



## 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.