



CAROLINA BEACH
Planning and Zoning Meeting Agenda
Thursday, November 8, 2018 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

| | Page |
|---|---------|
| 1. CALL TO ORDER | |
| 2. APPROVAL OF MINUTES | |
| a. | 2 - 7 |
| 3. STAFF REPORT ON RECENT COUNCIL MEETINGS | |
| 4. STAFF REPORT ON RECENT DEVELOPMENTS | |
| 5. PUBLIC COMMENT | |
| 6. PUBLIC DISCUSSION | |
| a. Conditional Use Permit: Conditional Use Permit at Carolina Beach Marina and Yacht Club to operate a floating bar located at 401 Marina St. Pin # 313115.64.8036.000 Applicant: Carolina Beach Yacht Club and Marina | 8 - 31 |
| b. Text Amendment: To amend Chapter 40 Article III Sec. 40-72, Article IX Sec. 40-361, and Article XVIII Sec. 40-548 to allow for the operation of a distillery in the Highway Business (HB) Zoning District (Commercial 1 – 2007 LUP) of the Town of Carolina Beach - Applicant Max Sussman | 32 - 80 |
| c. Tabled - Text Amendment: Consider a text amendment to Chapter 40, Article III Sec 40-73 Dimensional Standards for the various zoning districts to amend yard requirements for structures exceeding maximum height regulations and amend of the 2007 CAMA Land Use Plan Policies. Applicant: Charles Poindexter | 81 |
| 7. DISCUSSION ITEMS | |
| 8. NON-AGENDA ITEMS | |
| 9. ADJOURNMENT | |

CAROLINA BEACH

Planning and Zoning Minutes
Thursday, August 9, 2018 @ 6:30 PM
Council Chambers
1121 N. Lake Park Boulevard
Carolina Beach, NC 28428

ASSEMBLY

The Town of Carolina Beach Planning and Zoning was held on Thursday, August 9, 2018 at 6:30 PM at Council Chambers.

PRESENT: Keith Bloemendaal, Deb LeCompte, Mike Hoffer, Jerry Kennedy, Wayne Rouse, and Melanie Boswell

ABSENT:

ALSO PRESENT: Assistant Director of Planning & Zoning Jeremy Hardison, Commissioner Nan Toppin, and Assistant Town Manager Ed Parvin

. CALL TO ORDER

- a. Meeting was called to order at 6:31p.m. by Chairman Bloemendaal.

. APPROVAL OF MINUTES

- a. Approval of Minutes

Planning and Zoning - July 12, 2018 Meeting Minutes

Commissioner LeCompte made a motion to approve the minutes.

Commissioner Rouse seconded, all in favor (7-0).

. STAFF REPORT ON RECENT COUNCIL MEETINGS

Mr. Parvin - the Town Council Meeting is not until next Tuesday, August 14, 2018.

. STAFF REPORT ON RECENT DEVELOPMENTS

Mr. Hardison reported on the recent activities in the Planning and Development Department regarding permits and violations as well as new businesses, along with updating Harper Ave Streetscape Projects Workshop. Mr. Parvin added there will be a few public workshop one on August 15th for Phase C and Harper Ave, and August 16th for the North End, then the Harper Ave Streetscape and there will be a Town Council workshop for that on August 28th. King Tide Event this weekend we will be experiencing extreme High and Low tides, expect flooding on Canal and Freeman Park. Also reported on special events. No questions were asked of Mr. Hardison.

. DISCUSSION ITEMS

- a. Tree Preservation Ordinance

Councilman Garza requested the Planning & Zoning Commission discuss amending the landscape ordinance to address tree preservation for residential lots to prevent “clear cutting”. Currently the zoning ordinance does not require landscaping or the preservation of trees for one and two-family dwellings. The only requirement for one and two-family development is to mulch, seed, sod, or otherwise protect it to limit erosion from occurring. Commercial and residential development that are three units or more require a landscape buffer around the perimeter of the property. It’s not required to preserve existing vegetation, but if it is done for these types of developments credit is given toward meeting the required buffer yard provided the caliper of the trees is equal to or exceeds the specifications.

In 2005 Council had a similar request and asked staff to review the landscaping ordinance to incorporate the preservation of trees for residential development. The Planning & Zoning Commission had concerns that on a 5,000 sq. ft. lot it is difficult to preserve any trees by the time you clear the lot for the house and driveway, there is not much yard to preserve. The Commission discussed other options that would require tree plantings at the end of construction but did not want to mandate the planting of trees, because not all lots have trees on them prior to building on them. Ultimately it was recommended and adopted to encourage existing trees to be preserved to the extent practical by retaining or planting a minimum of one (1) tree for each two thousand (2,000) square feet of lot area or fraction thereof. The ordinance encouraged preservation or plantings but it was not required and had no teeth and was removed from the ordinance as part of an ordinance update in 2015. Although it is not required the majority of residential development does landscape and plant trees after it is developed.

The state has granted the authority for a municipality to preserve trees on private lots except in conjunction with certain forestry activities. In 2014 there was a bill introduced to the general assembly that would prohibit a municipality from preserving or requiring plantings on private lots, but it never materialized.

Staff has attached a map and spreadsheet of the total number of vacant lots by each zoning district. The town currently has 17% of all residential lots that are undeveloped.

ISSUES WITH AUDIO THROUGHOUT THIS MEETING - Some comments/statements were (INAUDIBLE).

Commissioner Rouse - is staff asking for an action.

Mr. Hardison - we are looking for direction.

Mr. Parvin - will be updating Council Meeting next Tuesday on non-agenda items and whether to leave this the same or come back with a code. And it's possible Council will

want something back.

Commissioner Kennedy - feels we need to have a discussion to get started.

Mr. Parvin - start the ordinance with a purpose and why do we want this ordinance.

Chairman Bloemendaal- questioned for existing homes and existing trees, property owner wants a tree to be removed - what would be required.

Mr. Hardison - when preserving trees or wanting to remove them than it would need documentation and a survey. Tree preservation is all up for discussion for new construction or town wide.

Commissioner LeCompte - so out of 17% of our vacant residential lots - 75% of them are 5,000 square foot lots, so we could be discussing creating an ordinance that would only involve 17% of build-able residential lots.

Mr. Hardison - that is the concern, lots that are getting clear cut for development.

Chairman Bloemendaal asked if there is anyone that wants to speak on this topic.

- Tim M. resides at - 413 (INAUDIBLE)
- Ethan Crouch resides at - 932 Searidge Lane-Carolina Sands. Sent his comments to the commissioners but will restate.

Dear P&Z Members (that I have emails for),

I am encouraged to hear that Council, Staff, and the P&Z board are considering changes to the existing landscaping ordinance in effort to preserve trees.

After hearing about these considerations there has been an out pouring of community input in support of these efforts. I hope these desires will encourage us all to continue to work on crafting a policy that works best for our unique island.

Other near by communities have instituted tree preservation polices with great success to preserve the character of their communities as well as a long list of environmental benefits trees provide.

Option 1 is a good starting point to consider for further refinement in the preparation of a final ordinance for council consideration. I would note some components to option 1 could be changed to better facilitate lot development and offer landscaping options to home owners and builders.

In particular, a requirement to save all trees outside construction foot print at a 4 inch caliper and over 10 ft is stringent. A tree of 4 inch caliper and or 10 ft tall is generally not considered a mature tree or part of the existing over story tree canopy.

I believe the intent of a tree preservation ordinance would be to save the mature over story tree canopy to the best extent possible. These trees offer to most benefits for CO2 reduction, shade, habitat, and erosion reduction.

Accordingly, over story trees are generally considered to be approximately 20 ft. tall. The caliper of a mature tree varies by species and difficult to define. However, at minimum most native species don't reach 20 ft tall if they are under 8 inches. I would need to do some more research on tree caliper but even for a pine to get 20 ft maybe closer to 12 inches.

Additionally, requiring a 1 for 1 replacement of trees cut down within the building foot print is excessive given the average lot size in Carolina Beach. I think the intent for tree replacement should be considered in conjunction with how many trees are preserved outside the construction foot print for a net mature tree over story canopy. Perhaps, a minimum 3 trees per 2,00 sqft of lot or some variance thereof.

We should define 4e better this is an ambiguous statement that could lead to disputes later. Also, I think we should have a long list of definitions for similar concerns. In particular, "construction foot print" need to define home size and a reasonable offset for constructability.

Finally, I think any tree preservation policy should address heritage trees and make every effort possible to protect these trees that have unique cultural significance. A good resource for further insight on heritage trees can be found here as well as other best practices for crafting these types of ordinances.

<http://phytosphere.com/treeord/heritage.htm>

I look forward to seeing what our creative group of people can do to protect these amazing resources and also facilitate construction and home owner landscaping preferences. But it is very good to have a town wide ordinance so everyone is required to play on the same field and the previous voluntary ordinance did not work.

Thanks,

Ethan Crouch

- John Jarvis resides at 300 Columbia a builder on the island. Is guilty of maximizing the footprint for the homeowners. Is in agreement with preserving heritage trees and preserving what we already have. Would like to protect what we have, add where we need to and also feels it would be nice to enforce a landscaping ordinance. He asked if we have a landscape ordinance.

Mr. Hardison - replied yes we do but not for 1 or 2 family dwellings.

Chairman Bloemendaal - tree surveys cost the builder more money and tries to save trees when he is building which is not an easy task. There is not a lot of green space on the lots which are a 10th of an acre. Is in favor of preserving what we can. What is a Heritage Tree. Pointed out we have MOTSU and the state park and will never go away. Our town is not going to be a concrete jungle.

Commissioner Kennedy - cares about the maritime forests here and the heritage trees. Feels this should be our goal and objective. Feels we have enough concert on this island. Doesn't want the government to tell her what she can do with her private property. Would

like this commission to be in favor of saving trees. People are interested in preservation.

Mr. Parvin - stated we can address planting trees in a different way.

Commissioner Rouse - feels the builders are doing a good job preserving the trees where they can.

Commissioner Boswell - feels the options are too broad - would like staff to come back with more information. Is in favor of preserving what is already there and the possibility of tweaking option 2.

Commissioner Hoffer - feels this town needs a tree policy and ordinance. You can't replace a Heritage Tree also feels not all need to be kept. Wants to protect them but to define which type of Heritage are of value. Encourages an ordinance to protect those trees.

Kennedy - to clarify we need to have more information and be educated before we can vote.

Planning & Zoning Commission on TREE PRESERVATION:

The overall objective of this board is to preserve Heritage Trees and also to define what is a Heritage Tree as well as what actually are indigenous trees on our island. Wants to preserve trees outside the Footprints. Is concern about the options when removing a Canopy Tree as well as the removal of trees in the building process. Regarding the Land Use Plan process – most would like to tackle this now and not have to wait a year when the Land Use Plan will be adopted.

ACTION: DISCUSSION:

Staff is not recommending an ordinance to move forward to Council at this time. Staff would request direction on any amendments to the landscaping ordinance, if any, and bring back an ordinance for recommendation. Some communities do require tree preservation such as Oak Island, Wilmington, Wrightsville Beach and Emerald Isle (ordinances attached) while others encourage it, but don't require it like Atlantic Beach, Kure Beach, and Kitty Hawk.

ACTION –

To define what a Heritage Tree is and what are the benefits. Is asking council for further direction and is recommending there be some public workshops for more education on Tree Preservation and also for feedback from property owners.

Vote: UNANIMOUS

. **NON-AGENDA ITEMS**

Commissioner Hoffer - is inquiring about the illegal signs that are in the right-of-ways.

Mr. Parvin - replied operations is helping out with that issue but we don't have the extra resource at this time.

Chairman Bloemendaal - inquired about the missing street signs as well as stop signs.

Mr. Parvin - we are replacing a lot of the blades but will need to know which ones are missing.

Commissioner Hoffer - asked has the rain pushed back any of the Projects.

Mr. Parvin - replied yes all of the projects have been delayed.

Commissioner Rouse - any updates with the Federal Point Plaza.

Mr. Parvin - replied they have applied for their demolition permit.

. **ADJOURNMENT**

Commissioner Rouse made a motion to adjourn at 8:23p.m.

Commissioner Hoffer seconded, all in favor (7-0).



AGENDA ITEM

Meeting: Planning and Zoning - 08 Nov 2018

Prepared By: Jeremy Hardison

Department: Planning

Conditional Use Permit: Conditional Use Permit at Carolina Beach Marina and Yacht Club to operate a floating bar located at 401 Marina St. Pin # 313115.64.8036.000 Applicant: Carolina Beach Yacht Club and Marina

BACKGROUND:

The applicant, Carolina Beach Yacht Club and Marina, is requesting a Conditional Use Permit (CUP) for to install a 40' x 120' barge on the east of the existing fuel docks. Carolina Beach Yacht Club and Marina, formally Joyner Marina and Oceana was recently purchased. The Marina is located at 401 Marina St and is in the MB-1 zoning district. The applicant would like to expand the marina store to the barge and erect a 40' X 16' building that will contain a concession stand, dockhand office, retail and a horseshoe bar that will provide hot dogs, sandwiches, beer and wine. An establishment that is serving on-premises alcohol that is not a standard restaurant is classified as a bar. Bars can be approved under a Conditional Use Permit in the MB-1 zoning district. The barge will be register as a vessel with the NC wildlife. The applicant is also expanding the fuel docks by 160' X 12' to the north and will provide two more additional gas fuel dispensers. The existing building will be utilized as an office and storage with an existing residential unit above.

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;

No change is proposed to access the lot. There is an existing drive to get to the marina and an additional approved parking lot inside the gate of Oceana Subdivision that accommodates the boat slips. They are proposing to add a 126' driveway to access 14 newly designed parking spots on the connector road between Florida Ave and Georgia Ave. This area is designated

as an access easement right-of-way as shown on the attached easement plat. The ordinance prohibits parking from backing out into the right-of-way. This parking area should be accessed off of the existing drive.

(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 requirements

- Existing Boat Slips – 69, 1 per boat slip = 69 spaces
- Proposed retail space – 320 sq. ft., 1 per 200 sq. ft. = 1.6
- Eating & Drinking Establishment - 320 sq. ft. of inside, 1 per 110 = 2.9

2,600 sq. ft. outdoor, 1 per 220 sq. ft. = 11.8 spaces

- One residential unit - 1,200sq. ft. = 1 per 1,000sq. ft. = 1.2
- Office space - 600 sq. ft., 1 per 300 sq. ft. = 2
- Existing retail in building - 933 sq. ft., 1 per 200 sq. ft. = 4.7
- Existing parking = 81 spaces
- Proposed additional parking = 93.2 spaces = 94 spaces
- Total parking provided = 98

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

Trash and recycling containers will service the site.

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

The new building will connect to the existing utilities and no upgrades are required

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

The addition will require additional parking spaces and should provide a landscape buffer for those new spaces along Town's right-of-way easement.

(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;

No additional signage is 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

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 use has served as a commercial marina for 25 years serving the boating community. This is the first time they will be offering on-premise alcohol. They will be serving by the water and will be over 330 feet from the residential district. The minimum requirement is 200 feet from any residential district.

(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 by the additional parking spaces and forward maneuvering shall be required for the 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 area and will therefore not injure the value of adjoining properties.

(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 include low intensity water-oriented restaurants and services

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 the 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

**COMMITTEE
RECOMMENDATION:**

After review by staff the plan has been determined to meet all conditions and specifications except for the landscaping requirements by the additional parking spaces and forward maneuvering shall be required for the parking spaces.

ATTACHMENTS:

- [Easement Plat](#)
- [MARINA-10-17-18](#)
- [CUP- 401 Marina St CB Marina](#)
- [Grant Order - Federal Point](#)

NEW HANOVER COUNTY NORTH CAROLINA
 I, MARK A. STOCKS CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK AS, PAGE SHOWN); THAT BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK AS, PAGE SHOWN; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 12 DAY OF JUNE A.D., 2015.

Mark A. Stocks
 MARK A. STOCKS
 N.C. PLS NO. L-3658



CERTIFICATE OF APPROVAL FOR RECORDING
 I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS FOR CAROLINA BEACH, NORTH CAROLINA, AND HAS BEEN APPROVED BY THE DIRECTOR OF PLANNING AND DEVELOPMENT FOR RECORDING IN THE OFFICE OF THE REGISTER OF DEEDS OF NEW HANOVER COUNTY. THE TOWN ACCEPTS THE DEDICATION OF STREETS, EASEMENTS, AND PUBLIC PARKS, BUT ASSUMES NO RESPONSIBILITY TO OPEN OR MAINTAIN ANY STREETS, EASEMENTS, RIGHTS-OF-WAY, OR OTHER LANDS SHOWN THEREON UNTIL IT HAS BEEN APPROVED AND FORMALLY ACCEPTED BY THE TOWN OF CAROLINA BEACH DIRECTOR OF OPERATIONS.

6/19/15
 DATE

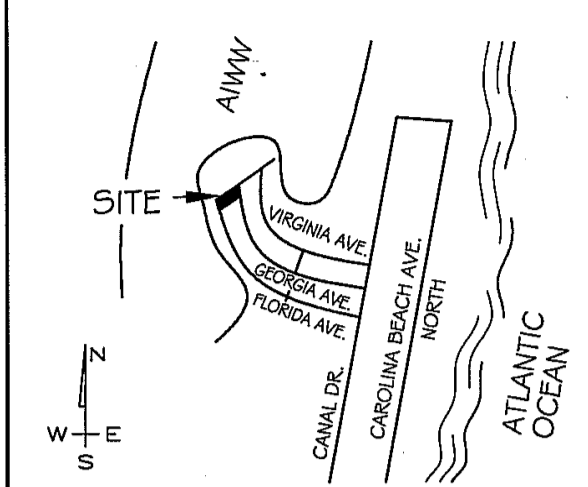
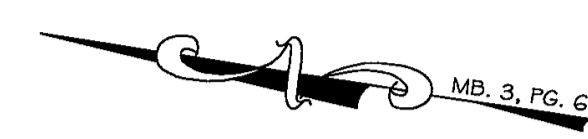
[Signature]
 DIRECTOR OF PLANNING AND DEVELOPMENT,
 TOWN OF CAROLINA BEACH

STATE OF NORTH CAROLINA
 COUNTY OF NEW HANOVER

I, SAM DUBOIS REVIEW OFFICER OF NEW HANOVER COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATE IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER: S. Dubois

DATE: 06.19.15



LOCATION MAP
 NOT TO SCALE

SURVEY REFERENCE
 MAP BOOK 3 PAGE 67
 DEED BOOK 1687, PAGE 776
 DEED BOOK 1388, PAGE 1094
 PARCEL ID #R08807-002-001-000

NOTE: THE SUBJECT PROPERTY IS LOCATED IN ZONE AE (12) AS PER FIRM COMMUNITY PANEL # 3151. DATED: APRIL 3, 2006. MAP #37203131001 CID # 375347. INDEX DATED: FEBRUARY 16, 2007.

NEW HANOVER COUNTY NORTH CAROLINA
 THIS PLAT IS OF A SURVEY OF ANOTHER CATEGORY, SUCH AS RECOMBINATION OF EXISTING PARCELS, A COURT ORDERED SURVEY, OR, OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION.

Mark A. Stocks
 MARK A. STOCKS

CERTIFICATE OF OWNERSHIP, DEDICATION AND JURISDICTION:

I (WE) HEREBY CERTIFY THAT I (WE) ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH MY (OUR) FREE CONSENT ESTABLISH THE MINIMUM BUILDING LINES AND DEDICATION OF ALL STREETS, ALLEYS, WALKS, PARKS, CONSERVATION SPACE AND OTHER AREAS TO PUBLIC OR PRIVATE USE AS NOTED. I (WE) HEREBY DEDICATE EASEMENTS TO THE TOWN OF CAROLINA BEACH OVER ALL PUBLIC AND PRIVATE STREETS FOR WATER AND SEWER LINES AND APPURTENANCES. ALL ROADS AND DRAINAGE EASEMENTS ARE DEDICATED FOR PUBLIC UTILITY PURPOSES. FURTHER, I (WE) CERTIFY THE LAND AS SHOWN HEREON IS LOCATED WITHIN THE SUBDIVISION JURISDICTION OF THE TOWN OF CAROLINA BEACH NC.

6/19/2015
 DATE

Nicholas Habash
 OWNER(S)

DATE

OWNER(S)

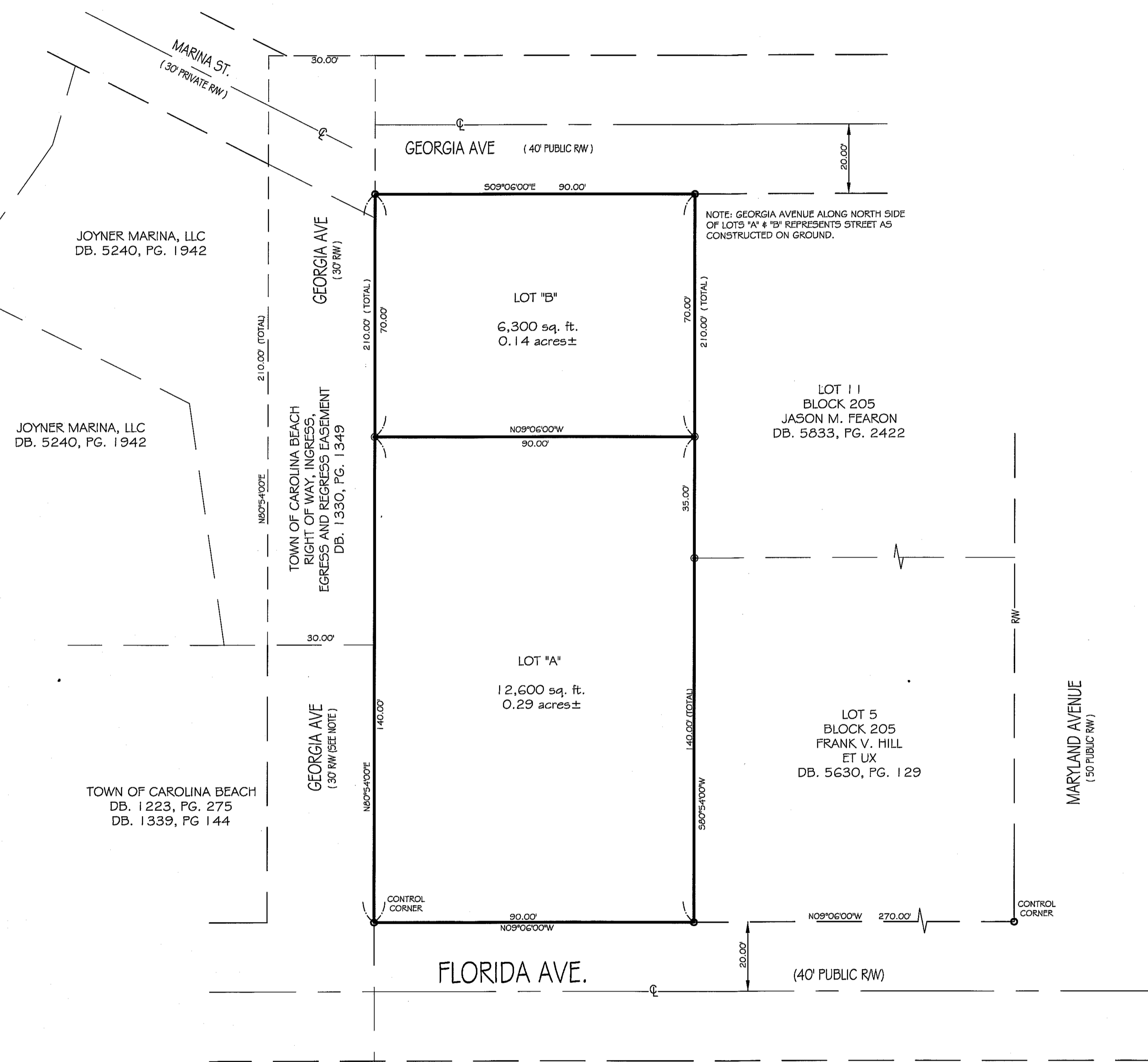
NEW HANOVER COUNTY NORTH CAROLINA

FILED FOR REGISTRATION ON THE 14th DAY OF June, 2015,
 AT 3:34 AM PM AND DULY RECORDED IN MAP BOOK 60 AT PAGE 273.

Instr # 2015018376

Tammy Theusch Beasley
 TAMMY THEUSCH BEASLEY
 REGISTER OF DEEDS

BY: *C. Dupuy*



NOTE: GEORGIA AVENUE ALONG NORTH SIDE OF LOTS 'A' & 'B' REPRESENTS STREET AS CONSTRUCTED ON GROUND.

- NOTES:**
- IRON PIPES AT ALL CORNERS UNLESS OTHERWISE NOTED.
 - ALL LOTS SUBJECT TO A 10' UTILITY EASEMENT ALONG RIGHTS OF WAY OF ALL STREETS.
 - N.C.G.S. MONUMENT NOT LOCATED WITHIN 2000'.

- LEGEND**
- = EXIST. IRON ROD
 - = SET IRON ROD
 - ⊙ = CENTERLINE
 - = CONC. MONUMENT

OWNER: NICHOLAS HABASH #4720 WALTMOOR ROAD WILMINGTON, NC 28409

MARK A. STOCKS, PLS
 PROFESSIONAL
 LAND SURVEYOR
 4705 SOUTHPORT / SUPPLY HWY #206
 SOUTHPORT, NC 28461
 phone: (910) 457-6710
 fax: (910) 457-6560
 email: mstocksland@bellsouth.net
 LICENSE No. 3658

MAP OF DIVISION OF
 LOTS 6 & 12, PART OF LOTS 5 & 11
 BLOCK 205 CAROLINA BEACH NORTHERN SECTION
 AS RECORDED IN MAP BOOK 3, PAGE 67 OF THE NEW HANOVER COUNTY REGISTRY
 FEDERAL POINT TOWNSHIP NEW HANOVER COUNTY, N.C.

JUNE 12, 2015 0.43 AC. ± (total)

 1 INCH = 20 FEET
 © MARK A. STOCKS, PLS. JUNE 2015

Map Book 60 Page 273

Nick Habash (910) 612-5597



FOR REGISTRATION REGISTER OF DEEDS
TAMMY THEUSCH BEASLEY
NEW HANOVER COUNTY, NC
2015 JUN 19 03 34 09 PM
BK 60 PG 273-274 FEE \$21 00

INSTRUMENT # 2015018376

MAP INDEX

Map of Division of Lots 6 & 12, Part of lots 5 & 11
Block 205 Carolina Beach Northern Section

Name of Map

Nicholas Habash

Owner's Name

Type of Map: _____ **Subdivision**
_____ **Condo**
_____ **Highway**

Book 60 **Page(s)** 273

Number of Pages: 1

Recorded By:
Deputy ~~Assistant~~



TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

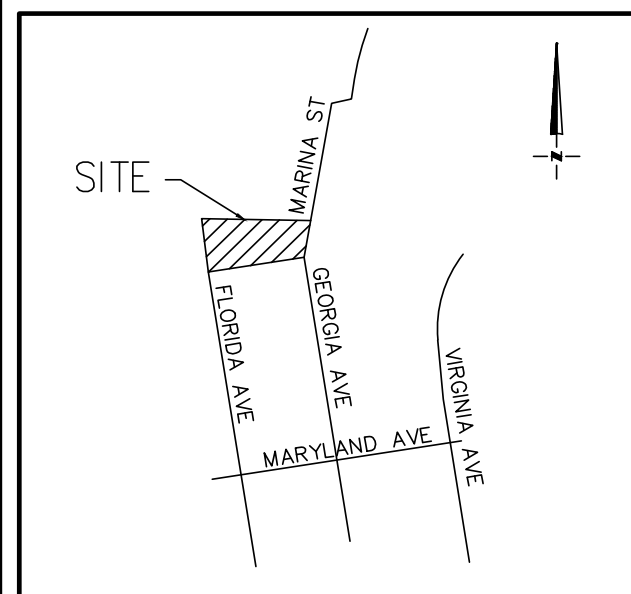
Filed For Registration: 06/19/2015 03:34:09 PM
Book. PLAT 60 Page: 273-274
Document No.: 2015018376
2 PGS \$21.00
Recorder: HUGHLEY, CAROL

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2015018376

2015018376

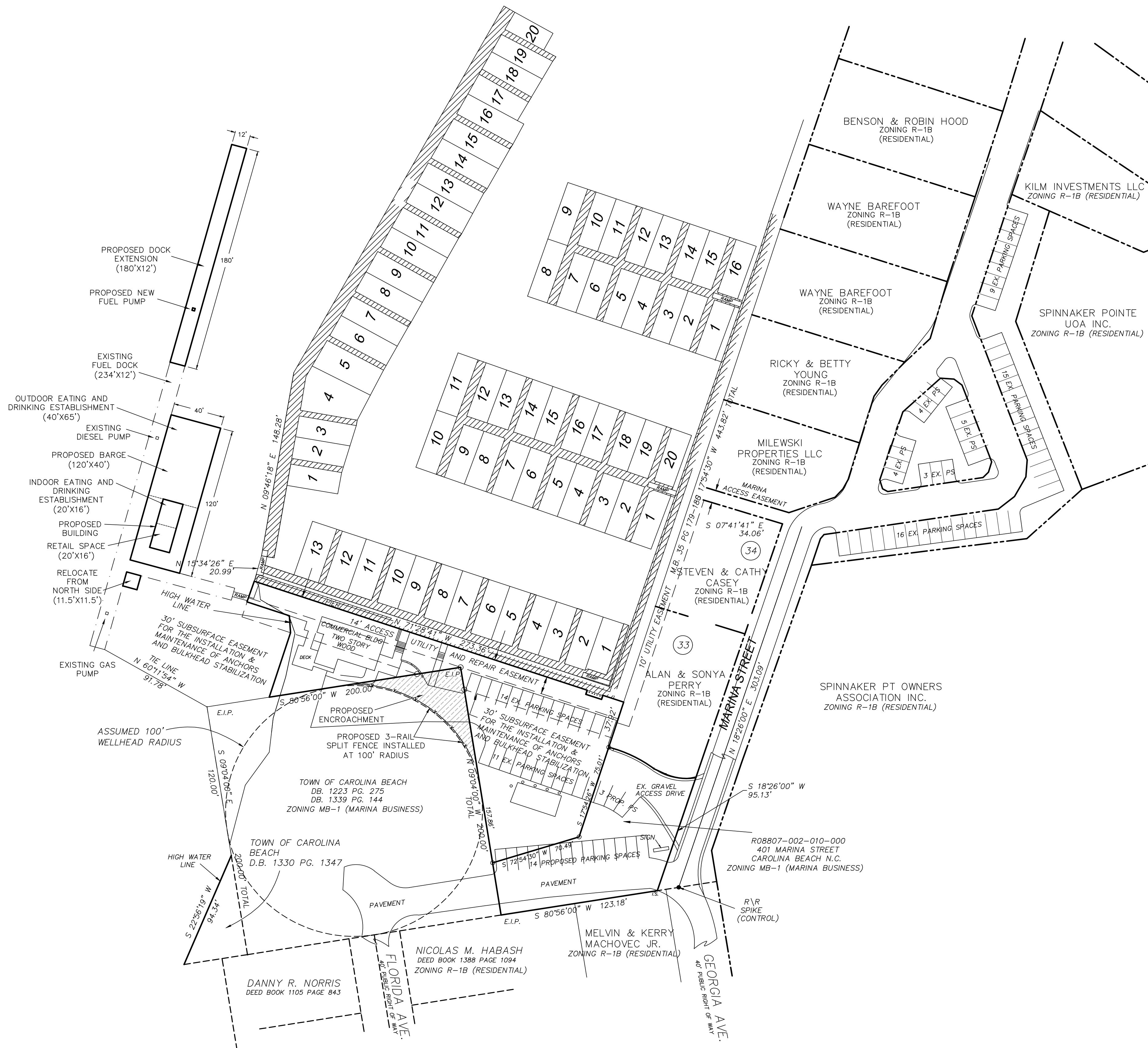
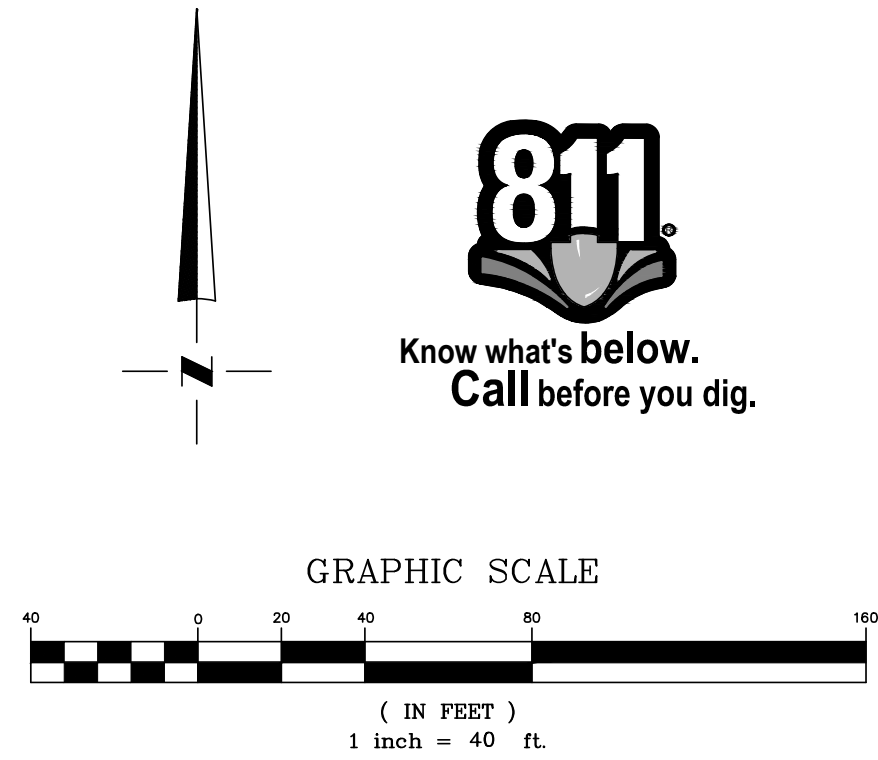


LOCATION MAP
NTS

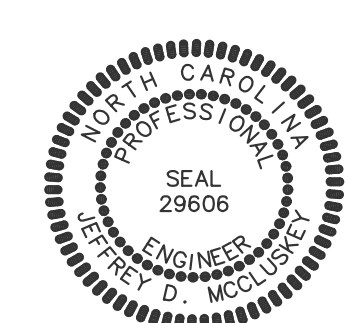
| | |
|--|---|
| PROPERTY OWNER PER GIS: | JOYNER MARINA LLC RALEIGH, NC 27602 |
| SITE AREA: | +1.36 AC (±59,237 SF) 0.53 AC (±23,087 SF) 0.24 AC (±10,450 SF) 0.59 AC (±25,700 SF) |
| PARCEL IDS: | RO8519-002-028, RO8807-002-010, RO8519-002-002 |
| JURISDICTION: | TOWN OF CAROLINA BEACH |
| CURRENT 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 -1/2 OF STRUCTURE (16' X 20')=320 SF | 1.6 |
| EATING & DRINKING ESTABLISHMENTS (BARGE) -1 SPACE PER 110 SF (INDOOR) -1/2 OF STRUCTURE (16' X 20')=320 SF -1 SPACE PER 220 SF (OUTDOOR) -(40'X65')=2,600 SF | 2.9 11.8 |
| RESIDENTIAL ABOVE EXISTING COMMERCIAL -1 SPACE PER 1,000 SF -1,200 SF APARTMENT | 1.2 |
| OFFICE (EXISTING COMMERCIAL BUILDING 1ST FLOOR) -1 SPACE PER 300 SF -600 SF | 2 |
| RETAIL (EXISTING COMMERCIAL BUILDING 1ST FLOOR) -1 SPACE PER 200 SF -933 SF | 4.7 |
| EXISTING OFF-STREET PARKING: | 81 |
| PROPOSED OFF-STREET PARKING: | 17 |
| TOTAL OFF-STREET PARKING: | 98 |
| LOT COVERAGE | |
| EXISTING BUILDING/FUEL TANK: | 2,144 SF |
| EXISTING CONCRETE/ASPHALT/GRAVEL: | 25,640 SF |
| TOTAL EXISTING IMPERVIOUS: | 27,784 SF |
| PROPOSED GRAVEL: | 2,200 SF |
| TOTAL PROPOSED IMPERVIOUS AREA: | 29,984 SF |

DEVELOPMENT SUMMARY

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



M⁰²
ENGINEERING
MCS2 ENGINEERING, INC.
2110 BENT CRAIG DR., STE. 400
CHARLOTTE, NC 28262
PHONE 704.510.9797



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

SKETCH
PLAN

| REVISIONS | |
|-----------|-------------------------------------|
| 1 | 9/25/2018 CAROLINA BEACH REVISIONS |
| 2 | 9/27/2018 CAROLINA BEACH REVISIONS |
| 3 | 10/17/2018 CAROLINA BEACH REVISIONS |

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

SP1.0



Conditional Use Permit TOWN OF CAROLINA BEACH, N.C.

Permit Number: CB-C04

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

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

Major and minor projects; application fees. The owner or owners, or their duly authorized agent, of the property included in the application for a conditional use permit shall submit a complete application and supplemental information to the Zoning Administrator. A fee in accordance with the Town's adopted schedule of fees, payable to the Town of Carolina Beach, must accompany each application. For the purposes of determining the fee, the Zoning Administrator shall categorize each such Conditional Use Permit Application as either "major" or "minor", depending upon the complexity of review. Generally, Planned Residential (over 3 units), Mixed Uses, Business Developments, and similarly complex projects shall be categorized as "major", while projects such as bed and breakfast inns, small day care services, etc. shall be categorized as "minor".

Major Conditional Use Permit = \$ 800.00
Minor Conditional Use Permit = \$ 350.00

Fees are nonrefundable after item has been sent for advertisement

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



| 2018 Submission Deadlines & Meeting Dates | | | | | |
|--|--------------------|------------------------------|--|--------------|---------|
| Technical Review Committee | | Planning & Zoning Commission | | Town Council | |
| Submission | Meeting | Submission | Meeting | Submission | Meeting |
| Dec 4 | Dec 18 | Dec 28 | Jan 11 | Dec 22 | Jan 9 |
| Dec 29 | Jan 16 | Jan 22 | Feb 8 | Jan 30 | Feb 13 |
| Feb 5 | Feb 19 | Feb 20 | Mar 8 | Feb 27 | Mar 13 |
| Mar 5 | Mar 19 | Mar 27 | Apr 12 | Mar 27 | Apr 10 |
| Apr 2 | Apr 16 | Apr 23 | May 10 | Apr 24 | May 8 |
| May 7 | May 21 | May 29 | June 14 | May 29 | June 12 |
| June 4 | June 18 | June 25 | July 12 | June 26 | July 10 |
| July 2 | July 16 | July 23 | Aug 9 | July 31 | Aug 14 |
| Aug 6 | Aug 20 | Aug 27 | Sept 13 | Aug 28 | Sept 11 |
| Sept 3 | Sept 17 | Sept 24 | Oct 11 | Sept 25 | Oct 9 |
| Oct 1 | Oct 15 | Oct 22 | Nov 8 | Oct 30 | Nov 13 |
| Nov 5 | Nov 19 | Nov 26 | Dec 13 | Nov 27 | Dec 11 |
| Dec 3 | Dec 17 | Dec 21 | Jan 13 | Dec 21 | Jan 8 |
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| | | | | | |
| Board | # Copies Full Size | # Copies Electronic | Recipients | | |
| TRC | 9 | 1 | 1 Manager, 3 Planning, 1 Fire, 1 Police, 2 Operations, 1 Admin | | |
| P&Z | 9 | 1 | 7 P&Z, 1 Manager, 2 Planning, 1 Secretary, 1 Island Gazette | | |
| Town Council | 9 | 1 | 5 Town Council, 1 Manager, 1 Planning, 1 Clerk, 1 Island Gazette | | |

PURPOSE

Conditional use permits add flexibility to the zoning regulations. Subject to high standards of planning and design, certain property uses may be allowed in certain districts where these uses would not otherwise be acceptable. By means of controls exercised through the conditional use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any adverse effects they might have on surrounding properties.

Please complete all sections of the application.

A. Property Information

Address(es): 401 Marina St Carolina Beach, NC

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

Project Name Carolina Beach Yacht Club and Marina Expansion

Size of lot(s): No Change

B. Application for Conditional Use Permit

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

Add a ship to be stationary at the fuel dock. The new vessel will house our ships store and concessions stand. The concessions stand will sale on premise alcohol and wine. The concessions stand will have snacks, hot dawgs, and flat top grill.

C. Applicant Contact Information

Carolina Beach Yacht Club and Marina
Company/corporate Name (if applicable):

Chad Cooke
Applicant's Name

20607 Bethel Church Rd
Mailing Address

Cornelius, NC 28031
City, State, and Zip Code

704-778-8994
Telephone

Email

D. Owner Contact Information (if different)

Owner's Name

Mailing Address

City, State, and Zip Code

Telephone

Email

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

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

 The new ships store will now be located on the side of the fuel dock. Therefore, patrons can easily access the snacks, beverages, ice, etc that are sold to the public. There will be safety rails installed around the ships store to prevent anyone from falling into the water. By moving the ship store it will be safer due to the fact the boaters will not have to leave their boat for extended periods of time to walk the 250 feet to the current ships store. They will have a faster response times to any issues that may harm their boat or others at the fuel dock.

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

 No waivers requested

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

 The barge that houses the new ship store and concessions is located on the water in front of our property which will not influence any of the neighboring properties.

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

We are not changing the use only the location of the current ships store and concessions stand to an area on a stationary vessel over the water closer to the fuel dock which will make the overall boating experience safer for the patrons and the marina.

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

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

__ There will not be a change to the existing Ingress or egress to the property. The fire trucks and ambulances will enter and exit in the same manner per attached survey. There is an existing stand pipe to serve the any needs a fire truck may need for the relocated ships store. A fire boat would also be able to access the vessel. _____

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

__ The purpose of the concessions stand and fuel dock extension is for the boaters so no additional off street parking will be required. There will not be any additional noise or glare the marina closes at 6pm daily. Any odors from concessions will be a nuisance odor. The winds off the water will dissipate any smells. _____

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

__ There will be an additional dumpster and recycle dumpster installed at the entrance to the property. These will be set in a fenced in area so this is not unsightly to any neibgbors. _____

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

__ The ships store located on barge will be a multiple port plug in connection to run the ships store and concessions. The marinas existing power is sufficient to handle the additional load.

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

There is not any additional screening required. The vessel will be anchored next to the fuel dock which is in the rear of the marina.

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

__ The exterior lighting will be located on the water and therefore will not effect any neighbors. The lights will actually make it safer for boaters to locate the fuel docks while traveling in the channel _____

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

__ N/A _____

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

I. Site Plan Criteria

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

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

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

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

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

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 conditional use permit I/we as the property owner(s), hereby certify that all of the information presented in this application is accurate to the best of my knowledge, information and belief. I hereby designate Chad Cooke
To act on my behalf regarding this application, to receive and respond to administrative comments, to resubmit plans on my behalf and to speak for me in any public meeting regarding this application.

Conitney A. Sloan
Signature

8/30/18
Date

AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF

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

Date: 8-30-18

Appointee's Name, Address & Telephone:

Ned Barnes
1009 N. Lake Park Blvd
Carolina Beach, NC 28428

Signature of Owner: Comfrey A. Slaw

Project Narrative

Carolina Beach Yacht Club and Marina

Relocation of ships store and concessions down to vessel anchored on the north side of the fuel dock. A concrete barge ship with an existing structure will be driven behind the existing fuel dock. The current platform will be relocated from the north side of the fuel dock to the south side. The barge will be anchored into corner where the previous platform was located. There will be a ship's store and concessions stand located in a 40 X 16 existing structure. The ships store will be 20 X16. This will house the dockhand office and cash register. There will be miscellaneous boater items such as filters, life jackets, oil etc. sold in the store. There will also be vending machines that will sale soft drinks and waters. There will be candy and chips sold alongside of the vending machines. Off site consumption of beer and wine will be sold from this location. There will be an ice machine located at the south end of the structure.

There will be a horseshoe shaped bar located on the north end of the structure. The bar and kitchen will be 20X16 section of the vessel. We will sale on site beer and wine from this location. You will also be able to purchase hot foods as well from the bar. There will be a select menu serving hot dogs and flat top grilled sandwiches.

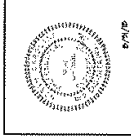
The barge will be registered as a vessel with the NC wife life to meet all state codes and regulations. It will be equipped with engines, so it can be moved at any time. There will be safety handrails installed along the entire perimeter of the barge. The ship will contain all necessary fire safety equipment.

We are also requesting an extension of the existing fuel docks to the north of Snows Cut. The proposed docks will be 160 feet long and 12 feet wide to match the existing width of the current fuel dock. Due to the strong currents and winds in this area the fuel docks were increased to 12 feet to give stability to the boaters and dock hands. The wider docks have provided a safe working conditions that has helped to prevent accidents. This extension is needed to increase the amount of parking for boats waiting to fuel. This will make boating safer in the channel so there are not boats piled up waiting to fuel. The additional dockage will also be used for boaters to purchase from our concessions area. We feel there is a need for boaters to purchase beverages, ice, and food without having to park the boat and ride into town.

The fuel docks will have one additional gas fuel dispenser. We will switch the current location of the diesel dispenser to the short or south side fuel dock then have two (2) gas fuel dispensers on the long sided fuel dock to the north. This will help eliminate the confusion for boaters trying to determine which side is gas and which is diesel.

ENGINEERING
M²

401 KAROLINA, INC.
2110 BOON CREEK DRIVE, SUITE 400
CHARLOTTE, NC 28205
PHONE: 704.535.9797



JOYNER MARINA
401 KAROLINA STREET
CAROLINA BEACH, NC

SHINNVILLE RIDGE PARTNERS, LLC
20667 BETHEL GURCH ROAD
CORNELIUS, NC 28031

PRELIMINARY SKETCH PLAN

REVISIONS

| NO. | DATE | DESCRIPTION |
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CAD FILE: 18-008 BLDG.DWG
PROJECT NO.: 18-008
DESIGNED BY: JAP
CHECKED BY: JAP
DATE: AUGUST 31, 2018

SP10

JOYNER MARINA
401 MARINA STREET
CAROLINA BEACH, NC

PROPERTY OWNER FOR CDS: JOYNER MARINA, LLC
PAULINA, NC 27802

TOTAL SITE AREA: 0.53 AC (23,087 SF)

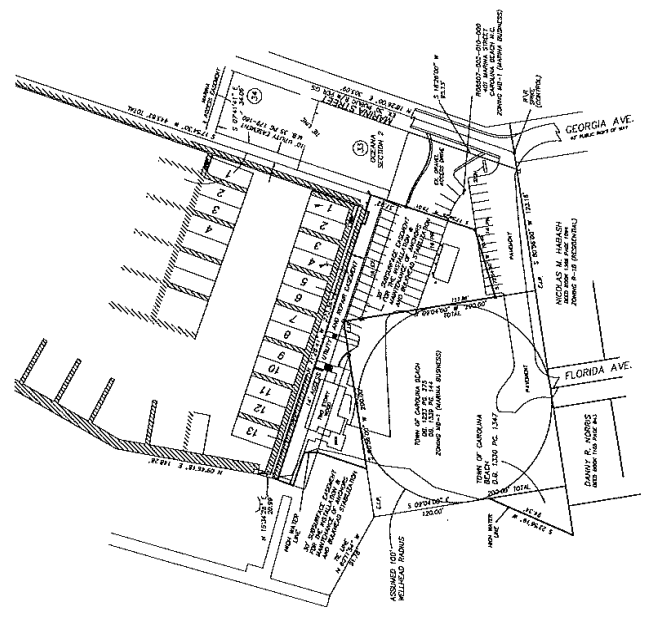
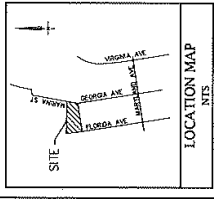
PARCEL IDS: 19-008-C08

JURISDICTION: TOWN OF CAROLINA BEACH

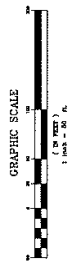
CURRENT ZONING: MH-1-MARINA

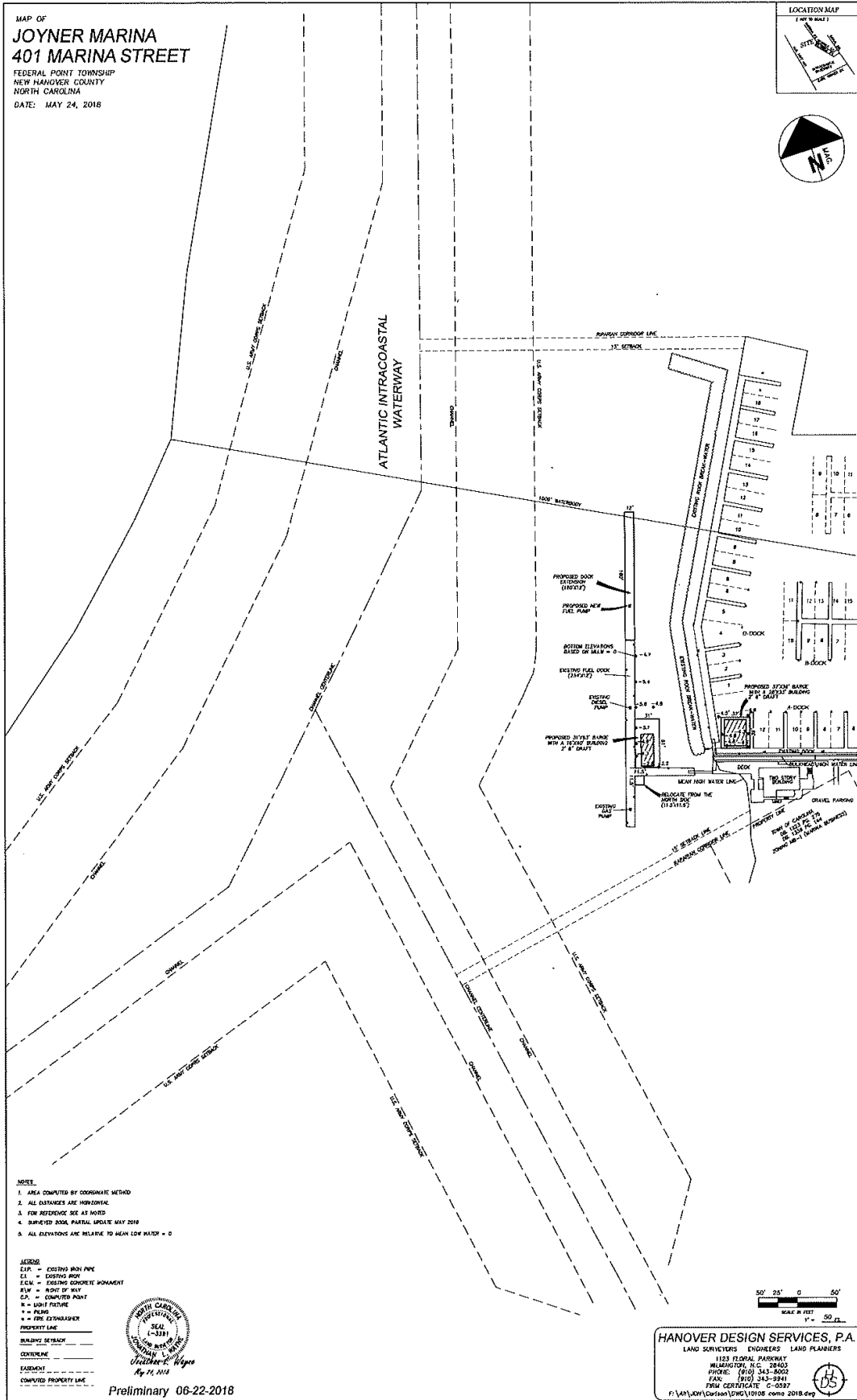
LAND USE: MARINA

DEVELOPMENT SUMMARY: 3,360 SF



CITE ENGINEERING
201 W. MARKET STREET, SUITE 200
RAVENNA, OH 44150
PHONE: 216.775.8975





Joe Benson
Mayor

Steve Shuttleworth
Council Member

LeAnn Pierce
Council Member



Tom Bridges
Mayor Pro Tem

JoDan Garza
Council Member

Ed Parvin
Town Manager

Town of Carolina Beach
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428
TEL: (910) 458-2999
FAX: (910) 458-2997

ORDER GRANTING A CONDITIONAL USE PERMIT

Applicant: Carolina Beach Yacht Club and Marina LLC
Location: 1018 N. Lake Park Blvd & 1001 Saint Joseph St.
Tax Parcel Number: Pin # 313115.64.8036.000

The Town Council of the Town of Carolina Beach, having held a public hearing on December 11, 2018 to consider approving a Conditional Use Permit for a Bar located at the Carolina Beach Yacht Club and Marina located at 401 Marina St. and where sworn testimony was heard from the following persons: Senior Planner Jeremy Hardison,. The following uncontested facts were presented:

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;

No change is proposed to access the lot. There is an existing drive to get to the marina and an additional approved parking lot inside the gate of Oceana Subdivision that accommodates the boat slips. They are proposing to add a 126' driveway to access 14 newly designed parking spots on the connector road between Florida Ave and Georgia Ave. This area is designated as an access easement right-of-way as shown on the attached easement plat. The ordinance prohibits parking from backing out into the right-of-way. This parking area should be accessed off of the existing drive.

(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 requirements

- Existing Boat Slips – 69, 1 per boat slip = 69 spaces
- Proposed retail space – 320 sq. ft., 1 per 200 sq. ft. = 1.6
- Eating & Drinking Establishment - 320 sq. ft. of inside, 1 per 110 = 2.9
2,600 sq. ft. outdoor, 1 per 220 sq. ft. = 11.8 spaces
- One residential unit - 1,200sq. ft. = 1 per 1,000sq. ft. = 1.2
- Office space - 600 sq. ft., 1 per 300 sq. ft. = 2
- Existing retail in building - 933 sq. ft., 1 per 200 sq. ft. = 4.7
- Existing parking = 81 spaces
- Proposed additional parking =93.2 spaces = 94 spaces
- Total parking provided = 98

(3) Refuse and service area, with particular reference to the items in (1) and (2) above;
Trash and recycling containers will service the site.

(4) Utilities, with reference to locations, availability, and compatibility;
The new building will connect to the existing utilities and no upgrades are required

(5) Screening and buffering with reference to type, dimensions, and character;
The addition will require additional parking spaces and should provide a landscape buffer for those new spaces along Town's right-of-way easement.

(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;
No additional signage is 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

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 use has served as a commercial marina for 25 years serving the boating community. This is the first time they will be offering on-premise alcohol. They will be serving by the water and will be over 330 feet from the residential district. The minimum requirement is 200 feet from any residential district.

(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 by the additional parking spaces and forward maneuvering shall be required for the 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 area and will therefore not injure the value of adjoining properties.

(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 include low intensity water-oriented restaurants and services

It is ordered that the application for the issuance of a Conditional Use Permit by Carolina Beach Development Company 1 LLC be granted, subject to the following conditions:

- 1) The site plan corresponding to this approval was designed by Mc2 , engineering dated 8/31/18.
- 2) Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire. All plans will be reviewed to ensure building fire and town codes have been met.
- 3) 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.
- 4) A Type B 10' landscaping buffer is required along the perimeter of the additional parking lot.
- 5) 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.
- 6) All designed parking spaces shall be designed to maneuver in a forward motion.
- 7) All permits and approval letters required by all Federal, State, and Local Agencies shall be submitted.
- 8) The permit will expire on December 11, 2020 if no work has commenced.
- 9) The applicant must gain permission in writing from the original property owner of 313 Georgia Ave in the encroachment areas depicted on the 8/31/18 site plan.

Ordered this 11th day of December, 2018

Joseph Benson, Mayor

Date

ATTEST:

Kimberlee Ward, Town Clerk

Date



AGENDA ITEM

Meeting: Planning and Zoning - 08 Nov 2018

Prepared By: Miles Murphy

Department: Planning

Text Amendment: To amend Chapter 40 Article III Sec. 40-72, Article IX Sec. 40-361, and Article XVIII Sec. 40-548 to allow for the operation of a distillery in the Highway Business (HB) Zoning District (Commercial 1 – 2007 LUP) of the Town of Carolina Beach - Applicant Max Sussman

BACKGROUND:

Text Amendment: To amend Chapter 40 Article III Sec. 40-72, Article IX Sec. 40-361, and Article XVIII Sec. 40-548 to allow for the operation of a distillery in the Highway Business (HB) Zoning District (Commercial 1 – 2007 LUP) of the Town of Carolina Beach

Background:

Max Sussman approached the Town of Carolina Beach in August to inquire about the opening a distillery to sell a Carolina Beach themed rum. Planning Staff informed him that current zoning ordinance did not allow for that use and that he would be required to apply for a Text Amendment in order for the activity to be permitted in the Town. Mr. Sussman submitted his application (Attachment 1) on August 30th, 2018 intending to be reviewed by TRC in September. Unfortunately, due to Hurricane Florence September TRC was unable to meet, so Mr. Sussman's Text Amendment proposal was not able to be heard until October.

In October, Staff met with Mr. Sussman to hear his proposal to amend Chapter 40 Article III Sec. 40-72, Article IX Sec. 40-361, and Article XVIII Sec. 40-548 to allow for a distillery to operate only in the HB zoning district in the Town of Carolina Beach. This is the commercial zoning district which runs along North Lake Park Boulevard from the Bridge to Wilson Avenue. Staff informed him that, in addition to amending the Zoning Ordinances, he would also have to follow the guidelines set forth for the operation of a distillery in **§ 18B-1105** (Attachment 2.1) and **§ 18B-1114.7** (Attachment 2.2), apply for an ABC Commercial Permit (Attachment 2.3), and adhere to any other State, County, or Local restrictions on Distilleries.

It should be noted that distilleries are opening around the state and they are all handled slightly differently, but most cities, counties, and municipalities place the majority of the enforcement and management back on the State/ABC (Attachment 2.4). For instance, Kinston, the home of Mother Earth Brewing, simply directs the use back to G.S. 18B-1105. Manteo and Durham both place a limit on the maximum annual sales for a craft or micro distillery, but have no other specific restrictions. Some examples of recent distillery news can be found in Attachment 2.5.

Several changes have been made to the guidelines for Distilleries and associated activities (Attachments 3 and 3.1) which open up more opportunity for small-scale distilling operations to succeed. The “Brunch Bill” adopted on June 30th of 2017 allowed for the annual sale of 5 bottles to one consumer in a 12-month period, as opposed to the 1 bottle allotment previously allowed. This change has made craft or micro distilleries more economically viable.

Staff Recommendation:

Staff recommends that the use of Distillery be added as a by-right use in the HB Zoning District as it is in line with the current LUP and Zoning Ordinances of Carolina Beach. Staff recommends placing no additional restrictions beyond those already placed upon them by NC G.S. and the ABC, and the Zoning Requirements placed on every development in the HB zoning district.

ACTION REQUESTED:

1. Open the hearing for public comment.
2. Close public comment.
3. Consider the approval or denial of the proposed text amendment and make a motion according to the appropriate statement.

Approval – The Commission, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article III Sec. 40-72, Article IX Sec. 40-361, and Article XVIII Sec. 40-548 to allow for the operation of a distillery in the Highway Business (HB) Zoning District (Commercial 1 – 2007 LUP) of the Town of Carolina Beach is consistent with the goals and objectives of the adopted Land Use Plan and other long range plans. (If applicable - List any recommended restrictions or requirements)

Denial – The Commission deny the adoption of the following

ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

**COMMITTEE
RECOMMENDATION:**

In the 2007 LUP, the Commercial 1 (Highway Business Zoning District) was described as the "gateway" to the Town of Carolina Beach. It is a heavily vehicle-dependent area and has primarily commercial uses of retail, office, restaurant, entertainment, and other commercial services. It is also home to the only ABC location for both Carolina Beach and Kure Beach.

The recommended future uses of the Commercial 1 zone are the same as the current uses. An operation such as a distillery would be in line with the goals of the LUP and other generally permitted activities in the HB Zoning District. A distillery would be an example of a sought after business activity which would encourage resort market niche business activities and year round residency. Additionally, the strict standards placed by the State and ABC would prevent the operation from negatively impacting adjoining properties.

TRC did not have any concerns and recommended allowing distilleries in the Highway Business Zoning District(Commercial 1) as a generally permitted use (see Attachment 4).

ATTACHMENTS:

[Application \(Attachment 1\)](#)
[HB Zoning District \(Attachment 2\)](#)
[Chapter 18B NC GS 1105 Distillery \(Attachment 2.1\)](#)
[Chapter 18B NC GS 1114.7 Tasting \(Attachment 2.2\)](#)
[ABC Commercial Permit Application \(Attachment 2.3\)](#)
[Regional Comparisons \(Attachment 2.4\)](#)
[In the News \(Attachment 2.5\)](#)
[SB 155 - 2017 \(Attachment 3\)](#)
[HB 500 - 2017 \(Attachment 3.1\)](#)
[Proposed Ordinance \(Attachment 4\)](#)

Amendment Number: 18T-02



PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner's Full Name: Max Sussman / Chris Stellaccio Phone #: (757) 717 - 9393
Street Address: PO Box 330 Koro Beach NC 28449
City: Koro Beach State: NC Zip: 28449
Email: Max@theveggiewagon.com

REQUESTED TEXT AMENDMENT

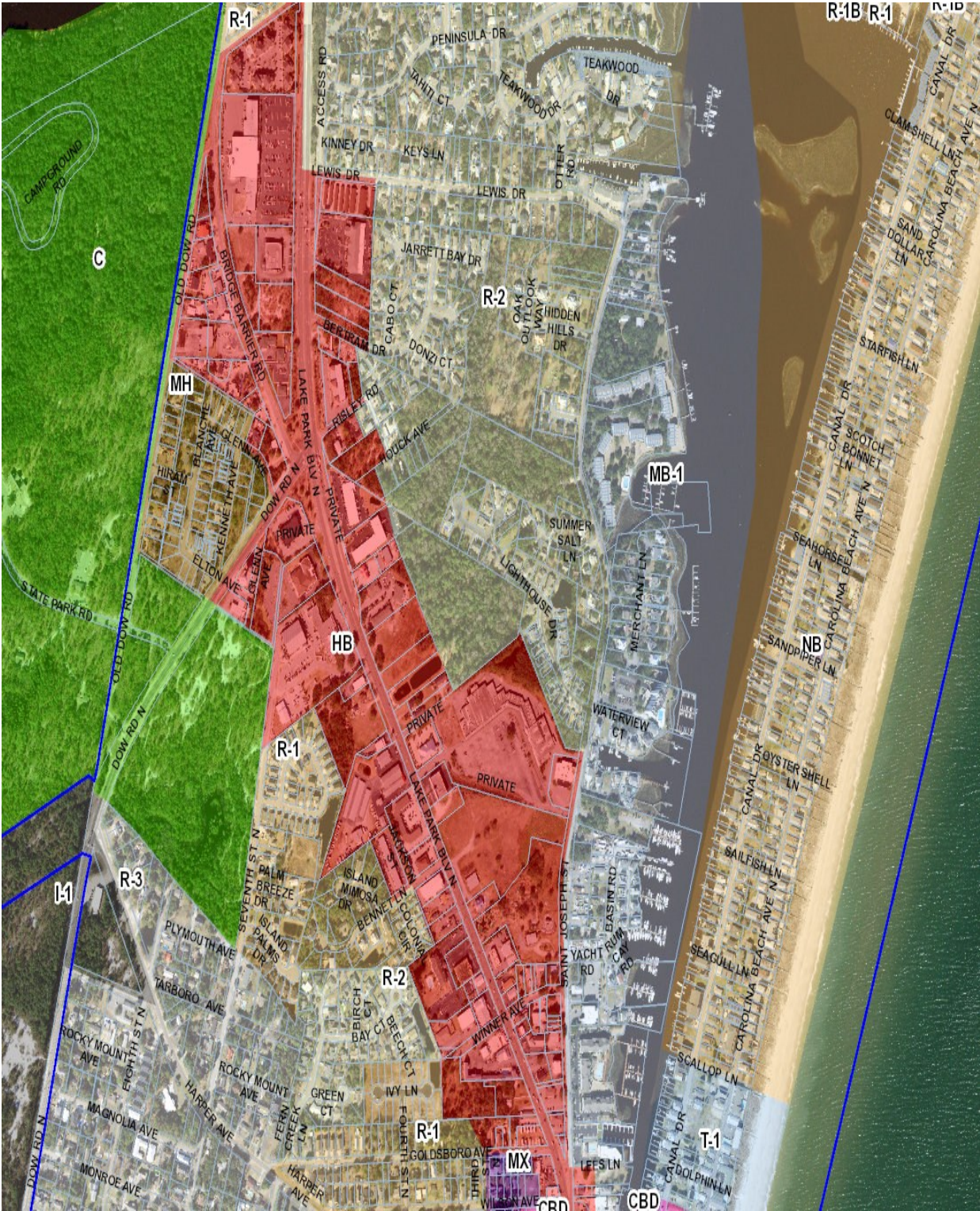
Town Code Section(s) Requested to be Amended:

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the \$350 fee for review is nonrefundable.

Signature of Petitioner: Max Sussman Date: 8/30/12



G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) **Sales Report Upon Commission Request.** – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) **Definition.** – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1985, c. 596, s. 2; 1989, c. 800, s. 4; 1991 (Reg. Sess., 1992), c. 920, s. 9; 1993, c. 415, s. 20; 2003-430, s. 1; 2004-203, s. 29; 2011-107, s. 2; 2011-419, s. 1; 2015-98, s. 7; 2017-87, ss. 8, 12-16(a).)

§ 18B-1105. Authorization of distillery permit.

- (a) The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
 - (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
 - (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
 - (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor

sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.

(5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.

(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm the holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's distillery permit until the Commission receives notice from the Department of Revenue that the person is in compliance. (1979, 2nd Sess., c. 1329, s. 1; 1981, c. 412, s. 2; 1989, c. 800, s. 5; 2012-201, s. 10; 2015-98, s. 4(a); 2015-262, s. 3(a); 2017-87, ss. 1(a), 16(b).)

§ 18B-1105.1. Authorization of liquor importer/bottler permit.

The holder of a liquor importer/bottler permit may:

- (1) Receive spirituous liquor in closed containers into foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for the purpose of bottling, packaging, or labeling.
- (2) Bottle, package, or label in this State spirituous liquor imported or received into a foreign trade zone pursuant to this section.
- (3) Receive spirituous liquor in closed containers into the foreign trade zones at the State Port facilities in Morehead City and Wilmington from ships docked at the State Port facilities for storage, sale, shipment, and transshipment to the State or a local ABC board warehouse or, subject to the laws of other jurisdictions, to private or public agencies or establishments of other states or nations.
- (4) Subject to the record-keeping requirements of G.S. 18B-1115, transport into or out of the foreign trade zones at the State Port facilities in Morehead City and Wilmington, the maximum amount of liquor allowed under federal law, if the transportation is related to the bottling, packaging, labeling, sale, or storage permitted by this section. (1995, c. 404, s. 1.)

§ 18B-1106. Authorization of wine importer permit.

(a) Authorization. – The holder of a wine importer permit may:

- (1) Manufacture malt beverages on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of malt beverages.
- (2) Possess malt beverages manufactured during the brewing, distillation, and fermentation program for the purpose of conducting malt beverage tasting seminars and classes for students who are 21 years of age or older.
- (3) Sell malt beverages produced during the course to wholesalers or to retailers upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109, except that the permittee may not receive shipments of malt beverages from other producers.
- (4) Sell malt beverages produced during the course, upon obtaining a permit under G.S. 18B-1001(2).

(b) **Limitation.** – Authorization for a brewing, distillation, and fermentation course shall be granted by the Commission only for a community college or college that offers a brewing, distillation, and fermentation program as a part of its curriculum offerings for students of the school. For purposes of this section, the term "brewing, distillation, and fermentation program" includes a fermentation sciences program offered by a community college or college as part of its curriculum offerings for students of the school.

(c) **Malt Beverage Special Event Permit.** – The holder of a brewing, distillation, and fermentation course authorization who obtains a malt beverages wholesaler permit under G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may participate in approved events and sell at retail at those events any malt beverages produced incident to the operation of the brewing, distillation, and fermentation program. The holder of a brewing, distillation, and fermentation course authorization may participate in not more than six malt beverage special events within a 12-month period and may sell up to 64 cases of malt beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes of this subsection, a "case of malt beverages" is a package containing not more than 24 12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt beverages pursuant to this subsection shall be retained by the school and used for support of the brewing, distillation, and fermentation program.

(d) **Limited Application.** – The holder of a brewing, distillation, and fermentation course authorization shall not be considered a brewery for the purposes of this Chapter or Chapter 105 of the General Statutes. (2014-120, s. 17(a).)

§ 18B-1114.7. Authorization of spirituous liquor special event permit.

(a) **Authorization.** – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) **Limitations.** – Any consumer tasting is subject to the following limitations:

- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.

- (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
- (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
- (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
- (6) The permit holder shall not charge a consumer for any tasting sample.
- (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
- (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
- (9) The permit holder may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting.
- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time. (2017-87, s. 2(c).)

§ 18B-1115. Commercial transportation.

(a) Permit Required. – Unless a person holds a permit which otherwise allows him to transport more than 80 liters of malt beverages other than draft malt beverages in kegs, 50 liters of unfortified wine, or eight liters of fortified wine or spirituous liquor, or is a retailer authorized to transport alcoholic beverages under G.S. 18B-405, each person transporting alcoholic beverages in excess of those quantities shall have the permit described in this section.

(b) When Transportation Legal. – No person may obtain a permit under this section to transport spirituous liquor unless the transportation is for delivery to a federal reservation over which North Carolina has ceded jurisdiction to the United States, for delivery to an ABC store, or for transport through this State to another state.

(c) Common Carriers. – Railroad companies and other common carriers having regularly established schedules of service in this State may transport alcoholic beverages into, out of, and between points in this State without a permit. Those companies shall keep accurate records of the character, volume and number of containers transported and shall allow the Commission and

**NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Location: 400 EAST TRYON ROAD
RALEIGH NC 27610
(919) 779-0700
abc.nc.gov

MAIL TO ADDRESS ON BACK OF FORM

HOW TO APPLY FOR AN ABC COMMERCIAL PERMIT

I. INSTRUCTIONS

- A. Complete this application in its entirety. It must be signed and notarized.
- B. The correct fee(s) must accompany the application. Payment must be by a certified check, cashier's check or money order and made payable to the North Carolina ABC Commission.
- C. Include one (1) completed fingerprint card for each person participating in the business who is required to submit an application. A required fingerprint-processing fee of \$38.00 per person may be added with the permit fee in a single check.
- D. Include a copy of the lease or rental agreement, or a registered copy of the deed, specifying the applicant(s) as lessee/owner. This document must include the address or property description of the business. The lease/rental agreement must include the effective beginning date of the agreement.
- E. The following additional documents are required:
 1. A completed Inspection/Zoning Compliance Form (Form NC ABC-002).
 2. A detailed diagram of the premises to be covered by the ABC permit.
 3. Prior to the issuance of a permanent ABC permit, a copy of the Federal Basic Permit or Brewers Notice must be submitted.
 4. **Corporations** – Articles of Incorporation.
 5. **LLC's** – Articles of Organization. If manager managed, a copy of the operating agreement must be submitted. If LLC is managed by an outside entity, a management contract must be submitted.
 6. **Wine Grower Applicants** – Wine grower applicants must include a copy of the deed for the qualifying farm, stating the address of the farm and one of the following:
 - a. A survey indicating the areas and acreage used in the production of grapes (the more details the better); or
 - b. An affidavit stating that you are a farm of at least five acres committed to the production of grapes, listing the acreage used for the production of grapes and its function.
 7. **Liquor Importer/Bottler** – A liquor importer/bottler must include a separate sheet of paper describing the operations of the business. Please indicate the location address of any storage facility or bottling plant, if different than the address shown on the permit application, and any associated federal permit numbers.
 8. **Air Carrier** – An air carrier must include a separate sheet of paper indicating the names and location address of the airport(s) where products will be stored and sold.
 9. **Wine Shipper** – Wine shippers must submit a completed "Wine Shipper Brand Listing".
- F. **Change in Ownership** – All permits for an establishment shall automatically expire and shall be surrendered to the Commission if:
 1. Ownership of the establishment changes; or
 2. A change in the membership of the firm, association or partnership owning the establishment, involving the acquisition of twenty-five percent (25%) or greater interest in the firm, association or partnership by someone who did not previously own twenty-five percent (25%) or greater interest; or
 3. Twenty-five percent (25%) or more of the stock of the corporate permittee owning the establishment is acquired by someone who did not previously own twenty-five percent (25%) or more of the stock.
- G. **Change in Location** – An ABC permit cannot be transferred from one location to another. Therefore, if you relocate your business, you must apply for ABC permits at the new location.
- H. **Changes Within Establishment** – (Other than changes in ownership.)

- 1. LLC Manager Change – Each new manager must complete an application and qualify for ABC permits. No fee is required.
 - 2. Corporate Officer Change – Each new officer must complete an application and qualify for ABC permits. No fee is required.
- I. **NOTE:** A separate permit must be obtained at each location where business will be conducted.

II. WHO MUST FILE

- A. **Individual Operation** – The individual owner of the business is required to file an application.
- B. **General Partnership Operation** – Each partner is required to file a separate application.
- C. **Limited Partnership** – The general partner(s) is required to file an application.
- D. **Corporation** – Each officer, manager and any stockholder owning 25% or more of the stock must file separate applications. (**NOTE:** Articles of Incorporation must be submitted.)
- E. **Limited Liability Company (LLC)** – If member managed, all members owning a 25% or greater interest must file; or, if no one owns a 25% interest, the managing members must file. If manager managed, the person or persons acting as manager on behalf of the LLC must file, in addition to any member who owns a 25% or greater interest in the company. (**NOTE:** Articles of Organization must be submitted.)
- F. If a 25% interest holder in an LLC or a corporate stockholder is another business entity (partnership, corporation, or LLC), a partner, an officer or member of that entity must complete the application on behalf of that business entity.
- G. **Corporations, LLC’s and Limited Partnerships** – Indicate name and address of registered agent and office.
- H. **Non-Residents (Individual or Partnership)** – Each non-resident individual or partner shall file as required above. In addition, a resident manager shall be appointed by the non-resident applicant as attorney-in-fact for the business. This manager shall also complete the required application. A certified copy of an executed power-of-attorney, which shall be registered with the Register of Deeds in the county where the proposed licensed premises is located, shall be submitted with the application.

III. FEES

All application fees must be submitted by a *certified check, cashier’s check, or money order*, and made *payable to the North Carolina ABC Commission*. All fees are deposited with the State Treasurer, and no provisions are made for refunds whether the application is approved, rejected or withdrawn.

| TYPES OF PERMITS | FEE REQUIRED |
|---|--------------|
| 1..... Unfortified Winery | \$300.00 |
| 2..... Fortified Winery | \$300.00 |
| 3..... Limited Winery | \$300.00 |
| 4..... Brewery | \$300.00 |
| 5..... Distillery | \$300.00 |
| 6..... Fuel Alcohol | \$100.00 |
| 7..... Wine Importer | \$300.00 |
| 8..... Wine Wholesaler | \$300.00 |
| 9..... Malt Beverages Importer | \$300.00 |
| 10..... Malt Beverages Wholesaler | \$300.00 |
| 11..... Bottler | \$300.00 |
| 12..... Winery Special Event | \$200.00 |
| 13..... Cider and Vinegar Manufacturer | \$200.00 |
| 14..... Wine Producer | \$300.00 |
| 15..... Liquor Importer/Bottler | \$500.00 |
| 16..... Air Carrier | No fee |
| 17..... Wine Shipper | No fee |
| 18..... Spirituous Liquor Warehouse | No fee |
| 19..... Malt Beverage Special Event..... | \$200.00 |
| 20..... Spirituous Liquor Tasting..... | \$100.00 |
| 21..... Spirituous Liquor Special Event | \$200.00 |

NORTH CAROLINA
ALCOHOLIC BEVERAGE CONTROL COMMISSION
APPLICATION FOR AN ABC COMMERCIAL PERMIT

Amount Fee Paid

Temporary #
Date Issued
Exp. Date

Application #
Approved
Rejected
By
Date
Date Rec'd
Rec'd By

Do Not Write Above This Line

County
in which business is located

Reason for Application:
New Business
Additional Location
New Officer
Additional Permit
Ownership Change
Address Change
New Manager (LLC)

I hereby make application to the North Carolina Alcoholic Beverage Control Commission for the following permit(s):

Check Appropriate Block(s).

- Unfortified Winery
Fortified Winery
Limited Winery
Brewery
Distillery
Fuel Alcohol
Wine Importer
Wine Wholesaler
Malt Beverages Importer
Malt Beverages Wholesaler
Bottler
Winery Special Event
Cider & Vinegar Manufacturer
Wine Producer
Malt Beverage Special Event
Liquor Importer/Bottler
Air Carrier
Wine Shipper (wineries only)
Spirituous Liquor Warehouse
Spirituous Liquor Tasting
Spirituous Liquor Special Event

TYPE OF OWNERSHIP (Check One):

- Individual (complete sections A and B, below)
Partnership (complete sections A and B, below)
Limited Partnership (complete sections A, B, E and F, below)
Limited Liability Company (complete sections A, B, D and F, below)
Corporation (complete sections A, B, C and F, below)
Nonresident Individual or Partnership (complete sections A, B, and G, below)

Section A

Trade Name of Business
Location Address of Business
Mailing Address of Business

Section B

Applicant's Full Name
Resident Address
Date of Birth
Social Security #
Home Telephone #
Business Telephone #
Daytime Telephone #
Fax #
Email Address

Section C

If Incorporated, Corporate Name
If Incorporated, position in Corporation:
President
Vice President
Secretary
Treasurer
Manager
Stockholder - % of Stock
If 25% or more stockholder is another business entity, name of entity:
Applicant's position in business entity:

Section D

If LLC, Company Name
Form of Management:
Member-Managed
Manager-Managed
Site Manager
If 25% or more interest is another business entity, name of entity:
Applicant's position in business entity:

Section E

If Limited Partnership, Limited Partnership Name _____
General Partner Name _____

If General Partner is a Corporation, position in Corporation: President Vice President Secretary
 Treasurer Manager Stockholder - % of Stock _____
(25% or more)

Section F

Corporations, Ltd. Partnerships, and LLC's
Registered Agent _____
Registered Agent Mailing Address _____
Street Address/PO Box City State Zip Code
Registered Agent Location Address _____
Street Address City State Zip Code

Section G

Nonresident Individual (Sole Proprietorship) or Partnership Attorney-In-Fact _____
Mailing Address _____
Street Address City State Zip Code
Location Address _____
Street Address City State Zip Code

It is a Crime to make a false statement to obtain an ABC Permit

I CERTIFY UNDER OATH OR AFFIRMATION THAT:

- The information on this application is correct to the best of my knowledge.
- I am not less than 21 years of age (except for a manager of a business selling only malt beverages and unfortified wine, or a manager of an establishment operated by a corporation holding off premise permits for malt beverage and unfortified wine, in which case I certify that I am not less than 19 years of age.
- I have not been convicted of a misdemeanor controlled substance offense nor an alcoholic beverage offense within the past two years.
- I have not been convicted of a felony within the past three years, and if convicted of a felony before then, I have had my citizenship restored.
- **NOTE:** Conviction is defined as "A person who has been "convicted" and found guilty, or has entered a plea of guilty or nolo contendere, and for which a judgment has been entered."
- I have had no alcoholic beverage permit revoked within three years.
- I am a resident of the state of North Carolina (except for an officer or stockholder of a corporate applicant not responsible for the day to day operation of the business, or an applicant that has executed a power of attorney in accordance with G.S. 18B-900(a)(2)(b).
- I am an owner or lessee of the premises to be covered by the ABC permit(s).
- I am not an officer, director or affiliate nor do I have any interest in, or receive from, or pay any profits or salary to any N.C. retail malt beverage or wine business, except as authorized by North Carolina Law for a N.C. winery and N.C. brewery, as provided in General Statute Chapter 18B, Article11.

Signature of Individual Filing Application Date

Sworn to and subscribed before me this the _____
Day Month Year

My commission expires _____
Notary or other person qualified by law to administer oaths

MAIL THIS APPLICATION TO:

If sending by U.S. Postal Service (regular mail):

NC ABC COMMISSION
4307 MAIL SERVICE CENTER
RALEIGH NC 27699-4307

If sending by U.S. Postal Service **EXPRESS**
MAIL or by FEDEX/UPS:

NC ABC COMMISSION
400 EAST TRYON ROAD
RALEIGH NC 27610

Regional Comparisons:

Manteo – Craft distillery. An independently-owned distillery with maximum annual sales of 52,500 cases where the product is distilled and bottled on site.

1. 1 case = 12 quantity 750 ml bottles of 80 proof, or the equivalent amount of alcohol
2. The principal distiller defines the house style and oversees all aspects of production.
3. Facilities shall include a tasting room.
4. Facilities shall have a designated loading area.
5. Applicant must provide an approved waste design prior to issue of building permit.

Kinston – Section 7.31. - Microbrewery/distillery.

An establishment that meets the definition of a microbrewery or distillery shall be permitted in accordance with section 6.5, provided it meets the requirements of NC G.S. 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

Wilmington – No specific regulations beyond commercial zoning standards and artisan food and beverage producers

Durham – Micro-distillery: A distillery that produces no more than 50,000 US gallons per year. Other typical names include, but are not limited to, “craft distillery,” “small batch distillery,” and “artisan distillery.” Considered Light Industrial – No specific restrictions

In the News (2018):

- In Mount Pleasant a distillery operates out of a former prison - <https://www.cnn.com/travel/article/southern-grace-prison-distilleries/index.html>
- Mount Pleasant distillery credits Craft Beverage Modernization and Tax Reform Act for Recent Expansion - <https://www.prnewswire.com/news-releases/nc-whiskey-distillery-credits-craft-beverage-modernization-and-tax-reform-act-for-recent-expansion-300636732.html>
- Author Kathleen Purvis's book 'Distilling the South' and North Carolina's craft distilleries prove you do not have to go far for world-class booze - <https://indyweek.com/food-and-drink/features/author-kathleen-purvis-s-distilling-south-north-carolina-s-craft-distilleries-prove-go-far-world-class-booze/>
- Greensboro distillery, Fainting Goat Spirits, won a medal in the American Craft Spirits Awards in Pittsburgh - https://www.greensboro.com/blogs/short_orders/greensboro-distillery-wins-medal/article_63dd62cf-da67-527d-bf1c-2c58dd0e0e37.html
- Six things to know about North Carolina Distilling - <https://www.charlotteobserver.com/living/food-drink/article213455174.html>

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SENATE BILL 155
RATIFIED BILL**

**AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE
CONTROL COMMISSION LAWS.**

The General Assembly of North Carolina enacts:

DISTILLERY PERMIT AMENDMENTS

SECTION 1.(a) G.S. 18B-1105 reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

- (a) Authorized Acts. – The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
 - (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
 - (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
 - (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than ~~one bottle~~ five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.
 - (5) Conduct consumer tastings in accordance with G.S. 18B-1114.7.
- (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

SECTION 1.(b) G.S. 18B-804 is amended by adding a new subsection to read:



"§ 18B-804. Alcoholic beverage pricing.

(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:

- (1) The distiller's or the antique spirituous liquor seller's price.
- (2) The freight and bailment charges of the State warehouse as determined by the Commission.
- (3) A markup for local boards as determined by the Commission.
- (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).
- (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).
- (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (6a) The bailment surcharge.
- (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
- (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.
- (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.
- (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.

(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2."

SECTION 1.(c) G.S. 18B-800 reads as rewritten:

"§ 18B-800. Sale of alcoholic beverages in ABC stores.

(a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

...."

SECTION 1.(d) The Alcoholic Beverage Control Commission shall adopt temporary rules to amend its rules consistent with this section.

SECTION 1.(e) This section becomes effective July 1, 2017.

CREATE SPIRITUOUS LIQUOR SPECIAL EVENT PERMIT TO ALLOW DISTILLERIES TO GIVE FREE TASTINGS

SECTION 2.(a) G.S. 18B-301 reads as rewritten:

"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.

...

(e) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.

(f) Unlawful Possession or Use. – As illustration, but not limitation, of the general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

- (1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another ~~person~~person at any of the following places:
 - a. On the premises of an ABC ~~store, or store.~~
 - b. Upon any property used or occupied by a local ~~board, or board.~~
 - c. On any public road, street, highway, or ~~sidewalk, sidewalk,~~ unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

...."

SECTION 2.(b) G.S. 18B-902(d) is amended by adding new subdivisions to read:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

- (1) On-premises malt beverage permit – \$400.00.
- (2) Off-premises malt beverage permit – \$400.00.
- (3) On-premises unfortified wine permit – \$400.00.
- (4) Off-premises unfortified wine permit – \$400.00.
- (5) On-premises fortified wine permit – \$400.00.
- (6) Off-premises fortified wine permit – \$400.00.
- (7) Brown-bagging permit – \$400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be \$200.00.
- (8) Special occasion permit – \$400.00.
- (9) Limited special occasion permit – \$50.00.
- (10) Mixed beverages permit – \$1,000.
- (11) Culinary permit – \$200.00.
- (12) Unfortified winery permit – \$300.00.
- (13) Fortified winery permit – \$300.00.
- (14) Limited winery permit – \$300.00.
- (15) Brewery permit – \$300.00.
- (16) Distillery permit – \$300.00.
- (17) Fuel alcohol permit – \$100.00.
- (18) Wine importer permit – \$300.00.
- (19) Wine wholesaler permit – \$300.00.
- (20) Malt beverage importer permit – \$300.00.
- (21) Malt beverage wholesaler permit – \$300.00.
- (22) Bottler permit – \$300.00.
- (23) Salesman permit – \$100.00.
- (24) Vendor representative permit – \$50.00.
- (25) Nonresident malt beverage vendor permit – \$100.00.
- (26) Nonresident wine vendor permit – \$100.00.
- (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
- (28) Winery special event permit – \$200.00.
- (29) Mixed beverages catering permit – \$200.00.
- (30) Guest room cabinet permit – \$1,000.
- (31) Liquor importer/bottler permit – \$500.00.
- (32) Cider and vinegar manufacturer permit – \$200.00.
- (33) Brew on premises permit – \$400.00.

- (34) Wine producer permit – \$300.00.
- (35) Wine tasting permit – \$100.00.
- (36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
- (37) Wine shop permit – \$100.00.
- (38) Winemaking on premises permit – \$400.00.
- (39) Wine shipper packager permit – \$100.00.
- (40) Malt beverage special event permit – \$200.00.
- (41) Malt beverage tasting permit – \$100.00.
- (42) Spirituous liquor tasting permit – \$100.00.
- (43) Antique spirituous liquor permit – \$100.00.
- (44) Spirituous liquor special event permit – \$200.00.
- (45) Special auction permit – \$750.00."

SECTION 2.(c) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1114.7. Authorization of spirituous liquor special event permit.

(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitations. – Any consumer tasting is subject to the following limitations:

- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
- (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
- (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
- (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
- (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
- (6) The permit holder shall not charge a consumer for any tasting sample.
- (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
- (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
- (9) The permit holder may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting.

- (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

ALLOW SALE OF SPECIFIED ALCOHOLIC BEVERAGES AT AUCTION BY LICENSED AUCTIONEERS

SECTION 3.(a) G.S. 18B-603(f) reads as rewritten:

"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.

...

(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion ~~permits;~~permits.
- (2) Limited special occasion ~~permits;~~permits.
- (3) Brown-bagging permits for private clubs and congressionally chartered veterans ~~organizations;~~organizations.
- (4) Culinary permits, except as restricted by ~~subdivision (d)(5);~~subdivision (d)(5).
- (5) Special one-time permits issued under ~~G.S. 18B-1002;~~G.S. 18B-1002.
- (6) All permits listed in ~~G.S. 18B-1100;~~G.S. 18B-1100.
- (7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC ~~establishments;~~establishments.
- (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ~~resorts;~~resorts.
- (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments.
- (10) Special auction permits issued under G.S. 18B-1002.1."

SECTION 3.(b) G.S. 18B-1002(a)(4) reads as rewritten:

"(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

...

- (4) A permit may be issued to a collector of ~~wine or wine,~~ decorative decanters of spirituous ~~liquor~~liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission."

SECTION 3.(c) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1002.1. Special auction permit.

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online.

(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit. Any sales under this permit are subject to the purchase restrictions in G.S. 18B-303.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

SECTION 3.(d) This section becomes effective October 1, 2017.

ALLOW THE SALE OF ALCOHOLIC BEVERAGES BEFORE NOON ON SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL

SECTION 4.(a) G.S. 18B-1004(c) reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

...

(c) Sunday Hours. – ~~Except as authorized pursuant to G.S. 18B-112(b1), 153A-145.7, or 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~"

SECTION 4.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.7. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4.(c) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.3. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4.(d) G.S. 18B-112 is amended by adding a new subsection to read:

"(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d)."

AUTHORIZE SALE OF CROWLERS BY RETAIL PERMITTEES

SECTION 5.(a) G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
- b. ~~Hotels;~~Hotels.

- c. Eating ~~establishments;~~establishments.
 - d. Food ~~businesses;~~businesses.
 - e. Retail ~~businesses;~~businesses.
 - f. Private ~~clubs;~~clubs.
 - g. Convention ~~centers;~~centers.
 - h. Community ~~theatres;~~theatres.
 - i. Breweries as authorized by G.S. 18B-1104(7) and (8).
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
 - b. Hotels.
 - c. Eating establishments.
 - d. Food businesses.
 - e. Retail businesses.
 - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items

transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. ~~Eating establishments;~~Eating establishments.
 - d. ~~Private clubs;~~Private clubs.
 - e. ~~Convention centers;~~Convention centers.
 - f. ~~Cooking schools;~~Cooking schools.
 - g. ~~Community theatres;~~Community theatres.
 - h. ~~Wineries;~~Wineries.
 - i. Wine producers.
- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in

G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- ...
- (16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages or unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas in a ~~cleaned, sanitized, resealable~~ cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

...."

SECTION 5.(b) The Alcoholic Beverage Control (ABC) Commission shall adopt rules to implement the provisions of this section by no later than 120 days after this act becomes law. The ABC Commission may adopt temporary rules to comply with the deadline set in this subsection. Any temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

AUTHORIZE OFF-SITE STORAGE LOCATION FOR BREWERIES, WINERIES, AND DISTILLERIES

SECTION 6. Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1120. Noncontiguous storage locations.

A brewery, winery, or distillery may store any alcoholic beverages it manufactures pursuant to a permit issued under this Article at a noncontiguous storage location approved by the Alcohol and Tobacco Tax and Trade Bureau. The permittee must notify the Commission of any storage location used pursuant to this section. Any storage location used pursuant to this section shall be considered part of the premises of the brewery, winery, or distillery manufacturing the alcoholic beverages."

AUTHORIZE SALE OF UNFORTIFIED WINE ON PREMISES BY RETAIL BUSINESSES

SECTION 7. G.S. 18B-1001(3), as amended by Section 5 of this act, reads as rewritten:

"(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

...
 i. Retail businesses."

AUTHORIZE TASTINGS DURING BREWERY TOURS

SECTION 8. G.S. 18B-1104(6) reads as rewritten:

"§ 18B-1104. Authorization of brewery permit.

The holder of a brewery permit may:

...
 (6) Give its products to ~~its employees and guests~~ customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery."

AUTHORIZE CERTAIN PERSONS TO SAMPLE ALCOHOLIC BEVERAGES FOR PURPOSES OF SENSORY ANALYSIS, QUALITY CONTROL, OR EDUCATION

SECTION 9. Article 11 of Chapter 18B of the General Statutes is amended by

adding a new section to read:

"§ 18B-1121. Authority to sample for sensory analysis, quality control, or educational purposes.

Except as otherwise prohibited under Article 3 of this Chapter, a commercial permittee licensed under this Article, or its agent or employee, may consume samples of alcoholic

beverages it is licensed to sell, free of charge, on its premises for purposes of sensory analysis, quality control, or education."

AMEND HOMEBREWING LAWS

SECTION 10. G.S. 18B-306 reads as rewritten:

"§ 18B-306. Making wines and malt beverages for private use.

(a) Authority. – An individual may make, possess, and transport native wines and malt beverages for his-the individual's own use and for use, the use of his-the individual's family and guests. Native wines shall be made principally from honey, grapes, or other fruit or grain grown in this State, or from wine kits containing honey, grapes, or other fruit or grain concentrates, and shall have only that alcoholic content produced by natural fermentation. Malt beverages may be made by use of malt beverage kits containing grain extracts or concentrates.guests, or the use at organized affairs, exhibitions, or competitions. For purposes of this section, the term "organized affairs, exhibitions, or competitions" includes homemaker's contests, tastings, and judgments.

(b) Selling Prohibited. – Wines and malt beverages made pursuant to this section may not be sold or offered for sale.

(c) Kits. – Wine kits and malt beverage kits may be sold in this State.

(d) Permit. – No ABC permit is required to make wines or malt beverages pursuant to this section."

CLARIFY LAW GOVERNING RELATIONSHIP BETWEEN BREWERIES AND AFFILIATED RETAILERS

SECTION 11. G.S. 18B-1116(a) reads as rewritten:

"(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

- (1) Require that an alcoholic beverage retailer purchase any alcoholic beverages from that person to the full or partial exclusion of any other alcoholic beverages offered for sale by other persons in this State; or
- (2) Have any direct or indirect financial interest in the business of any alcoholic beverage retailer in this State or in the premises where the business of any alcoholic beverage retailer in this State is conducted; or
- (3) Lend or give to any alcoholic beverage retailer in this State or his employee or to the owner of the premises where the business of any alcoholic beverage retailer in this State is conducted, any money, service, equipment, furniture, fixtures or any other thing of value.

A brewery qualifying under ~~G.S. 18B-1104(8) to act as a wholesaler or retailer of its own malt beverages~~ G.S. 18B-1104(7) or (8) is not subject to the provisions of this ~~subsection~~ section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its ~~premises-premises or other retail locations allowed under G.S. 18B-1104(8).~~ The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

AUTHORIZE BREWERY TAPROOMS TO SELL OTHER ALCOHOLIC BEVERAGES UPON RECEIVING THE APPROPRIATE PERMIT

SECTION 12. G.S. 18B-1104(7) reads as rewritten:

"(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell

the at the brewery, and any additional retail location authorized under subdivision (8) of this section, any or all of the following:

- a. The brewery's malt beverages or malt beverages that have been approved by the Commission for sale in North Carolina.
- b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina only at the brewery upon receiving a permit under G.S. 18B-1001(4).Carolina.
- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area."

AUTHORIZE BREWERIES WITH PRODUCTION FACILITIES IN OTHER STATES TO DISTRIBUTE TO WHOLESALERS

SECTION 13. G.S. 18B-1104(4) reads as rewritten:

- "(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to (i) dealers in other states-states or (ii) wholesalers licensed under this Chapter as authorized by the ABC laws."

AUTHORIZE FARM BREWERIES

SECTION 14. G.S. 18B-1104 is amended by adding a new subdivision to read:

- "(7a) In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

AMEND LAW GOVERNING BREWERY SALES AT ADDITIONAL RETAIL LOCATIONS

SECTION 15. G.S. 18B-1104 reads as rewritten:

"§ 18B-1104. Authorization of brewery permit.

The holder of a brewery permit may:

- ...
- (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it

per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the ~~brewery~~ brewery, and malt beverages produced under subdivision (6a) of this section, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

TAX COMPLIANCE AND REPORTS

SECTION 16.(a) G.S. 18B-1104, as amended by this act, reads as rewritten:

"§ 18B-1104. Authorization of brewery permit.

(a) Authorized Acts. – The holder of a brewery permit may:

...

(6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to ~~G.S. 18B-1104(8)~~ subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this ~~section, subsection,~~ any or all of the following:

- a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
- b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.
- c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.

...

(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The

authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 ~~barrels, as defined in G.S. 81A-9,~~ barrels of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this ~~section, subsection,~~ at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

(b) Sales or Gifts. – A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) Sales Report Upon Commission Request. – Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

- (1) The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder.
- (2) The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section.
- (3) The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section.
- (4) The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section.
- (5) The quantity and dollar amount of malt beverages sold under G.S. 18B-1114.5.
- (6) The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) Definition. – For purposes of this section, the term "barrels" is as defined in G.S. 81A-9."

SECTION 16.(b) G.S. 18B-1105 is amended by adding a new subsection to read:

"(c) Tax Compliance. – By October 1 of each year, the Commission shall confirm the holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's distillery permit until the Commission receives notice from the Department of Revenue that the person is in compliance."

SECTION 16.(c) G.S. 18B-903(c1) reads as rewritten:

"(c1) Construction of Change in Ownership. – Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8) where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

SECTION 16.(d) G.S. 18B-1001(1)i. reads as rewritten:

"i. Breweries as authorized by ~~G.S. 18B-1104(7) and (8)~~ subdivisions (7) and (8) of G.S. 18B-1104(a)."

SECTION 16.(e) G.S. 18B-1114.5(a) reads as rewritten:

"(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of ~~G.S. 18B-1104(8)~~, G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

SECTION 16.(f) G.S. 18B-1116(a), as amended by this act, reads as rewritten:

"§ 18B-1116. Exclusive outlets prohibited.

(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

...

A brewery qualifying under ~~G.S. 18B-1104(7) or (8)~~ subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

SECTION 16.(g) G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to ~~G.S. 18B-1104(8)~~ G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

SIMPLIFY LOCAL LICENSING APPLICATIONS

SECTION 17. G.S. 105-113.70 reads as rewritten:

"§ 105-113.70. Issuance, duration, transfer of license.

(a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. ~~The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No documentation shall be required of the applicant except as provided in this section.~~ Issuance of a local license is mandatory if the applicant holds the corresponding ABC permit and provides all of the following: (i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. – All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. – A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. – A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article."

CLARIFY WINERY SPECIAL EVENT LOCATIONS

SECTION 18. G.S. 18B-1114.1 reads as rewritten:

"§ 18B-1114.1. Authorization of winery special event permit.

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, farmers markets, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

RULES

SECTION 19.(a) Except as otherwise provided, the Alcoholic Beverage Control (ABC) Commission shall adopt temporary rules to implement the provisions of this act. Temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 19.(b) Any rule or policy adopted by the ABC Commission that does not comply with the provisions of this act shall be null, void, and without effect.

EFFECT OF HEADINGS

SECTION 20. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

EFFECTIVE DATE

law. **SECTION 21.** Except as otherwise provided, this act is effective when it becomes
In the General Assembly read three times and ratified this the 29th day of June,
2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2017

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**HOUSE BILL 500
RATIFIED BILL**

AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE CONTROL LAWS.

The General Assembly of North Carolina enacts:

ALLOW AN ABC PERMITTEE TO TASTE ALCOHOLIC BEVERAGES FOR QUALITY CONTROL AT PREMISES OTHER THAN THE PERMITTEE'S LICENSED COMMERCIAL PREMISES

SECTION 1. G.S. 18B-1121 reads as rewritten:

"§ 18B-1121. Authority to sample for sensory analysis, quality control, or educational purposes.

Except as otherwise prohibited under Article 3 of this Chapter, a commercial permittee licensed under this Article, or its agent or employee, may consume samples of alcoholic beverages it is licensed to sell, free of charge, ~~on its premises~~ for purposes of sensory analysis, quality control, or ~~education~~ education on any of the following premises:

- (1) The permittee's premises licensed for commercial activity under Article 11 of this Chapter.
- (2) The permittee's premises licensed for retail activity under Article 10 of this Chapter, if the commercial permittee is authorized to hold a retail permit under Article 11 of this Chapter and the commercial permittee has obtained the appropriate retail permit under G.S. 18B-1001.
- (3) The premises of a special one-time permittee under G.S. 18B-1002.
- (4) The premises of a special event where a commercial permittee is participating pursuant to a permit issued under G.S. 18B-1114.1 or G.S. 18B-1114.5."

CLARIFY THAT A DISTILLER REPRESENTATIVE'S PRESENCE IS NOT REQUIRED TO DESTROY DAMAGED OR DISTRESSED ALCOHOLIC BEVERAGES

SECTION 2.(a) Definition. – "Distressed Liquor Rules" means 14B NCAC 15A .1603 (Requirements for Storage), 14B NCAC 15A .1604 (Prohibited Practices), and 14B NCAC 15A .1701 (Removal of Beverages from ABC Stores) for purposes of this section and its implementation.

SECTION 2.(b) Distressed Liquor Rules. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Distressed Liquor Rules as provided in subsection (c) of this section.

SECTION 2.(c) Implementation. – Notwithstanding subdivisions (6) and (7) of 14B NCAC 15A .1603, subsection (b) of 14B NCAC 15A .1604 (Prohibited Practices), and subsection (b) of 14B NCAC 15A .1701 (Removal of Beverages from ABC Stores), the Commission shall not require the presence of a distiller representative for the Commission, a privately owned bonded warehouse, or a local board to destroy distressed liquor.

SECTION 2.(d) The Commission shall adopt rules to amend the Distressed Liquor Rules consistent with subsection (c) of this section.



SECTION 2.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

ALLOW PLACEMENT OF MIXED BEVERAGES TAX STAMP ON ANY VERTICAL PORTION OF A SPIRITUOUS LIQUOR BOTTLE

SECTION 3.(a) Definition. – "Mixed Beverages Tax Stamp Rule" means 14B NCAC 15A .1901 (Mixed Beverages Tax Stamp) for purposes of this section and its implementation.

SECTION 3.(b) Mixed Beverages Tax Stamp Rule. – Until the effective date of the revised permanent rule that the Alcoholic Beverage Control Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Mixed Beverages Tax Stamp Rule as provided in subsection (c) of this section.

SECTION 3.(c) Implementation. – Notwithstanding subsection (b) of the Mixed Beverages Tax Stamp Rule, the Commission shall not require the mixed beverages tax stamp to be affixed to the original paper labeling of each container and shall allow the mixed beverages tax stamp to be affixed to any vertical portion of the container.

SECTION 3.(d) The Commission shall adopt a rule to amend the Mixed Beverages Tax Stamp Rule consistent with subsection (c) of this section.

SECTION 3.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AMENDMENTS TO ESTABLISHMENT AND PREMISES DEFINITIONS FOR RETAIL PERMITTING

SECTION 4.(a) G.S. 18B-1000 reads as rewritten:

"§ 18B-1000. Definitions concerning establishments.

The following requirements and definitions shall apply to this Chapter:

- (1) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.
- (1a) Convention center. – An establishment that meets either of the following requirements:
 - a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.
 - b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:
 1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.
 2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.

3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.

- (1b) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.
- (2) Eating establishment. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify under subdivision (6). Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.
- (3) Food business. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.
- (4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (5) Private club. – An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.
- (5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development.
- (6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people. If the restaurant is located on an 18-hole golf course, the premises shall include the parking lot

- and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths.
- (7) Retail business. – An establishment engaged in any retail business, regardless of whether food is sold on the premises.
- (7a) Sports and entertainment venue. – Stadiums, ballparks, and other similar facilities with a permanently constructed seating capacity of 3,000 or more which are not located on the campus of a school, college, or university.
- (8) Sports club. – An establishment that meets either of the following requirements:
- a. The establishment is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.; or
 - b. The establishment is substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both. The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. The premises of a sports club substantially engaged in the business of providing an 18-hole golf course shall include the parking lot and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.
- (9) Congressionally chartered veterans organizations. – An establishment that is organized as a federally chartered, nonprofit veterans organization, and is operated solely for patriotic or fraternal purposes.
- (10) Wine producer. – A farming establishment of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine."

SECTION 4.(b) G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. Kinds of ABC permits; places eligible.

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
 - b. Hotels.
 - c. Eating establishments.
 - d. Food businesses.
 - e. Retail businesses.
 - f. Private clubs.

- g. Convention centers.
 - h. Community theatres.
 - i. Breweries as authorized by subdivisions (7) and (8) of G.S. 18B-1104(a).
 - j. Sports and entertainment venues.
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
 - b. Hotels.
 - c. Eating establishments.
 - d. Food businesses.
 - e. Retail businesses.
 - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of

communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants.
 - b. Hotels.
 - c. Eating establishments.
 - d. Private clubs.
 - e. Convention centers.
 - f. Cooking schools.
 - g. Community theatres.
 - h. Wineries.
 - i. Wine producers.
 - j. Retail businesses.
 - k. Sports and entertainment venues.
- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional

location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:
- a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. ~~Private clubs;~~clubs.
 - d. ~~Community theatres;~~theatres.
 - e. ~~Wineries;~~Wineries.
 - f. ~~Convention centers;~~centers.
- (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another off-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler

- on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred.
- (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:
- a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. Private ~~clubs;~~clubs.
 - d. Community ~~theatres;~~theatres.
 - e. Congressionally chartered veterans ~~organizations;~~organizations.
- (8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:
- a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. Eating ~~establishments;~~establishments.
 - d. Private ~~clubs;~~clubs.
 - e. Convention ~~centers;~~centers.
- (9) Limited Special Occasion Permit. – A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.
- (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee (i) to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) to use for culinary purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:
- a. ~~Restaurants;~~Restaurants.
 - b. ~~Hotels;~~Hotels.
 - c. Private ~~clubs;~~clubs.
 - d. Convention ~~centers;~~centers.
 - e. Community ~~theatres;~~theatres.
 - f. Nonprofit ~~organizations;~~ and organizations.
 - g. Political ~~organizations;~~organizations.
 - h. Sports and entertainment venues.

...."

INCREASE THE ABILITY OF NONPROFIT ORGANIZATIONS TO HOLD FUND-RAISING RAFFLES AND AUTHORIZE REISSUANCE OF CERTAIN ONE-TIME ABC COMMISSION PERMITS

SECTION 5.(a) G.S. 14-309.6 is amended by adding a new subdivision to read:

"(8) "Nonprofit organization" means an organization or association recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization."

SECTION 5.(b) G.S. 14-309.15 reads as rewritten:

"§ 14-309.15. Raffles.

(a) It is lawful for any nonprofit ~~organization or association, recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or for any bona fide branch, chapter, or affiliate of such organization,~~ organization, candidate, political committee, ~~and for~~ any government entity within the State, to conduct raffles in accordance with this section. Each regional or county chapter of a nonprofit organization shall be eligible to conduct raffles in accordance with this section independently of its parent organization. Any person who conducts a raffle in violation of any provision of this section shall be guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle for a period of one year. It is lawful to participate in a raffle conducted pursuant to this section. It shall not constitute a violation of State law to advertise a raffle conducted in accordance with this section. A raffle conducted pursuant to this section is not "gambling". For the purpose of this section, "candidate" and "political committee" have the meaning provided by Article 22A of Chapter 163A of the General Statutes, who have filed organization reports under that Article, and who are in good standing with the appropriate board of elections. Receipts and expenditures of a raffle by a candidate or political committee shall be reported in accordance with Article 22A of Chapter 163A of the General Statutes, and ticket purchases are contributions within the meaning of that Article.

(b) For purposes of this section "raffle" means a game in which the prize is won by random drawing of the name or number of one or more persons purchasing chances.

(c) ~~Raffles shall be limited to two per nonprofit organization per year.~~ A nonprofit organization may hold no more than four raffles per year.

(d) Except as provided in subsection (g) of this section, the maximum cash prize that may be offered or paid for any one raffle is one hundred twenty-five thousand dollars (\$125,000) and if merchandise is used as a prize, and it is not redeemable for cash, the maximum fair market value of that prize may be one hundred twenty-five thousand dollars (\$125,000). The total cash prizes offered or paid by any nonprofit organization ~~or association~~ may not exceed ~~one hundred twenty-five thousand dollars (\$125,000)~~ two hundred fifty thousand dollars (\$250,000) in any calendar year. The total fair market value of all prizes offered by any nonprofit ~~organization or association,~~ organization, either in cash or in merchandise that is not redeemable for cash, may not exceed ~~one hundred twenty-five thousand dollars (\$125,000)~~ two hundred fifty thousand dollars (\$250,000) in any calendar year.

(e) Raffles shall not be conducted in conjunction with bingo.

(f) As used in this subsection, "net proceeds of a raffle" means the receipts less the cost of prizes awarded. No less than ninety percent (90%) of the net proceeds of a raffle shall be used by the nonprofit organization ~~or association~~ for charitable, religious, educational, civic, or other nonprofit purposes. None of the net proceeds of the raffle may be used to pay any person to conduct the raffle, or to rent a building where the tickets are received or sold or the drawing is conducted.

(g) Real property may be offered as a prize in a raffle. The maximum appraised value of real property that may be offered for any one raffle is five hundred thousand dollars (\$500,000). The total appraised value of all real estate prizes offered by any nonprofit organization ~~or association~~ may not exceed five hundred thousand dollars (\$500,000) in any calendar year.

(h) Notwithstanding any other subsection of this section, it is lawful for a credit union to conduct a savings promotion raffle under G.S. 54-109.64."

SECTION 5.(c) G.S. 18B-308 reads as rewritten:

"§ 18B-308. Sale and consumption at bingo games.

It shall be unlawful to sell or consume, or for the owner or other person in charge of the premises to allow the sale or consumption of, any alcoholic beverage in any room while a ~~raffle~~ ~~or~~ bingo game is being conducted in that room under Part 2 of Article 37 of Chapter 14 of the General Statutes."

SECTION 5.(d) Article 9 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-903A. Reissuance of certain permits.

(a) Reissuance. – Notwithstanding G.S. 18B-902(b) or G.S. 18B-903, if a nonprofit organization has received a limited special occasion permit pursuant to G.S. 18B-1001(9) or a special one-time permit pursuant to G.S. 18B-1002(a)(2) or (a)(5) within the previous 18 months, the Commission shall reissue the permit to the nonprofit organization if the same individual representing the organization requests reissuance of the permit for the same location. The Commission shall require only the following information in order to reissue the permit:

- (1) The street address of the location where the event will take place.
- (2) The county in which the event will take place.
- (3) The date of the event.
- (4) A description of the event.
- (5) The name, address, date of birth, and contact information of the individual representing the nonprofit organization.

(b) Duration. – Once issued, a reissued limited special occasion permit shall be valid for 48 hours before and after the occasion for which the permit was issued and a reissued special one-time permit shall be valid only for the period stated on the permit.

(c) Reissuance Fee. – Application for reissuance of a limited special occasion permit or a special one-time permit shall be on a form provided by the Commission. The application fee shall be the same as the initial fee set in G.S. 18B-902. A reissuance fee shall not be refundable.

(d) Investigation. – The Commission, with the assistance of the ALE Branch, shall not investigate the applicant and the premises for which the reissuance is requested more than once every three years. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

(e) False Information. – Knowingly making a false statement in an application for a permit reissuance pursuant to this section shall be grounds for denying, suspending, revoking, or taking other action against the permit as provided in G.S. 18B-104 and shall also be a Class 1 misdemeanor."

SECTION 5.(e) G.S. 18B-1002(a)(5) reads as rewritten:

"§ 18B-1002. Special one-time permits.

(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

- ...
- (5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire

department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit ~~will~~ shall also allow the issuance of a purchase-transportation permit under G.S. 18B-403 and 18B-404 and the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed beverages. The issuance of this permit shall also allow a nonprofit organization to offer alcoholic beverages in the manufacturer's original closed container as a prize in a raffle or sell alcoholic beverages in the manufacturer's original closed container at auction at the ticketed event to allow the nonprofit organization to raise funds."

SECTION 5.(f) Subsection (d) of this section becomes effective December 1, 2018, and applies to offenses committed on or after that date. The remainder of this section becomes effective October 1, 2018.

ALLOW SALE OF BRANDED MERCHANDISE AT ALCOHOLIC BEVERAGE TASTINGS

SECTION 6.(a) G.S. 18B-1114.1 reads as rewritten:

"§ 18B-1114.1. Authorization of winery special event permit.

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its ~~wine; wine; to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel;~~ and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, farmers markets, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

SECTION 6.(b) G.S. 18B-1114.5 reads as rewritten:

"§ 18B-1114.5. Authorization of malt beverage special event permit.

(a) Authorization. – The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt ~~beverages; beverages;~~ to sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel; and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler.

(b) Limitation. – A malt beverage special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of malt beverages. A malt beverage special event shall not be used as subterfuge for malt beverages suppliers to ship directly to retail permittees unless otherwise authorized by law."

SECTION 6.(c) G.S. 18B-1114.7 reads as rewritten:

"§ 18B-1114.7. Authorization of spirituous liquor special event permit.

(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous

liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

- (b) Limitations. – Any consumer tasting is subject to the following limitations:
- (1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
 - (2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
 - (3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
 - (4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
 - (5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
 - (6) The permit holder shall not charge a consumer for any tasting sample.
 - (7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
 - (8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
 - (9) The permit holder may provide point-of-sale advertising materials and advertising specialties and may sell branded merchandise such as glassware, cups, signs, t-shirts, hats, and other apparel to consumers at the consumer tasting.
 - (10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

WHOLESALE CHANGES

SECTION 7.(a) G.S. 18B-1307 reads as rewritten:

"§ 18B-1307. Transfer or merger of wholesaler's business.

(a) Right of Transfer to Designated Family ~~Member upon Death.~~ ~~Member.~~ – ~~Upon the death of a wholesaler, that~~ An individual's interest in the a wholesaler business, including the rights under the franchise agreement with the supplier, may be transferred or assigned to a designated family member. The transfer or assignment shall not be effective until written notice is given to the supplier, but the supplier's consent is not required for the transfer or assignment. "Designated family member" means the deceased-wholesaler's spouse, child, grandchild, parent, brother or brother, sister, who is entitled to inherit the deceased wholesaler's ownership interest

~~under the terms of the deceased wholesaler's will or other testamentary device or under the laws of intestate succession, niece, or nephew.~~ With respect to an incapacitated individual having an ownership interest in a wholesaler, the term "designated family member" also means the person appointed by the court as the conservator of such individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

(b) Approval of Certain Transfers and Mergers. – Upon notice to and approval by the supplier, an individual owning an interest in a wholesaler may sell, assign or transfer that interest, including the wholesaler's rights under its franchise agreement with the supplier, to any qualified person. Likewise, a wholesaler may merge with another wholesaler in the State, transferring to the new wholesaler entity the merging wholesaler's existing franchise rights. Within 30 days of receipt of notice of the intended sale, assignment, transfer, or merger, the supplier shall request any additional relevant, material information reasonably necessary for deciding whether to approve the transaction. The supplier shall have 30 days from receipt of that information to object to the sale, assignment, transfer, or merger. The supplier may object only if the proposed transferee, or the wholesalership resulting from the merger, fails to meet qualifications and standards that are nondiscriminatory, material, reasonable and consistently applied to North Carolina wholesalers by the supplier. The burden shall be upon the supplier to prove that the proposed transferee or merged wholesaler is not qualified. In determining whether the proposed transferee or merged wholesaler is a qualified person, the supplier shall consider, but is not limited to, the following factors:

- (1) Whether the proposed transferee has the financial capacity to purchase the wholesaler or the specified interest upon terms that will not jeopardize the future operation of the business, or whether the new entity resulting from a merger will have such financial capacity to operate successfully, and whether under such ownership the wholesaler will be able to provide financial support necessary to the successful operation of the business, including market spending, capital expenditures, and any equity capitalization or refinancing requirements.
- (2) Whether the proposed transferee, or the new entity resulting from a merger, has the proven business experience to hire and maintain a management team to successfully operate the business.
- (3) If the proposed transferee does not have experience in the beer business, whether the transferee has other experience to enable it to operate a distributorship successfully and whether the transferee is willing to participate in training provided by the supplier.
- (4) Whether the proposed transferee, or a party to the merger, already is a wholesaler for the supplier in a different territory and, if so, whether sufficient time and attention can be devoted to an additional market area.

In determining whether a proposed transferee, or the entity resulting from a merger, is a qualified person, a supplier must consider the business on its own merits and may not designate a specifically identified person as the only purchaser who will be approved. Nothing in this subsection is intended to or should be construed to ~~interfere with a supplier's right~~ authorize a supplier to match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee. ~~interest. Provided, however, a supplier may match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee, if the total annual gross sales of the supplier's malt beverages sold by the selling wholesaler total no more than five percent (5%) of the selling wholesaler's total annual gross sales of wine and malt beverages in dollars.~~

...."

SECTION 7.(b) G.S. 18B-1119 reads as rewritten:

"§ 18B-1119. Supplier's financial interest in wholesaler.

(a) A supplier or an officer, director, employee or affiliate of a supplier may ~~financially assist a proposed purchaser in acquiring ownership of a wholesaler's business by participation in a limited partnership arrangement in which the supplier, officer, director, employee, or affiliate is a limited partner and the proposed purchaser seeking to acquire ownership of the wholesaler's business is a general partner. Such limited partnership arrangement may exist for no longer than eight years. If the general partner defaults in the agreement with the limited partner, and the limited partner acquires title to the general partner's interest, the limited partner must divest itself of the general partner's interest within 180 days.~~ not acquire, possess, or otherwise maintain an ownership interest in a wholesaler except as expressly authorized by this Chapter.

(b) ~~A supplier or an officer, director, employee or affiliate of a supplier may financially assist a proposed purchaser in acquiring ownership of a wholesaler's business by making a business loan and taking as security the assets of the wholesaler's business. The business loan may exist for no longer than eight years. If the wholesaler defaults on the loan and it is necessary for the supplier to take title to the assets of the business, the supplier may operate the business for a period not to exceed 180 days, by which time the supplier must divest itself of the business. The supplier may make the subsequent purchaser a business loan, taking as security the assets of the wholesaler's business. It shall also be permissible for the wholesaler and supplier to agree on the sale of the wholesaler's business to the supplier, provided that the supplier shall divest itself of the wholesaler's business within 180 days.~~

(c) A supplier or an officer, director, employee or affiliate of a supplier may have a security interest in the inventory or property of its wholesaler to secure payment for such inventory or other loans for other purposes."

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 8.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

law. **SECTION 8.(b)** Except as otherwise provided, this act is effective when it becomes
In the General Assembly read three times and ratified this the 15th day of June, 2018.

s/ Bill Rabon
Presiding Officer of the Senate

s/ David R. Lewis
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2018

STANDARDS FOR DISTILLERIES



ORDINANCE NO _____
Amend Chapter 40 Zoning Article III, Sec. 40-72 Table of Permitted Uses; Article IX Development Standards for Particular Uses, Sec. 40-261, and Article XVIII Definitions

Article IX Development standards for particular uses, Sec. 40-261

Distillery
An establishment which meets the definition of distillery shall be permitted in the HB zoning district by right and otherwise must adhere to all State and Local ABC, Building, and Zoning requirements.

Article XVIII Definitions, Sec. 40-548
Distillery: An establishment where the production of spirituous liquor takes place in accordance with G.S. 18B-1105 and 18B-1114.7.

Article III, Sec 40-72 Table of Permitted Uses

| Sec 40-72. Table of Permissible Uses | | | | | | | | | | | | | | |
|---|-----|------|-----|-----|---|----|----|----|-----|----|----------|------|-----|-----|
| TABLE INSET: | | | | | | | | | | | | | | |
| C = May be permitted with Conditions | | | | | | | | | | | | | | |
| P = Permitted | | | | | | | | | | | | | | |
| TABLE INSET: | | | | | | | | | | | | | | |
| USES OF LAND | R-1 | R-1B | R-2 | R-3 | C | MH | MF | MX | CBD | NB | HB | MB-1 | T-1 | I-1 |
| Non-Residential Uses | | | | | | | | | | | | | | |
| <u>Distillery</u> | | | | | | | | | | | <u>P</u> | | | |

Adopted this 11th day of December, 2018.

Joseph Benson, Mayor

Attest: _____
Kimberly Ward, Town Clerk



AGENDA ITEM

Meeting: Planning and Zoning - 08 Nov 2018

Prepared By: Jeremy Hardison

Department: Planning

Tabled - Text Amendment: Consider a text amendment to Chapter 40, Article III Sec 40-73 Dimensional Standards for the various zoning districts to amend yard requirements for structures exceeding maximum height regulations and amend of the 2007 CAMA Land Use Plan Policies. Applicant: Charles Poindexter

BACKGROUND:

ACTION REQUESTED:

Applicant asked for the item to be tabled until December 13, 2018 due to a prior appointment out of town.