

# CAROLINA BEACH

Planning and Zoning Commission

Thursday, March 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 Todd Piper

Commissioner Bill Carew

Commissioner Lynn Conto

### ABSENT

Commissioner Ethan Crouch

### ALSO PRESENT

Community Development Director Jeremy Hardison

Senior Planner Gloria Abbotts

Planner Haley Anderson

### 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

**ACTION:** Motion to approve the minutes as written

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

*Motion passed 6-0*

### STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported the following:

#### Permitting

- 77 permits (renovation, repair, grading, additions, fences, etc.)
- 7 residential new construction
- 26 certificates of occupancy

#### Seasonal activity

- Amusement rides will arrive in mid-April, and there is a meeting planned for early April to discuss setup.
- All beach vending permits have been issued.
- 2 out of the 6 available 4x4 Freeman Park vending permits have been issued.
- 3 beach services permits have been issued.

#### Demos (single-family homes)

- 413 Raleigh Avenue
- 513 Atlanta Avenue
- 300 Florida Avenue

#### New businesses

- Hometown Barber Shop, 1009 North Lake Park Boulevard, Suite B3
- Latella Gelato, 11 Boardwalk, Suite 110 (new ownership)

#### Project updates

- **Boardwalk bathroom:** Pilings are complete, and next week the slab will be poured. Then the project will be fenced off during the summer and worked paused until after Labor Day.
- **Ocean Boulevard sidewalk:** This project is on schedule, and progress is ongoing.
- **Lake Park pump house:** A bid has been awarded to a contractor. The contract is being drafted now, and work will hopefully start in May.
- **Lake Park bathroom:** A rendering of the work was shown for the facility, which is proposed to go by the picnic shelter near the parking lot.

#### Upcoming

- Planning and Zoning Commission March 13: Special Use Permit modification for 401 Marina Street
- Board of Adjustment March 17: variance for 7 Sailfish Lane
- Planning and Zoning Commission April 10: Conditional Zoning for a bar at Surf's Up Mini Golf at 1360 Bridge Barrier Road and a water-oriented uses text amendment
- Board of Adjustment April 22: Oceana appeal
- Planning and Zoning Commission March 8: 204 Harper Avenue rezoning
- Unified Development Ordinance (UDO): 6-month report on how it's working

#### Council

- March 11: adopted traffic-calming policy

- April 8: text amendment for Carolina Beach Inn at 210 Harper Avenue for commercial parking in the right-of-way

## **PUBLIC COMMENT**

Holley Snider of 222 Florida Avenue said she was speaking as a concerned resident about Carolina Beach Yacht Club and Marina's request for a Special Use Permit modification, the next item on the agenda. She requested to speak now instead of during the public hearing on the matter. Ms. Snider said the marina, barge bar, and Freedom Boat Club (FBC) have been allowed to operate and expand without proper authorization at the expense of adjacent property owners. She said this is not in harmony with the adjacent residential zoning district and has injured the value of adjacent properties. Ms. Snider mentioned issues with parking overflow and lack of compliance with State and Federal permits.

## **DISCUSSION ITEMS**

2. Consider a Special Use Permit Modification for Additional Boat Storage Spaces Located at 401 Marina Street PID 313115.74.1321.000, 313115.64.9002, and 313115.64.8036 in the Marina Business and R-1B District  
Applicant: CBYC, LLC

On May 30, 2024, Council denied the Special Use Permit (SUP) modification for Carolina Beach Yacht Club and Marina (CBYC). 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 the following are those impacted UDO changes:

- Removed employee parking from the required parking calculation for uses
- Added that golf cart parking can be utilized for required parking

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

Applicant CBYC has reapplied for an SUP modification. 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 Street. In January 2020, an SUP was denied because it was not passed by Council (2-2 vote). Subsequently, the applicant filed a petition seeking an appeal. The Oceana Owners Association then filed a verified motion to intervene. The hearing of the appeal was canceled based upon the parties entering into an agreement. The agreement was executed in December 2020 to issue the SUP 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 one parking space per wet boat storage space, one per two dry

storage, one per service bay + required for all other on-site uses. Parking is being provided for the wet boat storage space and all other on-site uses.

The modification consists of splitting 22 boat storage spaces from 45-foot storage spaces into two 22.5-foot boat storage spaces. The following are the modifications to the 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 feet x 120 feet, is larger than what was built on site, 24 feet X 96 feet, 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.

There are 7 specific standards and 4 general conditions that the applicant must meet.

The following are staff's proposed conditions:

1. Landscape requirements to be waived for the additional proposed two new parking spaces.
2. Major changes to approved plans and conditions of development may be authorized only by 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 Avenue Town access easement to a Town public right-of-way prior to the issuance of a permit for the increased boat storage spaces.
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 rights-of-way.
5. Must meet all Local, State, and Federal requirements.
6. Install bike a storage rack of a minimum of 4 storage spaces.

Staff's recommendation is as follows: 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.

Chairman Rouse asked if any Commissioner had a conflict of interest to disclose; there were none.

Individuals planning to testify on the matter were sworn in. Chairman Rouse opened the evidentiary hearing.

Mr. Hardison presented the details. He went over the background, adjacent uses, specific standards, general conditions, and staff's proposed conditions.

Chairman Rouse said it's not the policy of the Commission to prevent someone from speaking during the public comment portion of the meeting, but because Ms. Snider made her comments outside of the public hearing about this matter, Commissioners may not consider them to inform their decision.

Attorney Jennifer Carpenter, representing the applicant, said there are three components to the request:

- Boat slip changes
- Added parking triggered by the boat slip changes
- Food truck

She said the boat slip changes are not adding anything and are simply a reallocation of resources that already exist. Ms. Carpenter said this will allow more people to access the waterway, a goal of the Town's Land Use Plan. She added that changing the configuration of the marina will allow more smaller boats, which are typically used by families, to use the water within an existing resource.

Ms. Carpenter said the marina has been around for decades, and the Oceana residents moved there with that knowledge. She said the applicant is going above and beyond to try to provide as much parking as possible.

Ms. Carpenter referenced the Town's Water Use and Harbor Management Plan, which she says recommends that the Town shall consider proposals for new or expanded marina facilities if they improve boating access to the harbor. She said the general population of the Town wants these kinds of activities and access to the water.

Regarding the two parking spaces that triggered the landscape waiver, Ms. Carpenter said if the landscape buffer causes a major concern, the applicant can minimize those parking spaces to keep from triggering the waiver, but they are looking to have as much parking as possible to accommodate a busy season.

Ms. Carpenter said they have concerns about adding a condition to the permit that dedicates property to the Town in exchange for a permit. She said that is subject to being challenged, and the applicant is willing to work with the Town on that, but they don't think it should be a barrier to recommending approval of the permit.

Regarding concerns about public safety, Ms. Carpenter said the use is already permitted by zoning and the previous SUP, and they are not seeking to change the use. She said there is a presumption based on case law that the proposal is in harmony with the neighboring and surrounding community, and it's common to park boats in this way and makes sense here.

Ms. Carpenter said there are four actions pending in Superior Court between the applicant and Oceana and contended it's inappropriate to consider those matters as an argument against a permit when they

will be decided in court. She asked that the Board consider and vote on each component – boat slips, parking, and the food truck – separately.

Ms. Carpenter said cars would not be parking along the road if they were allowed to access the back lot where they have allocated parking for boat slips. She contended that access is being blocked by Oceana inappropriately, and that will be determined in court.

Applicant representative Chad Cooke of 401 Marina Street said Topsail Island went through a similar issue in 2023 by doubling up 11 boat slips, and it was approved. He said the pump-out situation is an ongoing process with the State, but they have been approved for a grant program and pump-out should be installed within 60 days. Mr. Cooke said the CUP will meet all State and Local codes, regardless of what the opposition will say.

Mr. Cooke said FBC has over 400 members in the Town, providing the ability for more people to have a boat and therefore access to the water. He said parking is never an issue except on summer holiday weekends.

James Sanderford of 418 Marina Street, who serves on the Board of the Oceana Owners Association, gave information about his background and experience as it relates to this matter and said he plans to show aspects of this request that do not conform to ordinances or State law. He said when the applicant makes changes they have to conform to new ordinances, and if you have a non-conforming use you can't add to it. Mr. Sanderford said they are putting business parking on a residential street, and he mentioned concerns about proximity to fuel tanks.

Mr. Sanderford said when taking all aspects into account, the application is short 34 parking spaces from what is required. He also contended that the request does not meet handicapped accessibility requirements and said off-street parking in the area is causing sight and obstruction issues. Mr. Sanderford said the situation is not conducive to a neighborhood, and the marina needs to keep its operations within its area.

David Sadler of 211 Georgia Avenue, who also owns a lot at 218 Georgia Avenue, said the idea that the marina has always been there ignores the fact that it's not been a static operation. He said it's always changing, and that's why they need an SUP. Mr. Sadler asked what the contingency plan is if the marina's sewer pump isn't working. He said the marina has introduced significant traffic into the neighborhood, and he has had to chase people off his lot. Mr. Sadler said the situation is having an impact on the neighborhood's quality of life and causing wear and tear on the road and possibly the need for more speed bumps. He said if the marina and their agents cared about the neighborhood, they would have come with an analysis of the actual impact of their operations, a contingency plan, and mitigation.

Olin Furr of 440 Oceana Way said in a typical marina, boat owners do not often show up on the same day at the same time, and that's why one parking space per wet slip works. He said the marina has not been a problem in the past because it's been treated like a marina, but now the whole dynamic has changed, and that's why there are issues.

Mr. Furr said Mr. Hardison has the power under the UDO to do certain things to help this situation, such as determine minimum parking requirements for uses not in the chart. Mr. Furr said two conditions of the consent agreement between Oceana, the Town, and the marina have not been met by the marina, and these are prime examples of where Mr. Hardison should be exercising his authority as UDO Administrator to create uses. He said boat clubs such as FBC should have a separate use listed in the table because they generate so much traffic. Mr. Furr said allowing unlimited water-oriented businesses to operate under the marina's CUP violates the zoning ordinance. He said Oceana and the marina will be before the Town's Board of Adjustment in April on this matter. Mr. Furr said FBC has over 30 employees and boats used by 400 customers, so one parking space per wet slip does not follow the ordinance or common sense.

Mr. Furr said Town staff admits this is a congested area posing a safety issue, and he doesn't see how turning the easement into a right-of-way solves anything. He said the application is a desperate attempt to add parking at any cost and is bad for the neighborhood. Mr. Furr said the application does not meet the part of the ordinance that deals with parking design and construction, and he said parking is so inundated they have a shuttle. He said the application has at least a dozen violations of Town ordinances and shows a total disregard for the surrounding community. Mr. Furr asked the Board to deny the request.

Jeanie Sadler of 211 Georgia Avenue said she bought her home in a quiet residential community, and the current situation with the marina affects the peaceful lives neighbors have led. She said FBC members are traveling fast through the neighborhood because they are rushing to meet their time slots.

Ms. Carpenter said she wanted to offer a rebuttal to address public concerns. She said if Mr. Sanderford and Mr. Furr are arguing on behalf of Oceana, then that's a problem because this is a quasi-judicial hearing and Oceana is required to have an attorney, so she objects to their testimony and any argument that involves compliance with the consent order or anything else that is in front of Superior Court because those matters are not relevant to this permit application. Ms. Carpenter said the only things before the Board now are changes on the application that has been submitted, not a previous SUP or parking violations and enforcement. She said the Board must simply determine if the application meets the requirements of the Town's ordinance.

Ms. Carpenter said the ordinance does not require a traffic impact analysis for this application, and Mr. Hardison is the expert to evaluate the plan and give a recommendation as to whether it meets Town ordinances. She said the marina and parking lot are permitted uses and presumptively harmonious with the surrounding neighborhood, and the marina is taking resident concerns into account by trying to create as much parking as possible. Ms. Carpenter said the parking lot is the marina's, but it's not being used because of obstruction by Oceana, a matter that will be decided in court. She asked the Board to listen to the expert and recommend to Council that the permit be issued.

Mr. Cooke said the parking plan is a proposed plan, not an actual plan in place now, and once this application is approved all necessary measures will be implemented. He said the marina no longer has pontoon rentals because it's a hassle. Mr. Cooke said the dispute with Oceana is all over semantics



over who is a renter and a member. He said the marina has offered to work out a solution with them, including dedicating a full-time employee to regulate the parking lot or allowing an employee to drive cars into the parking lot, but they refused and have no intentions of cooperating. Mr. Cooke said it's the marina's parking lot, but Oceana will not let them use it over a barcode. He said if Oceana really cared about working this out, the marina would be able to use the parking lot and there wouldn't be an issue for other neighbors in the community. Mr. Cooke said he has no idea how many people work for FBC, but they don't have 15 or 20 people at once walking around the marina and using the parking lot.

**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 Piper, Commissioner Carew, Commissioner Conto

*Motion passed 6-0*

Commissioner Conto agreed with Ms. Carpenter and Mr. Cooke about exactly what the Board can do in terms of this application, but she said her one hot button is Americans with Disabilities Act (ADA) compliance. Mr. Hardison said the County enforces building codes and has been on site to investigate complaints. He said this is an existing facility, so they don't necessarily have to bring everything up to current code as far as ADA. Commissioner Conto reiterated that the lack of ADA compliance is very concerning to her. Chairman Rouse said his father was disabled so he's also concerned about ADA compliance, but he's not sure if this question is pertinent to the parking matter. Commissioner Conto said she thinks it's relevant and important that the marina be required to comply.

Commissioner Carew asked about the history of how watercraft rental became a use in the marina during the past couple of years. Mr. Hardison said in the table of uses, it is permitted by right and has been in place for at least 25 years. He said the rentals are not a change of use but are part of commercial marina activity, and it's not an increase in intensity because the number of slips has not increased.

Commissioner Piper asked who reviewed the parking site plan. Mr. Hardison said the Technical Review Committee (TRC) did. He said in the proposed plan there are 113 parking spaces and space for 91 boats. Commissioner Piper said he is concerned that parking is not sufficient, especially when employees are factored into the equation. He said he believes the operation is now a mix of two uses, and all the people using one boat will not come in one vehicle or compact cars. Commissioner Piper said he is sympathetic to the request but does not feel that it all matches up. Mr. Hardison said it's staff's interpretation that the operation is still functioning as a commercial marina with multiple uses inside.

Commissioner Boswell said this request is a lot to take in, and she can't get on board with it because she believes the changes on the submitted application will cause a public safety issue.

Vice Chairman Hogan said since the marina off Saint Joseph Street added dry stacks, every weekend there are people parking in the public right-of-way because there is not enough parking. He said he also does not believe everyone using one boat is riding together in the same car. Vice Chairman Hogan said this is a public safety issue, and he's not sure it's in harmony with the neighborhood. Mr. Hardison



said if there is an issue with the parking standard, that may be a different question than whether the applicant meets current regulations.

Commissioner Piper said he does not think the application is in conformity with the Land Use Plan because of the area being mostly single-family homes and the potential for increased traffic around them. He said he does not understand what's going on with the parking lot, but he thinks that is for someone else to determine. Commissioner Piper said if six people are riding in a boat, they will come in three cars.

Commissioner Carew said if staff is assuring the Board that the rental entity can co-exist inside the marina and does not present a change of use with respect to the CUP, then the Board must look at the fact that the marina has proven it has adequate parking, and the fact that they can't get to that parking is not part of the Board's decision. He said at this point, the Board must simply determine if this is permitted under the UDO.

Commissioner Conto said she still has concerns about ADA compliance, but Mr. Hardison said the appropriate officials are looking into this and will deal with it accordingly, so the Board must focus on whether this meets Town regulations.

**ACTION:** Motion to deny the application for modification for additional boat storage spaces at 401 Marina Street in the Marina District based on the fact that this will materially endanger the public health and safety if located where proposed and developed according to the plan as submitted and approved by issuance of the CUP and also that the location and character of use if developed according to the plan as submitted and approved will not be in harmony in the area in which it will be located in general conformity with the Town Land Use Plan and policies

Motion made by Commissioner Boswell, seconded by Vice Chairman Hogan

Voting Yea: Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper

Voting Nay: Chairman Rouse, Commissioner Carew, Commissioner Conto

*Motion failed 3-3*

Chairman Rouse said the Board is a recommending body, and Council will make the final decision.

## **NON-AGENDA ITEMS**

Commissioner Carew said the Town might want to look into what other municipalities, such as Wrightsville Beach and Surf City, have done with boat rental operations within a marina.

Vice Chairman Hogan reiterated that the dry stacks have caused parking issues along Saint Joseph Street on weekends.

Commissioner Conto said the Town may want to consider changing the UDO's standard for required parking spaces.

Vice Chairman Hogan said at least two parking spaces per boat rental should be required.

Mr. Hardison said staff can look at other ordinances and bring back suggested verbiage about how these types of situations are treated and permitted and the parking standards for them. He said there is a difference of opinion on existing regulations, so this should be revisited.

Chairman Rouse said he doesn't think the Town addresses non-conforming lots other than with standard codes, so the Town may also want to look at ideas for lots that are non-conforming through no fault of the property owner.

#### **ADJOURNMENT**

Chairman Rouse adjourned the meeting at 9:00 PM.