



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Development Director

DEPARTMENT: Planning & Development

MEETING: Board of Adjustment – 4/22/2025

SUBJECT: To consider an appeal from staff's determination on the referenced sections from the Unified Development Ordinance (UDO).

BACKGROUND:

One of the roles for The Board of Adjustment is to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by staff. The applicant, Oceana Owners Association Inc/Olin Fur, submitted two applications dated 1/5/24 and 2/9/24 (attachment 1 & 2). These were submitted after a complaint (Attachment 3) to staff on 12/21/23 that a water oriented business was operating at the Carolina Beach Yacht Club (CBYC) formally Joyner Marina located at 401 Marina St. Staff reviewed the complaint and submitted a response (attachment 4). The appeal hearing was postponed to see if the parties could mutually come to an agreement during scheduled mediation involving the Applicant, CBYC and the Town.

The appeals reference several ordinance sections. In July of 2025 the Town adopted a Unified Development Ordinance (UDO) that consolidates various planning, zoning, and development regulations into one comprehensive document. The UDO process was a year-long effort guided by the Planning & Zoning Commission, involving thorough review and analysis before completion. Below are the sections that are identified in the appeal application with reference to the new sections in the UDO. The amended ordinances are in attachment 5 with the edits from the UDO adoption.

Old Sections	New UDO Sections	Section Name
40-2	1.3	Purpose and vision policy
40-71 & 72	3.4	Table of uses
40-150 (a) 1,2,4 (b) (d)(2) (e)(1) (7) (c) & (e)	3.24	Off-street parking
40-329 (a)	2.14.D.15-16	Specific review procedures, special use permit

40-330 (a)(2)	2.13.A	Modifications of permits or approvals
40-489 (b)	2.6	UDO Administrator

The CBYC business is the center of the appeal. The CBYC is approved as a Commercial Marina consisting of a building with a residential unit, gravel parking lot, wet boat storage spaces, fuel dock, and a retail/eating and drinking establishment. The Marina also owns an offsite parking lot(referred to as Oceana Parking lot) located inside the gated community of the Oceana neighborhood for the guests of the marina. The Marina is zoned MB-1(Marina Business) and the offsite Oceana parking lot is zoned R-1B (Residential).

In December 2020 an agreement was executed to issue the Conditional Use Permit with conditions based on the site plan (attachment 6) to add an eating and drinking establishment to the existing marina. When Staff did a final inspection in 2023 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 gravel parking lot of the marina building (Attachment 7 - 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. This did not increase the total number of parking spaces for the marina.

CBYC is currently in the process to modify their Conditional Use Permit to add additional boat storage spaces and parking spaces, a hearing date has not been scheduled yet for Town Council to consider.

During the UDO adoption process, the Commission determined that Water-Oriented Uses would be reviewed separately from the UDO to allow for more focused time and consideration. Staff proposed an ordinances amendment to address Water Oriented Uses to be reviewed by the Commission that is scheduled for next week.

BOARD ACTION: The board of adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning or unified development ordinance.

The board can agree or deny staff interpretation on the ordinances referenced.

Attachments

1. Appeal Application 1.5.24
2. Appeal Application 2.9.24
3. Complaint
4. Staff response

5. Referenced Ord. Sections
6. CUP Site Plan
7. Encroachments