2 would be 10 lots on 2.2 acres.

Mr. Collier said a tree survey is complete for the property and found 174 trees, including 90 oaks ranging from 8 to 36 inches in diameter and the remainder made up of pine, bay, gum and magnolia trees from 3 to 28 inches in diameter.

Chairman Rouse asked if anyone from the public wanted to speak.

Steve Corriher of Forest by the Sea said he has concerns about the potential impact of the development and the limited amount of time the public had to review the plan, which he said was 2 days. He asked the Commission to delay a decision until there has been a chance to listen to all concerns, address neighbors' recommendations, and ensure this has been done in a way that will impact the community in a positive manner.

Benn Vennesland, President of the Homeowners Association at Forest by the Sea, said he is representing his neighborhood's Board of Directors. Among the concerns he mentioned were flooding and runoff, decreased water supply, and the location of the stormwater infiltration basin at the front of the property. Mr. Vennesland suggested using water-pervious surfaces, such as permeable concrete, wherever possible to minimize flooding and moving the basin to the back of the property instead of streetside. He said neighbors do not want the area to become another Canal Drive.

Steve Sikorski of Forest by the Sea said in addition to the concerns of his neighbors, he is also worried about traffic on Saint Joseph Street and motorists not following the speed limit. He also asked how the development would impact what is supposed to be phase two of the Joseph Ryder Lewis Jr. Civil War Park.

Robin Toone of 106 Summer Salt Lane said his main concern is flooding and rainfall having nowhere to go except into his neighborhood's yards.

Natalie Evans of 1205 Saint Joseph Street said her concerns include the location of the stormwater infiltration basin and whether there will be a fence around it. She said there are a lot of kids in the neighborhood. Ms. Evans asked that the developer respect nature and keep in mind that there are beautiful trees on the property, including lots of natives.

Chairman Rouse asked if the applicant would like to speak again.

Wescott Butler of 206 Texas Avenue said his company, WB Coastal Development, and Big Bird Land Development are partners in the proposed subdivision.

Mr. Collier said they have worked with the Town on water supply issues and have some ideas about what can be done if the project is able to move to Phase 2. He said they like pervious concrete but are not sure if it is allowed on public streets. Mr. Collier said the current proposed location of the stormwater infiltration basin is due to the project trying to accommodate the site and its grades as best as possible. He said whether the subdivision has 9 or 19 lots, it wouldn't meet any of the standards for a traffic study. Mr. Collier said they are working with the Town regarding sidewalks and the stormwater plan, and the goal is to leave as many trees as possible along the street so the basin would be screened. He said they can put a small fence around the basin, but water will infiltrate it and it will be dry the majority of the time.

Commissioner Carew asked about the amount of rain the overall site is designed to contain. Mr. Collier said 3.8 inches, which is in the 90th percentile. Commissioner Carew asked where the water will go when the site crests 3.8 inches. Mr. Collier said it would go into the ditch system along Saint Joseph Street.

Commissioner Piper asked if there are contingency plans if the applicant is able to move to Phase 2. Mr. Collier said if Phase 2 happens, there will be a stormwater basin on that end of the property that accommodates the 10 additional lots.

Commissioner Piper said his bigger concern would be where the water goes from additional lots and maintenance of streetside ditches, but that is more of a Town concern. He asked if the Town would take care of ditches, including regrading and cleaning. Mr. Hardison said yes, and the Town has increased the pipe size in some areas for flow, and when the multi-use path is done the Town will be improving stormwater along Saint Joseph Street.

Commissioner Piper asked when the project would break ground. Mr. Collier said late spring/early summer if all permits come through.

Commissioner Piper said his questions about Phase 1 have been addressed, and the remaining questions he has are about Phase 2. He said this plan is much more developed than some other plans they have seen.

Commissioner Boswell asked about trees on the property, not just those along the street. Mr. Collier said due to work that must be done on the site, there will not be many left.

Commissioner Boswell asked why adjacent neighbors had only 2 days to review plans. Mr. Hardison said notifications about the public hearing went out earlier than that, but plans were not mailed with those letters. Vice Chairman Hogan said it's not customary to send plans with public hearing notices. Mr. Hardison said information was also published on the Town's website on Friday.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto Motion passed unanimously

Chairman Rouse said if this is approved, he strongly encourages the applicant to meet with neighbors so everyone is happy. He said it is not required, but everyone would get along a lot better.

Commissioner Carew said he is in favor of the proposal. He said stormwater is a big concern, but the applicant is doing the design requirements and the resulting issue lies with the Town, so the Town has to figure out how to deal with stormwater.

Commissioner Conto said she is in favor of the project in general, but she would like the applicant to consider mitigating safety concerns about the basin.

Commissioner Crouch said this is a unique project for the Town, as this is the first time he's heard a true subdivision application. He said it is a benefit to the community that this was submitted as a

subdivision as opposed to individual lots because the applicant is taking on more stringent obligations by doing a subdivision.

Commissioner Piper said the applicant could have purchased the land and developed it house by house without meeting all of the requirements he's met, and he added that all the proposed lots exceed 7,000 square feet. He said everyone on the island is dealing with stormwater issues, but the applicant has gone far and above what is required and is trying to do everything possible in good faith. Commissioner Piper said he would like to see a minimum of 5-inch caliper trees planted and a fence around the basin, but otherwise he is in favor of the proposal.

Commissioner Boswell said she feels for the adjacent neighbors, but this could have been split up one by one. She said the subdivision guidelines put into the UDO are intense and require more from the developer than just doing a regular PUD. Commissioner Boswell said she hopes the applicant will work with neighbors and take input into consideration. She said she is in favor of Phase 1.

Vice Chairman Hogan said he is glad this was brought in as a subdivision, but as a nearby resident, he does understand flooding concerns. He said property owners have rights, and it's up to the Town to figure out how to help residents with stormwater issues. Vice Chairman Hogan said the applicant has gone above what is required, does a good job, and cares about the community. He said he would like to see as much permeable surface as possible in the subdivision, but he is generally in favor of the project.

Chairman Rouse said he understands flooding concerns but thinks this could have been a mess if not developed as a subdivision, so he is in favor of it.

Commissioner Conto asked if they can place conditions for a minimum of 5-inch caliper trees, a fence for the basin, and permeable street surface.

Vice Chairman Hogan said he's not sure if the State or Town will approve a public road using permeable concrete. Mr. Hardison said it will be a Town-maintained road and therefore must be asphalt, but there could be opportunities to use permeable concrete for driveways and sidewalks.

<u>ACTION:</u> Motion to approve the preliminary plat for Fisher's Reserve with the stipulations that at least 5-inch caliper trees are added, a fence or some sort of safety precaution goes around the retention pond, and permeable concrete as much as can be approved be used on the property Motion made by Vice Chairman Hogan, seconded by Commissioner Boswell Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto Motion passed unanimously

NON-AGENDA ITEMS

None

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Crouch, Commissioner Piper, Commissioner Carew, Commissioner Conto Motion passed unanimously

Chairman Rouse adjourned the meeting at 7:10 PM.



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & DEPARTMENT: Planning &

Development Director Development

MEETING: Planning & Zoning Commission March 13th 2025

SUBJECT: Consider a Special Use Permit Modification for additional boat storage

spaces 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

BACKGROUND:

On May 30, 2024, the Town Council denied the Special Use Permit Modification for the Carolina Beach Yacht Club and Marina. In July 2024 the Town adopted a Unified Development Ordinance (UDO) that consisted of changes that would impact the site design of the modification. Those went into effect in August 2024 and below are those impacted UDO changes.

- Removed employee parking from the required parking calculation for uses.
- Added golfcart parking can be utilized for the required parking.

The ordinance changes were significant changes for the ability of the applicant to resubmit the application to be reviewed under the new UDO.

The Applicant, Carolina Beach Yacht Club and Marina, has reapplied for a Special Use Permit (SUP) modification (Attachment 1 - Application). The original application submitted in 2019 was 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 is 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 90. 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 + required for all other on-site uses. Parking is being provided for the wet boat storage space 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.
- 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. This boat storage space would still need to provide a parking space.
- 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.
- Expanding parking area with spaces being added closer to the property lines that do not meet the landscaping requirements, applicant is requesting a wavier.

12 parking spaces are required to be added to accommodate the modifications. The applicant is proposing a total of 21 additional parking spaces.

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

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 south area of the paved Georgia Ave town access easement to a town public right-of-way (attachment 5).

(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.

/	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	VVV/				
×××××	PARKING CALCULATIONS REQUIRED OFF-STREET PARKING: REQUIRED RESIDENTIAL PARKING: REQUIRED COMMERCIAL PARKING: -ALLOWABLE 20% COMPACT/GOLF CART: -REQUIRED NORMAL CAR SPACES:	105.6 (106) 2 104 20.8 (20) 84				
>	TOTAL REQUIRED NORMAL CAR SPACES: -2 RESIDENTIAL + 84 COMMERCIAL	86				
> \	BOAT SLIP -1 SPACE PER WET SLIP -1 SPACE FOR RICKY & BETTY YOUNG	90				
	RETAIL (FLOATING PLATFORM) -1 SPACE PER 200 SF -312 SF	1.6				
	EATING & DRINKING ESTABLISHMENTS (FLOATING F -1 SPACE PER 110 SF (INDOOR) -328 SF	LATFORM) 3.0				
	-1 SPACE PER 220 SF (OUTDOOR) -LOWER LEVEL 1,128 SF -UPPER LEVEL 640 SF	5.1 2.9				
	RESIDENTIAL	2.0				
	TOTAL PROVIDED PARKING SPACES: -NORMAL CAR SPACES: -COMPACT CAR SPACES: -GOLF CART SPACES:	113 89 10 14				
	DEVELOPMENT SUMMARY					

Bicycle rack with a minimum of four (4) bike storage spaces will need to be provided.

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

The trash and recycling containers will be not be relocated.

(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 parking spaces have been shifted closer to the property line and 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;

New signage is not proposed.

(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. Landscape requirements to be waived for the additional proposed 2 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 of the paved Georgia Ave town access 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.
- 6. Install bike a storage rack of a minimum of 4 storage spaces.

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.

SUP MOD 25-UI

Permit #

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



TOWN OF CAROLINA BEACH SPECIAL USE PERMIT MAJOR MODIFICATION

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

\$ 500.00

Major Modification to Major SUP

\$ 1,000.00

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

2025	Submissi	on Deadl	ines and	Meeting D	ates	
TRO	G	Pa	&Z	Town Council		
Deadline	Deadline Meeting		Deadline Meeting		Meeting	
Dec 23, 2024	Jan 7	Jan 27	Feb 13	Feb 25	Mar 11	
Jan 21	Feb 4	Feb 24	Mar 13	Mar 25	Apr 8	
Feb 18	Mar 4	Mar 24	Apr 10	Apr 29	May 13	
Mar 18	Apr 1	Apr 21	May 8	May 27	June 10	
Apr 22	May 6	May 26	June 12	June 24	July 8	
May 20	June 3	June 23	Jul 10	July 29	Aug 12	
June 17	July 1	July 28	Aug 14	Aug 26	Sept 9	
July 22	Aug 5	Aug 25	Sept 11	Sept 30	Oct 14	
Aug 19	Sept 2	Sept 22	Oct 9	Oct 28	Nov	
Sept 23	Oct 7	Oct 27	Nov 13	Nov 25	Dec 9	
Oct 21	Nov 4	Nov 24	Dec 11	Jan 2026	Jan 2026	
Nov 18	Dec 2	Jan 2026	Jan 2026	Feb 2026	Feb 2026	
Dec 23	Jan 2026	Feb 2026	Feb 2026	Mar 2026	Mar 2026	

Please complete all sections of the application.

A. Property Information	
Address(es): 401 Marina Street Carolina	Beach NC 28428
PIN(s): 1208519-002-002-000, R08519-0	007-078-000, R08807-007-010-000
Project Name: CBYC BOATSLIP & Parking	Modification
Size of lot(s): No Change	
B. Application for Modification 1. Reason for modification request: Approxal of modified parking with base	ed un newtown ordiances.
Approval of additional boat slips based include FOOD TRUCK. 2. Description of modification request:	t upon new parking plan to
Parking LOT has been designed for 113 total	Spaces, NEW BOATSIIP DESIGN AND EMETIN
Parking requirements NEED 105 spaces to M	neet town standards.
C. Applicant Contact Information	D. Owner Contact Information (if different)
CBYC, LLC Company/corporate Name (if applicable):	SAME as applicant Owner's Name
Applicant's Name	Mailing Address
4310 Sharon Rd Suite TOIA Mailing Address	City, State, and Zip Code
Charlotte, NC 28711 City, State, and Zip Code	Telephone
709-995-0086 Telephone	Email
CSCOQUIOO/Eaol, COM	

V

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.

Yes	No	N/A	1	
		Π̈́T	he nar	ne, address, and phone number of the professional(s) responsible for preparing the plan if
				t than the applicant.
				ers scale 1 inch = 40 ft or larger
			Title b	lock or brief description of project including all proposed uses
			Date	
			North:	
				rty and zoning boundaries
				quare footage of the site
				overage (buildings, decks, steps)
				ion of all existing and proposed structures and the setbacks from property lines of all affected
_	_			ares to remain on-site
				n of driveways and parking
				ent right-of-ways labeled with the street name and right of way width
	-		Locat	ion of all existing and/or proposed easements
Add	ition	al info	ormati	on or data as determined necessary by town staff and/or other reviewing agencies including
				following may be required:
			N/A	Jones and Gerequiness
				Location and design of refuse facilities
				Approximate locations and sizes of all existing and proposed <i>utilities</i>
				Existing and/or proposed fire hydrants (showing distances)
				Adjacent properties with owners' information and approximate location of structures
				Distances between all buildings
				Number of stories and height of all structures
				Locations of all entrances and exits to all <i>structures</i>
				Calculate the gross floor area with each room labeled (i.e. kitchen, bedroom, bathroom)
				Exterior lighting locations with area of illumination illustrated as well as the type of fixtures
	_		_	and shielding to be use
				Location of flood zones and finished floor elevations
				CAMA Areas of Environmental Concern (AEC) and CAMA setbacks
	ш			Delineation of <i>natural features</i> and wetlands with existing and proposed topography with a maximum of two foot contour intervals
				Proposed landscaping including percentages of open space
				Stormwater management systems
	П			Cross-sectional details of all streets, roads, ditches, and <i>parking lot</i> improvements
				Building construction and occupancy type(s) per the building code
				Location of fire department connection(s) for standpipes
				Turning radii, turnarounds, access grades, height of overhead obstructions
				Dimensions and locations of all signs
				A vicinity map drawn with north indicated
		_		
				rided a scaled electronic version of each required drawing
		I hav	e fold	ed all plans to 8 ½" x 11" size and am prepared to pay the application fee today

Page 3

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

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 LaLa Bleasce

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.

Conntry Stown

12/16/ Du

Signature

Date

			ENT OF PERS			EHALF		
The	undersigned	owner,	Courtr	un Sli	san,	does	hereby	appoint
	chad	anke 31	ala Bledso	o act on m	ny behalf for t	he purpos	se of petition	oning the
Town or	f Carolina Be	ach for: a) an	amendment to	the text reg	gulations; b) a	change to	the zoning	g map; c)
approva	l of a special i	use permit; d)	approval of a s	pecial use d	istrict; and/or,	e) street c	losing, as a	pplicable
to the pr	operty describ	ed in the attac	ched petition. T	he owner do	es hereby cov	enant and	agree with	the Town
of Carol	lina Beach tha	t said person h	nas the authority	y to do the f	ollowing acts f	or and on	behalf of th	ne owner:
give test to accep property indirect	timony and mot conditions (v. (4) To act of ly connected when the conn	ake commitme or recommend on the owner's with or arising	the required supents on behalf of lations made for behalf without out of any petitor submitted in company to the company to th	of the owner the issuar alimitations tion. This ap	r; and (3) In the ace of the spec- with regard to pointment agr	e case of a sial use per any and seement sh	a special us rmit on the all things d	se permit, c owner's irectly or
Appoint	tee's Name, A	ddress & Tele	ephone:					
	Bledsoe		-					
401 N	lanna st	-						
Carol	INa Beac	5h,NC						
		28428						
Signatu	re of Owner:	Combres	y Slown	E	_	v		



PROPERTY OWNER PER GIS: JOYNER MARINA LLC RALEIGH, NC 27602 ±1.36 AC (±59,237 SF) SITE AREA: 0.53 AC (±23,087 SF) $0.24 \text{ AC } (\pm 10,450 \text{ SF})$ 0.59 AC (±25,700 SF) PARCEL IDS: R08519-002-028, R08807-002-010 R08519-002-002 JURISDICTION: TOWN OF CAROLINA BEACH **CURRENT ZONING:** MB-1-MARINA PARKING CALCULATIONS REQUIRED OFF-STREET PARKING: 94 (93.2) BOAT SLIP -1 SPACE PER WET SLIP 69 RETAIL (BARGE) -1 SPACE PER 200 SF 1.6 -1/2 OF STRUCTURE (16' X 20')=320 SF EATING & DRINKING ESTABLISHMENTS (BARGE) -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 SFRESIDENTIAL ABOVE EXISTING COMMERCIAL -1 SPACE PER 1,000 SF 1.2 -1,200 SF APARTMENT OFFICE (EXISTING COMMERCIAL BUILDING 1ST FLOOR) -1 SPACE PER 300 SF RETAIL (EXISTING COMMERCIAL BUILDING 1ST FLOOR) -1 SPACE PER 200 SF EXISTING OFF-STREET PARKING: PROPOSED OFF-STREET PARKING: 16 TOTAL OFF-STREET PARKING: 95 OT COVERAGE 2,144 SF EXISTING BUILDING/FUEL TANK: 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

PROPOSED GRAVEL:

TOTAL PROPOSED IMPERVIOUS AREA:

LOADING SPACE REQUIREMENTS

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

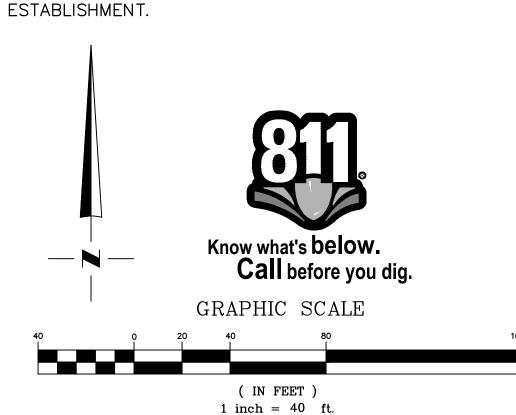
BE ANTICIPATED TO NOT LAST LONGER THAN 1 HOUR. THE

DEVELOPMENT SUMMARY

TYPICAL TRUCK FOR DELIVERIES TO THE RESTAURANT WOULD BE A WB-40 WHICH IS A TRACTOR TRAILER WITH A OVERALL

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

LENGTH OF 45 FEET.



Attachment 2

CAROLINA BEACH STORMWATER MANAGEMENT

COVERAGE. ADDITIONAL SOIL TESTING IS

CONTROLS:

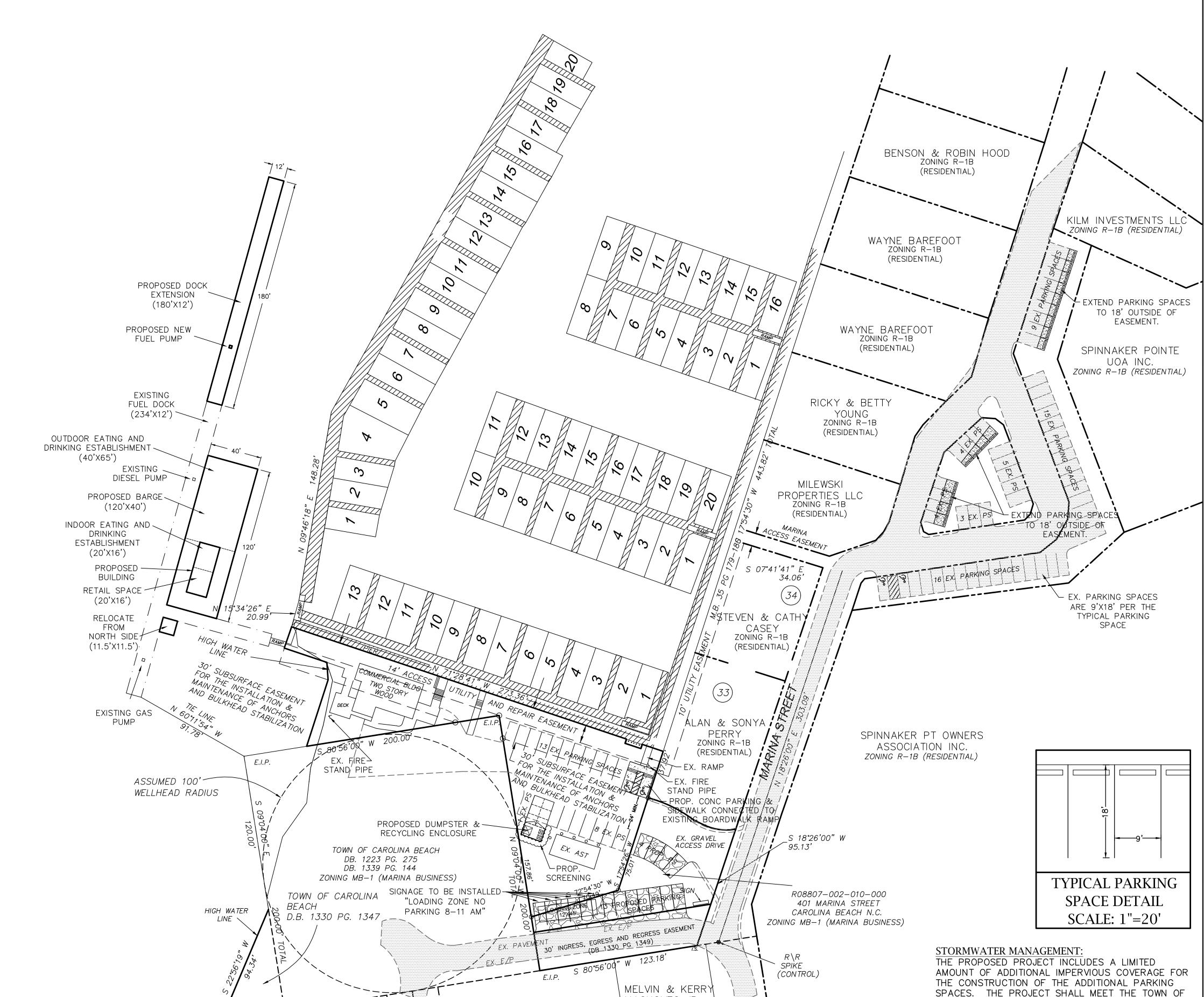
REQUIREMENTS FOR THE ADDITIONAL IMPERVIOUS

NECESSARY TO DETERMINE THE BEST STORMWATER

THAT THE PROPOSED STORMWATER MANAGEMENT WILL BE MEET THROUGH ONE OR A COMBINATION OF THE FOLLOWING NCDEQ RECOGNIZED STORMWATER

-INFILTRATION BASIN OR PERMEABLE PAVEMENT.

CONTROL MEASURE, BUT THE ENGINEER ANTICIPATES



MACHOVEC JR.

ZONING R-1B (RESIDENTIAL)

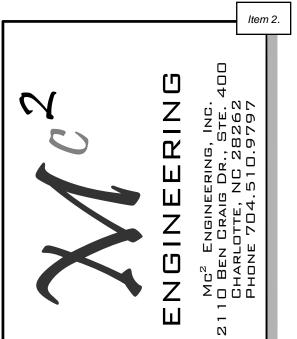
NICOLAS M. HABASH

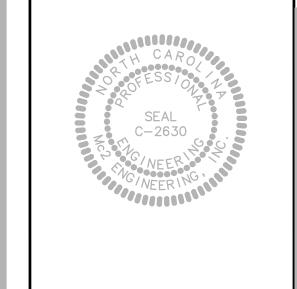
ZONING R-1B (RESIDENTIAL)

DEED BOOK 1388 PAGE 1094

DANNY R. NORRIS

DEED BOOK 1105 PAGE 843





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CAROLINA BEACH MARINA
AND YACHT CLUB

SKETCH PLAN

REVISIONS

- 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

DATE:

8 | 12/7/2018 | CAROLINA BEACH REVISIONS | 3/5/2019 | 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

AUGUST 31, 2018

SP1.0

STATE OF NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
COUNTY OF NEW HANOVER	21 A. 9 50 20-CVS-1444
\$ 1 pm / 6 . \$	表数 nn . 意义 t.
IN RE REQUEST BY CBYC, LLC,	
Petitioner,	
ν.))
TOWN OF CAROLINA BEACH, a North Carolina Municipal Corporation and Body Politic,)))
Respondent,))
OCEANA OWNERS ASSOCIATION, INC.	
Intervenor-Respondent.)))

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

Page 1 of 6

("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 CYBC'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:

 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 215 day of December

THE HONORABLE

Resident Superior Court Judge Presiding

2020.

New Hanover County, North Carolina

WE CONSENT

G. Grady Richardson, Jr.

Counsel for Petitioner, CBYC, LLC

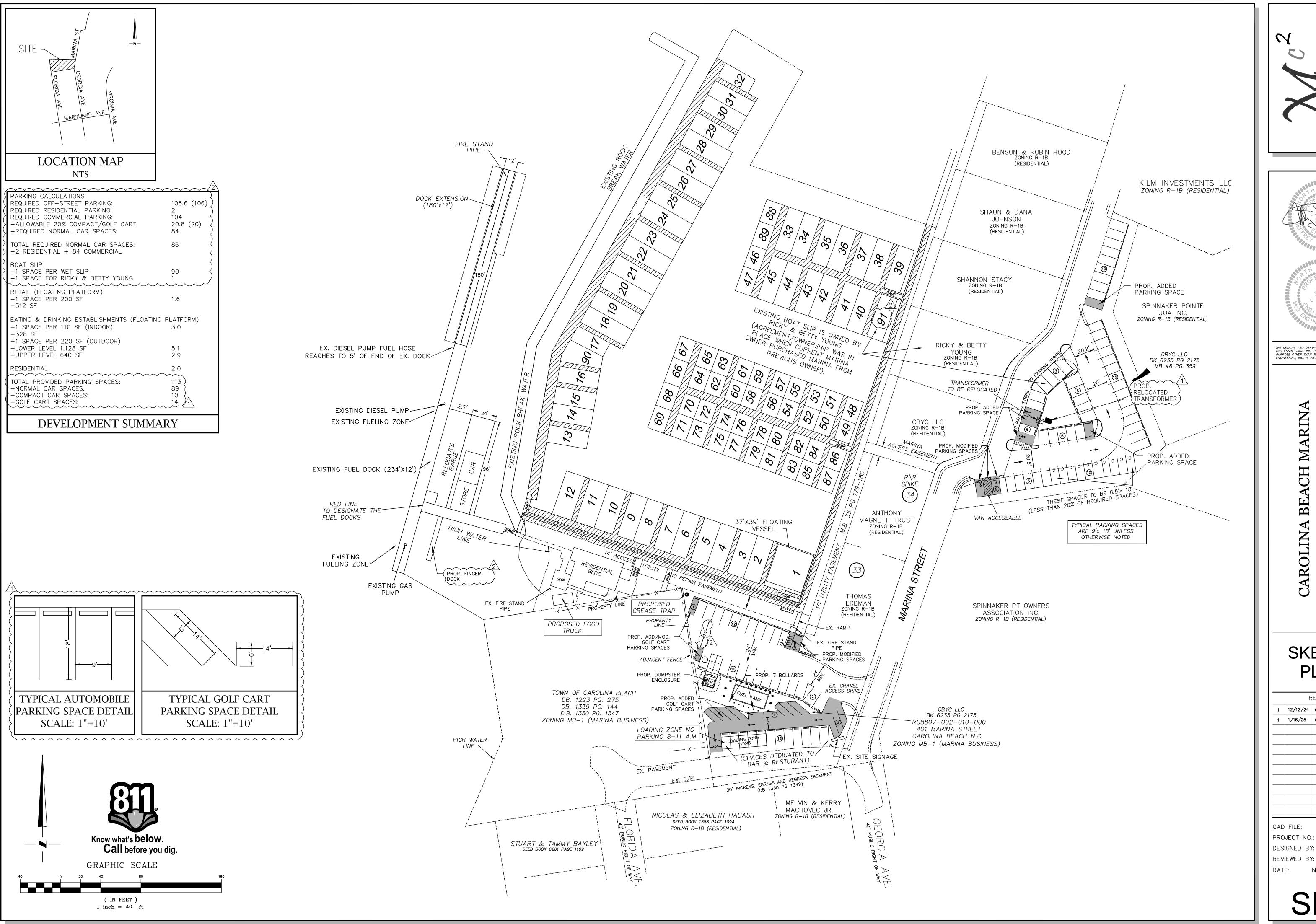
Charlotte Noel Fox

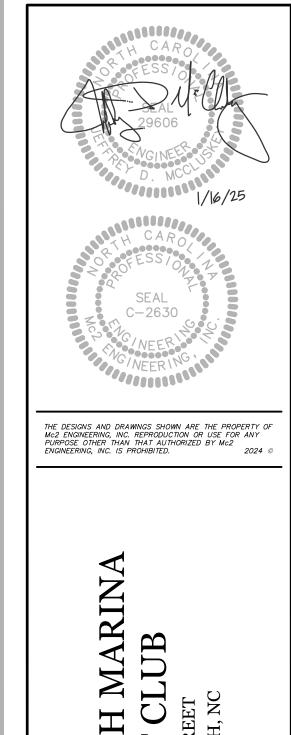
Counsel for Respondent Town of Carolina Beach

C. Wes Hodges, U

Counsel for Intervenor-Respondent,

Oceana Owners Association, Inc.





SKETCH **PLAN**

CAROLINA BEACI AND YACHT

REVISIONS						
1	12/12/24	СВ	COMMENT	S		
1	1/16/25	СВ	COMMENT	s		
CAD	FILE:	1	8-026	BASE.DWG		
PRO	JECT NO.	:		18-026		

NOVEMBER 15, 2024

JDM

Proposed dedicated town right-of-way

