



**CAROLINA BEACH**  
**Regular Town Council Meeting Agenda**  
**Tuesday, March 10, 2020 @ 6:30 PM**  
**Council Chambers**  
**1121 N. Lake Park Boulevard**  
**Carolina Beach, NC 28428**

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## AGENDA ITEM

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Debbie Hall

Department: Finance

## Budget Amendments & Transfers

### BACKGROUND:

I have received several budget amendments and/or transfer requests. As you know, transfers require only your notification whereas amendments require your approval. Listed below you will find a description of the amendments and/or transfers. I have also attached a copy of the supporting documentation for the appropriations.

### Transfers:

Transfer \$300.00 from account 30-811-045 WWC Contract Service to 30-810-045 WWTP Contract Service to cover the cost of the rental of a telehandler for the WWTP clarifier project.

Transfer \$7,000 from account 10-580-015 Environmental M&R; \$10,000 from account 10-565-017 Fleet Vehicle Maintenance; and \$5,000 from account 10-565-021 Fleet Tire Maintenance to account 10-565-016 Fleet Equipment Maintenance to cover the cost of repairs and maintenance of the can machine and other general equipment.

Transfer \$10,000 from account 10-565-017 Fleet Vehicle Maintenance to account 10-565-016 Fleet Maintenance & Repair Equipment for Fire Boat repairs and any future repairs of equipment.

### BUDGET IMPACT:

Transfers will not affect the budget.

### ACTION REQUESTED:

Approve the budget amendments and/or transfers as presented by the Finance Director.

### ATTACHMENTS:

[Budget Transfers 3.10.20](#)

LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



Jay Healy  
*Mayor Pro Tem*

JoDan Garza  
*Council Member*

Ed H. Parvin  
*Interim Town Manager*

**Town of Carolina Beach**  
1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428  
Tel: (910) 458-2999  
Fax: (910) 458-2997

To: Debbie Hall  
From: Mark Meyer  
Re: Budget transfer  
Date: February 11<sup>th</sup>, 2020

Budget transfer \$ 3,000 total  
From: 30-811-045 (contract services) \$3,000  
To: 30-810-045 (contract services)

Explanation: This transfer is to cover the rental of a telehandler for the WWTP clarifier project.



LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



Jay Healy  
*Mayor Pro Tem*

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To: Debbie Hall  
From: Mark Meyer  
Re: Budget transfer  
Date: February 11<sup>th</sup>, 2020

Budget transfer \$ 22,000 total

From: 10-580-015 (Maint repair buildings) \$7,000

From: 10-565-017 (Maint repair Vehicles) \$10,000

From: 10-565-021 (Maint repair tires) \$5,000

To: 10-565-016 (Maint and repair Equipment)

Explanation: This transfer is to cover the repair and Maintenance of the can machines, and other general equipment.

LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



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*Interim Town Manager*

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Carolina Beach, NC 28428  
Tel: (910) 458-2999  
Fax: (910) 458-2997

To: Debbie Hall  
From: Mark Meyer  
Re: Budget transfer  
Date: March 3rd , 2020

Budget transfer \$10,000

From: 10-565-017 (Maint. & Repair Vehicles)

To: 10-565-016 (Maint. & Repair Equipment)

Explanation: For repairs to Fire boat est. \$5,000 and \$5,000 to have money in that line item for any future repairs on Equipment



## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Miles Murphy

Department: Planning

### **Consider Setting a Public Hearing for April 14, 2020 to Consider a Conditional Use Permit for a 12 unit Planned Unit Development at 522 North 7th Street**

**ACTION REQUESTED:**

If Council agrees to this hearing, it will be approved under the consent agenda.



## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Debbie Hall

Department: Finance

### **Resolution to Designate Applicant's Agents**

**BACKGROUND:**

North Carolina Department of Emergency Management requires us to designate a primary and secondary agent to operate on the Town's behalf while filing FEMA claims. Staff recommends the two designated staff members be Ed Parvin and Debbie Hall.

**ACTION REQUESTED:**

In order to move forward with our FEMA claim for Hurricane Dorian, Town Council is required to adopt the attached Resolution #20-2215 identifying two agents.

**ATTACHMENTS:**

[Resolution# 20-2215](#)

<b>RESOLUTION # 20-2215</b>	
<b>DESIGNATION OF APPLICANT'S AGENT</b> North Carolina Division of Emergency Management	
Organization Name (hereafter named Organization) Town of Carolina Beach	Disaster Number: 4465
Applicant's State Cognizant Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate):	
Applicant's Fiscal Year (FY) Start 2019	Month: July Day: 1
Applicant's Federal Employer's Identification Number 56 -6001193	
Applicant's Federal Information Processing Standards (FIPS) Number 129 -10500 - 00	
<b>PRIMARY AGENT</b>	<b>SECONDARY AGENT</b>
<i>Agent's Name</i> Ed H Parvin	Agent's Name Debbie Hall
Organization Town of Carolina Beach	Organization Town of Carolina Beach
Official Position Assistant Town Manager	Official Position Finance Director
Mailing Address 1121 N Lake Park Blvd	Mailing Address 1121 N Lake Park Blvd
City ,State, Zip Carolina Beach NC 28428	City ,State, Zip Carolina Beach NC 28428
Daytime Telephone (910) 458-2526	Daytime Telephone (910) 458-5495
Facsimile Number (910) 458-2997	Facsimile Number (910) 458-2997
Pager or Cellular Number (910) 465-2766	Pager or Cellular Number
<p>BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief &amp; Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and <b>the assurances printed on the reverse side hereof</b>. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSED AND APPROVED this <u>10th</u> day of <u>March</u>, 2020.</p>	
<b>GOVERNING BODY</b>	<b>CERTIFYING OFFICIAL</b>
Name and Title LeAnn Pierce-Mayor	Name Kim Ward
Name and Title Jay Healy – Mayor Pro tem	Official Position Town Clerk
Name and Title Steve Shuttleworth, Lynn Barbee, JoDan Garza – Council Members	Daytime Telephone (910) 458-2992
<b>CERTIFICATION</b>	
<p>I, <u>Kimberlee Ward</u>, (Name) duly appointed and <u>Town Clerk</u> (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of <u>Town of Carolina Beach</u> (Organization) on the <u>10th</u> day of <u>March</u>, 2020.</p>	
Date: _____	Signature: _____

## APPLICANT ASSURANCES

The applicant hereby assures and certifies that it will comply with the FEMA regulations, policies, guidelines and requirements including OMB's Circulars No. A-95 and A-102, and FMC 74-4, as they relate to the application, acceptance and use of Federal funds for this Federally assisted project. Also, the Applicant gives assurance and certifies with respect to and as a condition for the grant that:

1. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with the provisions of: Executive Order 11988, relating to Floodplain Management and Executive Order 11990, relating to Protection of Wetlands.
3. It will have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed.
4. It will not enter into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met.
5. It will provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to insure that the completed work conforms with the approved plans and specifications; that it will furnish progress reports and such other information as the Federal grantor agency may need.
6. It will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and local agencies for the maintenance and operation of such facilities.
7. It will give the grantor agency and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
8. It will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified (41 CFR 101-17-7031). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
9. It will cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be prosecuted to completion with reasonable diligence.
10. It will not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is the longer.
11. It agrees to comply with Section 311, P.L. 93-288 and with Title VI of the Civil Rights Act of 1964 (P.L. 83-352) and in accordance with Title VI of the Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure is provided or improved with the aid of Federal financial assistance extended to the Applicant, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
12. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
13. It will comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs.
14. It will comply with all requirements imposed by the Federal grantor agency concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular A-102, P.L. 93-288 as amended, and applicable Federal Regulations.
15. It will comply with the provisions of the Hatch Act which limit the political activity of employees.
16. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of State and local governments.
17. (To the best of his/her knowledge and belief) the disaster relief work described on each Federal Emergency Management Agency (FEMA) Project Application for which Federal Financial assistance is requested is eligible in accordance with the criteria contained in 44 Code of Federal Regulations, Part 206, and applicable FEMA Handbooks.
18. The emergency or disaster relief work therein described for which Federal Assistance is requested hereunder does not or will not duplicate benefits received for the same loss from another source.
19. It will (1) provide without cost to the United States all lands, easements and rights-of-way necessary for accomplishments of the approved work; (2) hold and save the United States free from damages due to the approved work or Federal funding.
20. This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, reimbursements, advances, contracts, property, discounts of other Federal financial assistance extended after the date hereof to the Applicant by FEMA, that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear on the reverse as authorized to sign this assurance on behalf of the applicant.
21. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Director, Federal Emergency Management Agency as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
22. It will comply with the insurance requirements of Section 314, PL 93-288, to obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired, or constructed with this assistance.
23. It will defer funding of any projects involving flexible funding until FEMA makes a favorable environmental clearance, if this is required.
24. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
25. It will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards; and, will evaluate the natural hazards in areas in which the proceeds of the grant or loan are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices.

## STATE ASSURANCES

The State agrees to take any necessary action within State capabilities to require compliance with these assurances and agreements by the applicant or to assume responsibility to the Federal government for any deficiencies not resolved to the satisfaction of the Regional Director.



## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Kim Ward

Department: Clerk

### **Approval of Meeting Minutes from 1/14/2020, 1/28/2020 and 2/11/2020**

**ACTION REQUESTED:**

Please review the attached meeting minutes. If acceptable, they will be approved under the consent agenda motion.

**ATTACHMENTS:**

[January 14 2020 Council Minutes](#)

[January 28, 2020 Workshop Minutes](#)

[February 11 2020 - Council Minutes](#)

# CAROLINA BEACH

Regular Town Council Minutes  
Tuesday, January 14, 2020 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## **ASSEMBLY**

The Town of Carolina Beach Regular Town Council meeting was held on Tuesday, January 14, 2020, at 6:30 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Interim Town Manager Ed Parvin, Town Clerk Kim Ward, and Town Attorney Noel Fox

**1. MAYOR PIERCE CALLED THE MEETING TO ORDER WITH INVOCATION BY REV. SHAWN BLACKWELDER OF ST. PAUL'S UNITED METHODIST CHURCH FOLLOWED BY THE PLEDGE OF ALLEGIANCE**

## **2. ADOPT THE AGENDA**

Mayor Pierce said the police budget transfer request item will be removed from the agenda.

**ACTION:** Motion to adopt the agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

## **3. CONSENT AGENDA**

The following items were included on the consent agenda:

- a. Consider setting a public hearing for February 11, 2020, to review non-profit funding requests from the Room Occupancy Tax Fund
- b. Budget Amendments & Transfers
- c. Budget Ordinance Amendment for CAMA Public Access Grant
- d. Approval of Meeting Minutes

Council Member Barbee asked for clarification on what the \$12,000 in the general fund for harbor management covers.

Mr. Parvin said this is for an extension to the contract for managing the mooring field to do enforcement and monitoring of vessels in Myrtle Grove Sound.

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**ACTION:** Motion to adopt the consent agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

#### **4. SPECIAL PRESENTATIONS**

##### **a. Manager's Update**

Mr. Parvin reported that staff recently received news that the Army Corps of Engineers had money allocated for a feasibility study that would be a 50-year project for the Town and 100 percent federally funded. This would have no impact on the current 15-year study that is under review. The 50-year project requires a signed agreement between the Town and the Army Corps of Engineers, which is about 60 days out.

The Town also met with Military Ocean Terminal Sunny Point (MOTSU) on January 10. This was facilitated by the Cape Fear Council of Governments, which will put together a list of projects. Staff will send back implementation priorities for MOTSU, and then a subcommittee will be created based on that. A policy committee of elected officials will review subcommittee recommendations. In addition, February 21 is the tentative date for new Council members to tour the base.

Another meeting with MOTSU on January 13 focused on the status of site cleanup and the Town getting back in compliance with its lease agreement. Cleanup and well monitoring have been going on for seven years, and the Town is close to achieving no contaminants above reportable levels. The Town's goal is to ensure environmental/lease compliance while choosing a path that respects taxpayer dollars, and there are two options to meet this. One is working toward four quarters with all contaminants below the state limits, which has been a struggle, but there are some additional efforts that a consultant can do to try to lower those levels. Another is going into the Registered Environment Consultant (REC) Program, which has been discouraged in the past by consultants but has now changed. Because the levels are so low, the Town could enter the program and close the site immediately with restrictions. MOTSU was comfortable with that. The Town will look at both options to see which one is the fastest, most economical, and most environmental route.

The Hamlet public restroom and Ocean Rescue project is moving forward. Mr. Parvin said through negotiations with the contractor, the Town was able to nearly double the size of the restrooms and reduce the cost by almost \$100,000. He said financing is now in place, but this took a little longer than expected and would delay the project slightly.

The Town is putting up new large, clear signs in its parking lots so there is a consistent theme to help people identify the difference between Town and private lots. Staff is also looking at adding more golf cart and bicycle parking spaces on street ends near the ocean. In addition, the Town will be contracting with Lanier Parking to restripe lots within the next few weeks, which will create some additional spaces for golf carts, bikes, and cars.

Staff has assessed 22 campsites at Freeman Park and is monitoring the pinch point daily. Mr. Parvin said it is up to Mother Nature how things go, but he is hoping conditions will be favorable enough to open more of the park by this spring.

January 14, 2020

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A Council budget retreat is set for January 28. The purpose is to talk about Council's goals for the upcoming fiscal year. Discussion will focus on four modules: revenue, the capital improvement program, projects, and priorities. Mr. Parvin also highlighted key dates on the budget calendar.

Upcoming staff community outreach includes a presentation by Town Planning and Development Director Jeremy Hardison to the Pleasure Island Chamber of Commerce and the Ad Hoc Business and Economic Development Committee regarding development trends in the Town and two industry conferences across the state where Fire Chief Alan Griffin will speak.

Mr. Parvin announced that earlier today Council hired Bruce Oakley to be the new Town Manager starting February 18. Mr. Oakley is currently serving as City Manager of Southport and has experience with coastal issues and MOTSU. He was selected after an extensive search that involved interviewing 10-12 candidates during the past month and a half. Mr. Parvin said it has been his pleasure to serve as Interim Town Manager. Mayor Pierce thanked Mr. Parvin for stepping up and said every time the Town has needed his interim leadership he has done a great job.

#### **5. PUBLIC COMMENT**

None.

#### **6. PUBLIC HEARINGS**

a. Consider a Conditional Use Permit at 401 Marina St - Carolina Beach Marina and Yacht Club to operate an eating and drinking establishment that will consist of a floating barge located at 401 Marina St. Applicant: CBYC, LLC

The following were sworn in by the Town Clerk:

Grady Richardson, Dylan Baker, Chad Cooke, Courtney Sloan, Taylor Reece, Samuel Potter, Elizabeth Burton, Alan Perry, Olin Furr, Jeff Baker, James Sanderford, Brooke Sanderford, Melvin Machovec, Jeremy Hardison, and Ed Parvin

Mayor Pierce: OK, if everybody's ready, at this time I'll make a motion to open the evidentiary hearing. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: I'm gonna hand it over to our Town Attorney to give us an overview of this process.

Ms. Fox: Mayor, Council, members of the public, as you know, this is a quasi-judicial hearing. It means it's an evidentiary hearing much like would take place in a court of law. Council must follow specific procedures tonight required by state law in making its decision. All the testimony this evening will be under oath, and you are to make your decision based on competent, relevant, and substantial evidence in the record. If you're speaking as a witness, please focus on the facts and standards, not personal preference or opinion. If you intend to testify, please do not offer unsupported opinions or speculation. Council cannot consider this testimony. Please

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limit your testimony to relevant and competent substantial and material evidence. When deliberating, Council, please remember that competent evidence is not opinion testimony of lay witnesses about the use of the property in a particular way and how it would affect the value of other property, the increase in vehicular traffic resulting from a proposed use and how it would pose a danger to public safety, or matters which only expert testimony could generally be admissible under the rules of evidence. Before we begin our hearing tonight, the parties before you are entitled to have this matter judged by impartial decision makers. If you have a conflict of interest, you must not participate. A conflict exists if you have a close familial, business, or other relationship with an affected person or a financial interest in the outcome of this matter. Does any member of the board have any conflict partiality to disclose or recusal to offer?

Council: No.

Ms. Fox: Does any board member have any ex parte communications to disclose?

Council Member Barbee: I do need to disclose that before I was on Council running for office I did attend the P&Z when this was heard.

Ms. Fox: As a result of that attendance at P&Z, did you form a fixed opinion or do you have any bias that would prevent you from being an impartial decision maker tonight?

Council Member Barbee: No.

Ms. Fox: Does any member of Council have any objection to Mr. Barbee participating in tonight's hearing?

Council: No.

Ms. Fox: Does any party have any objection to Mr. Barbee attending or participating in the hearing tonight?

Audience: No.

Ms. Fox: Any other ex parte communications to disclose?

Mayor Pro Tem Healy: Yes. I attended the same P&Z meeting. I also attended a meet and greet in Oceana. The subject did come up, but it was extremely brief.

Ms. Fox: As a result of those ex parte communications, did you form a fixed opinion or do you have any bias that would prevent you from being an impartial decision maker this evening?

Mayor Pro Tem Healy: No.

Ms. Fox: Does any member of Council have any objection to Mr. Healy participating in tonight's hearing?

Council: No.

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Ms. Fox: Does any party have any objection to Mr. Healy participating in the hearing tonight?

Mr. Richardson: Ms. Fox, may I be heard?

Ms. Fox: Certainly.

Mr. Richardson: Councilman Mr. Healy, my name's Grady Richardson. I represent the applicant tonight. I'd like to be afforded the opportunity just to ask a few questions about the attendance at the Oceana meeting if I may.

Ms. Fox: OK.

Mr. Richardson: Were you invited there by anyone in particular to the meeting?

Mr. Healy: I was.

Mr. Richardson: And who was that?

Mr. Healy: Steve Casey.

Mr. Richardson: And is Mr. Casey here tonight?

Mr. Healy: He is not.

Mr. Richardson: Was Mr. Casey in favor of or against or was any discussion had about this application tonight?

Mr. Healy: There was no discussion on who was in favor who wasn't in favor. It was my understanding being at the meeting that the people that were present were not against it.

Mr. Richardson: So what was the overall point of the gathering?

Mr. Healy: For me to go out and meet the public, and there was maybe seven or eight people there. It was basically to voice my platform.

Mr. Richardson: Thank you.

Mr. Healy: Yes, sir.

Mr. Richardson: I'm fine.

Ms. Fox: No objection?

Mr. Richardson: No objection.

Ms. Fox: Any other matters that need to be disclosed?

Mr. Shuttleworth: Madam Attorney, I would disclose that I have from time to time engaged Mr.

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Potter as an attorney on real estate matters.

Ms. Fox: As a result of your having Mr. Potter represent your interests, do you have a fixed opinion or any other impermissible bias that would prevent you from being an impartial decision maker this evening?

Mr. Shuttleworth: No.

Ms. Fox: Any member of Council have any objection to Mr. Shuttleworth's participation in tonight's hearing?

Council: No.

Ms. Fox: Does any party have any objection to Mr. Shuttleworth's participating in this hearing?

Mr. Richardson: Madam Town Attorney, I'd like to ask Mr. Shuttleworth a few questions, if I may.

Ms. Fox: OK.

Mr. Richardson: Mr. Shuttleworth, when's the last time approximately you used Mr. Potter for legal representation?

Mr. Shuttleworth: This past week.

Mr. Richardson: Without delving into attorney-client privilege, can you describe the general nature of the representation?

Mr. Shuttleworth: Contract negotiations on a real estate.

Mr. Richardson: Has Mr. Potter ever represented you or your companies for any sort of a conditional-use permit application?

Mr. Shuttleworth: No.

Mr. Richardson: Special-use permit application?

Mr. Shuttleworth: No.

Mr. Richardson: Rezoning?

Mr. Shuttleworth: No.

Mr. Richardson: How long have you used Mr. Potter for your legal representation personally or for your businesses?

Mr. Shuttleworth: For my business, off and on for two years.

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Mr. Richardson: May I have a moment with my client?

Ms. Fox: Certainly. May I ask a question before you have a moment with your client?

Mr. Richardson: Sure.

Ms. Fox: As a result of that, have you had any communications with Mr. Potter about this matter before you this evening?

Mr. Shuttleworth: No.

Mr. Richardson: Mr. Shuttleworth, have you had any communications with anyone outside of Mr. Potter and outside of tonight about this conditional-use permit application?

Mr. Shuttleworth: I think all of Council received an email, I'm trying to remember, from the resident that respond, that sent the email. I didn't respond to it. It was forwarded to Town Council and staff dealt with it, but I've had no ex parte communication with anybody about it.

Mr. Richardson: Do you recall, any of you, who the sender of the email was about tonight's application?

Mayor Pierce: I don't recall. We were instructed if we received anything to forward it directly to staff.

Ms. Fox: That is standard practice. If Council receives emails from parties or folks in favor of or against a conditional-use permit, they forward it to Town staff and Town staff sends a response from the Town Hall.

Mr. Richardson: OK, I guess I would like to know if anybody can recall the identity of the sender and whether anybody happened to review the email at all and if so what the subject, was it for or against the application? Does anybody recall the identity of the sender?

Council Member Barbee: I don't even recall the email.

Mr. Shuttleworth: I believe it was probably Jimmy Sanderford, and I read about the first two lines and said I'm not gonna read this and sent Noel and Ed and said I'm not responding.

Mr. Richardson: Madam Town Attorney, do you happen to have a copy of that email that I can look at?

Ms. Fox: I do not. I mean, not with me. Obviously it's on a server somewhere.

Mr. Richardson: So the protocol was whenever the Town Council got the ex parte communication it was forwarded to you or was it forwarded to Mr. Hardison?

Ms. Fox: Their instruction is to forward it to Town staff, but sometimes I'm included on those emails.

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Mr. Parvin: It would've been me or Jeremy answering that email, and it would've been a fairly generic response.

Mr. Shuttleworth: I think, Ed, you were copied on it and I think he responded.

Mayor Pierce: And that wasn't just for this CUP. It's for any CUP because a lot of our community doesn't understand, and they get upset when we don't respond so we know to forward it.

Mr. Richardson: Right, and that was the only reason I'm asking is because as I understand it this email from Mr. Sanderford was regarding tonight's application and hearing. How long ago was the email sent? Anybody know?

Mayor Pierce: I don't remember.

Mr. Shuttleworth: Couple of months. It's been a long time. Ed, I'd have to have Ed look it up. I don't know. We get a lot of CUP emails and we just.

Mr. Richardson: May I have just a short moment with my client?

Mayor Pierce: Sure.

Mr. Richardson: Mayor and members of Council, Mr. Shuttleworth, when you were campaigning for office last year did you go door to door and meet people, introduce yourself?

Mr. Shuttleworth: I did.

Mr. Richardson: Did you ever introduce yourself to Mr. Taylor Reece? Stand up, Taylor.

Mr. Shuttleworth: Yes. Yes.

Mr. Richardson: Do you recall the general nature of your conversation with Mr. Reece about?

Mr. Shuttleworth: Mr. Reece worked out there.

Mr. Richardson: Did you know that at the time you knocked on the door?

Mr. Shuttleworth: Nope.

Mr. Richardson: And when you met Mr. Reece did you know at the time he worked for the marina?

Mr. Shuttleworth: Nope.

Mr. Richardson: And do you recall what you told Mr. Reece about the marina application?

Mr. Shuttleworth: Nope. Mr. Reece, what did I tell you about the marina application?

Mr. Richardson: Come on up for a second.

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Mr. Shuttleworth: I remember he and a young lady were there. Might've been his wife.

Mr. Richardson: May I have a moment to indulge?

Mayor Pierce: Hang on.

Mr. Richardson: Mr. Reece, state your name for the record.

Mr. Reece: Taylor Reece.

Mr. Richardson: Mr. Reece, do you recognize Steve Shuttleworth?

Mr. Reece: Yes.

Mr. Richardson: Councilman Shuttleworth? Yes?

Mr. Reece: Yes.

Mr. Richardson: Did Mr. Shuttleworth come to where you were living?

Mr. Reece: Yes.

Mr. Richardson: Was he campaigning?

Mr. Reece: Yes.

Mr. Richardson: And just generally describe the nature of the interaction with Mr. Shuttleworth.

Mr. Reece: It was a nice interaction. He just told us his points and that he was campaigning. I asked him what his opinion was of putting a bar at the marina, and he told me, looked me in the eye and said I'm against it.

Mr. Richardson: Anything else?

Mr. Reece: My girlfriend was also there, Sonya Gonzales.

Mr. Richardson: And Ms. Gonzales is here as well?

Mr. Reece: Yes, sir. And she also heard.

Mr. Richardson: All right. Thank you. Does anybody have any questions for Mr. Reece? Madam Mayor, members of Council, Madam Town Attorney, Mr. Potter, the applicant moves to have Mr. Shuttleworth recused and disqualified serving in tonight's hearing. I don't do it with a light heart. It's heavy heart I do it. I also know that if I had a client deciding the fate of something in which I was involved and opposed to I would imagine that would be difficult at best for my client to want to rule against my position in another matter, and for that reason, the fact that it was just disclosed tonight, the fact that we don't have the email that at least Mr. Shuttleworth

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opened, didn't read it all, for those reasons I would ask that Mr. Shuttleworth be disqualified from tonight's hearing. And I would also ask, as a immediate public records request, to get a copy in full of the email, all emails sent, not just Mr. Sanderford's ex parte but any other ex parte emails sent about tonight's marina application.

Mayor Pierce: Thank you, sir.

Ms. Fox: Mayor, Council, there's been an objection by a party to Mr. Shuttleworth acting as an impartial decision maker tonight. You as a Council need to vote on whether or not Mr. Shuttleworth can hear this matter.

Mayor Pierce: So we need a motion?

Ms. Fox. Correct.

Mayor Pierce: I will just say this to the public. This is a very small town, and a lot of our town does not understand how things work, so as far as the email and all that, that's neither here nor there to me, but the comment about what this gentleman said is here or there to me, and Steve, do you have anything to say about that?

Mr. Shuttleworth: No, I'm fine. If Mr. Richardson asserts an objection, I don't want to skew the vote one way or the other and then we have grounds for appeal one side or the other. That would be my concern.

Mayor Pierce: And we're going to vote on you. I don't know if you get to vote or not.

Ms. Fox: He does not get to vote.

Mayor Pierce: You do not get to vote, but I'll make a motion and you guys can decide for yourself, but based on what I heard I'll make a motion that we remove Councilman Shuttleworth from the vote. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: All against?

Ms. Fox: All right, Mr. Shuttleworth, you will need to take your leave of the Chambers.

Mr. Shuttleworth: I will indeed.

Mayor Pierce: Does he leave the room?

Ms. Fox: He does.

Mayor Pierce: We'll come get you.

Mr. Shuttleworth: Oh, I'll be all right.

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Mayor Pierce: And before we move forward, and we appreciate you bringing that information up, and whatever, you know, it's neither here nor there. People say things and we get these emails, but I will tell you you have a very honest, very hard-working Council, and we don't want any partial, partialities to anybody, so just wanted to say that upfront. OK, Ms. Fox?

Ms. Fox: OK, so Mayor, Council, in order to for folks to participate tonight, they have to have legal standing. Standing requires special damages. Oceana, who is represented by Mr. Sam Potter, would like to participate as a party in this matter. The applicant, represented by Mr. Richardson, disputes that Oceana is a party with standing. So prior to the presentation of staff's overview or any evidence, Council will need to determine whether or not Oceana has legal standing. So Mr. Potter is gonna present evidence on the issue of standing, and after the applicant has had an opportunity to question whoever Mr. Potter puts up to testify about the issues that would satisfy standing, you're going to vote on whether or not Oceana has standing to participate in this matter. When you vote on the issue of standing, you're gonna determine whether or not the HOA has or may show, whether or not the HOA has shown that they will suffer special damages, which are damages distinct from those damages to the public at large. The HOA must make credible allegations of these special damages.

Mayor Pierce: And might we say for everyone listening, this is a different procedure than we normally do.

Ms. Fox: It is correct. This is the first time we have had standing objected to.

Mayor Pierce: Ever. So please forgive us and I'm not an attorney so I don't know, but we will get through this, so I'll ask Mr. Potter to call your first witness. Mr. Potter, sorry.

Mr. Potter: That's OK. I'm Mr. Potter.

Mayor Pierce: I haven't used you for anything so.

Mr. Potter: I actually don't recognize any of you.

Mayor Pierce: Awesome.

Mr. Potter: So, anyhow, I definitely recognize Mr. Shuttleworth. Mr. Hardison has got some slides that we're gonna move through as quickly as we possibly can. As the attorney for the Town, Ms. Fox disclosed we have to show in order to establish standing that at least one of the members of the association would have standing, and if at least one of the members of the association has standing, then the association itself has standing. So I'm gonna call three separate members of the association to testify, the first being Mr. Alan Perry, who should need no introduction.

Mr. Perry: I'm kind of scared to come up here now.

Mayor Pierce: Just come on up, Mr. Perry. Do we want them to state their name and address?

Ms. Fox: Yes, and just let me ask the Clerk.

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Council Member Barbee: Is that mic working?

Mr. Perry: Uh, is it working?

Council Member Barbee: Yes, it is.

Mr. Perry: I'll see you when you get here. I'm Alan Perry. I live at 403 Marina Street. OK.

Ms. Fox: Just make sure you speak directly in the microphone.

Mayor Pierce: And can we just remind Council, and correct me if I'm wrong, we're not asking them any questions at this time? We're just seeing if they qualify for standing?

Ms. Fox: Mr. Potter is gonna present evidence. The applicant is gonna have an opportunity to rebut or cross-examine.

Mayor Pierce: OK.

Mr. Potter: OK, this is a little bit different, as you guys know. I'm gonna ask Mr. Perry questions as if, almost as if this was a trial. Mr. Perry is gonna answer the questions and then Mr. Richardson gets to cross-examine him. So, Mr. Perry, would you please tell the Council where you live?

Mr. Perry: I live right next door to the marina. 403.

Mr. Potter: If you would turn and look at the screen up there, could you identify for the Commission, would you please identify for the Commission which property is yours?

Mr. Perry: Mine is the left, house on the left beside the yellow house there.

Mr. Potter: This one right here?

Mr. Perry: Where the parking lot is. Yes, sir. That's my house

Mr. Potter: All right. And do you have an understanding as to where the proposed bar is going to be installed?

Mr. Perry: By my footsteps it's 283 feet from my front porch.

Mr. Potter: OK. And your front porch meaning looking out at the water?

Mr. Perry: Yes, sir.

Mr. Potter: And so it's 283 feet approximately here, is that right?

Mr. Perry: Approximately. Yes, sir.

Mr. Potter: OK.

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Mr. Perry: And I think, yep, go ahead.

Mr. Potter: OK. And Mr. Perry, your proximity to the bar is also coupled with proximity to the parking lot serving the bar, is that correct?

Mr. Perry: That is correct.

Mr. Potter: And that's located where the red pointer is here?

Mr. Perry: Yes, sir.

Mr. Potter: OK. And is there a gate that's located where the pointer?

Mr. Perry: Yes, sir. Right there.

Mr. Potter: OK. And is that the entrance to the Oceana subdivision?

Mr. Perry: Yes, sir.

Mr. Potter: OK. And is it your understanding that the proposed conditional-use permit will also make use of the parking lot within the Oceana subdivision where the red dot is?

Mr. Perry: Yes, sir.

Mr. Potter: OK. And so would you please explain, and I'll try not to interrupt you, what you foresee the impact of this project being on your property and your day-to-day life?

Mr. Perry: Day-to-day life, I'm not sure, but I know from spring, summer, and fall it's gonna be extremely more difficult than it is now already. We had to put a wall up around our property because people were walking through our property from the marina where their boats, thought this was part of the boathouse or the marina so we put the wall up, and now we get beer cans and trash thrown over the wall. On weekend nights, we already have a problem with a lot of the boat owners are Airb-ing their sailboats now and their boats for the nights, and so there's more traffic there than there ever was before. I just see more traffic and more density, and personally I've worked a long time to be able to buy a nice house on the water and to think I'm gonna smell hot dogs and hamburgers being cooked every day 280 feet from my front porch, and it's not gonna wafer down, I'm gonna smell it and plus hear the music and the noise. It's gonna substantially affect my property. My wife is a licensed real estate broker. She owns Perry's Fine Homes. She's researched this, and she's talked to several real estate appraisers, and she's informed me that it's going to affect our house value by at least 10 percent, if not more.

Mr. Richardson: That is inadmissible hearsay. You're talking about something that another person supposedly heard another person say. We're gonna ask that your Council disregard that statement.

Mr. Perry: My wife's sick, text her, she's home sick, so if he doesn't think it's going to affect our value give us a \$950,000 for tonight and he can have the house. So that was her direct

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conversation.

Mayor Pierce: OK. What else, Mr. Perry?

Mr. Potter: Mr. Perry, so you've discussed the impact on the current use of the property. How do you expect, if any, in any way, the use of the property as proposed to change and its effect on your property?

Mr. Perry: Well, I already have my driveway blocked quite a few times during the summer from people who are bringing their boat trailers in and their boats and they're parking there in front of my driveway. I have a legal access or egress there on the side there where they come in. You'll see the dusty dirt road there because there's no gravel there. It hasn't been there in about four years now, so that's a problem where they park in front of my driveway and I can't get in or get out without getting somebody from the marina to move 'em and then if they don't know where they are. I've had two hours before I've been able to get out of my driveway, so I just see more and more traffic, more and more problems with that. That's one of my major problems.

Mr. Potter: And Mr. Perry, setting aside what your wife has told you and what other brokers have told you, do you personally have an opinion as to how this use?

Mr. Perry: Absolutely. I personally believe my value is gonna go down.

Mr. Potter: Let me just restate that. Do you have a personal belief as to the impact the marina bar will have on the value of your property?

Mr. Perry: I think it will decrease my value immensely. If someone is looking to buy my house on a weekend and there's a party going on out there and the noise and the smell, yes, sir, I do believe it's gonna affect my value.

Mr. Potter: Is somebody that lives in Carolina Sands gonna explain, experience the same things that you're gonna experience?

Mr. Perry: No. No.

Mr. Potter: How about?

Mr. Perry: Somebody around the corner is not gonna experience it. I'm gonna be the only one experiencing it.

Mr. Potter: Thank you, Mr. Perry.

Mayor Pierce: Mr. Richardson, do you have any questions for this witness?

Mr. Richardson: I do. I'll try and stand over here.

Mayor Pierce: Sure.

Mr. Richardson: Mr. Perry, I'm Grady Richardson. It's good to meet you, sir.

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Mr. Perry: Yes, sir.

Mr. Richardson: Love your commercials.

Mr. Perry: Well, thank you.

Mr. Richardson: How do I use the clicker?

Mr. Perry: Valentine's Day is coming around the corner.

Mayor Pierce: You gotta get a plug in, right?

Mr. Perry: Absolutely. Matter of fact, you'll like the TV commercial. You'll see the same shirt, tie, and jacket when I did the commercial this morning.

Mr. Richardson: OK. So Mr. Perry, your house is located where the red dot is. Is that correct?

Mr. Perry: Yes, sir.

Mr. Richardson: And you built that house after the marina had been in place, correct?

Mr. Perry: No, sir. I purchased that house, I've been married to my lovely wife for nine years, I purchased that house nine years ago from the woman who owned it before me, Yvonne. Might not remember her last name. Sweet woman. Johnson. Yvonne Johnson. She built the house with her husband, I believe, in 1995.

Mr. Richardson: And when you purchased your house from Ms. Johnson, the marina was already in place, correct?

Mr. Perry: Yes, sir.

Mr. Richardson: The boats and the boat slips were already in place, correct?

Mr. Perry: No, well there were not a lot of boats in there because I think Joyner had just gotten through redoing it, so they were bringing boats in from doing a total rebuild, which actually needs it now too because it's dredged in silt so bad that at low tide some boats are getting stuck. That's gonna be a major problem. Oceana's already looking at what we're gonna do on our right-hand side because the silt's going towards our side so for us to pay the homeowners association to dredge it we really need for Joyner Marina to dredge theirs, too.

Mr. Richardson: OK, so not all the boats were there, but boat slips were there when you bought the house?

Mr. Perry: Yes, sir.

Mr. Richardson: The gate was there when you bought the house?

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Mr. Perry: Yes, sir.

Mr. Richardson: The gravel lot that's now got a dusty driveway was present?

Mr. Perry: It had gravel then when I bought it.

Mr. Richardson: And there was parking then when you bought the house?

Mr. Perry: Yes, sir.

Mr. Richardson: And there was a ship store when you bought the house?

Mr. Perry: There was a very badly depleted place there, yes.

Mr. Richardson: And is it still in the same condition, or is it been improved?

Mr. Perry: It has been improved. That was another issue I had with the new owner because he brought in these people who had 17 people in a one bedroom flat up there and they were working 10, 11:00 at night and I had to call the police four times to have them stop working, and they didn't understand me because they were all speaking a non-American language, so they were working on Saturdays and Sundays and I, well I was trying to enjoy my front porch and I couldn't because of all the hammering and the noise that was going on. And it's on file with Carolina Beach Police Department where I had to call like four times to have them stop doing that.

Mr. Richardson: But you had the remedy of calling the police, is that correct?

Mr. Perry: It was a last resort. I asked them andale, andale, and they would not stop doing their work.

Mr. Richardson: OK, but you used the services of the Carolina Beach Police Department?

Mr. Perry: I absolutely did. Yes, sir. I had to.

Mr. Richardson: Now earlier in response to Mr. Potter's questioning, you said that you had an understanding about tonight's conditional-use permit application that is was going to allow for some use of this parking lot. Do you recall saying that?

Mr. Perry: Yes, sir.

Mr. Richardson: Tell me what your understanding is of the conditional-use permit application that is going, if approved, is going to somehow affect the use of that parking lot.

Mr. Perry: From what I understand, he's asking to be able to use those spaces so he can put a floating barge out there with a bar to sell beer, liquor, and alcohol and cook hamburgers and hot dogs, so he'll need those extra spaces because he's gonna lose a space where the well is that belongs to Mr. Bobby Harrelson, who has directed them not to use his space any longer for commercial purposes, which is what's been done, which I wasn't aware of until this whole thing

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came about two years ago.

Mr. Richardson: Mr. Perry, are you aware that the applicant that I represent is not utilizing this parking lot for any of the required parking in conjunction with the application for approval, that all the parking is going to be where I'm pointing now? Are you aware of that, sir?

Mr. Perry: I saw the plans that he did two years ago where he was gonna use those parking spaces along with the Spinnaker Point parking spaces that he thought he owned and could use.

Mr. Richardson: Are you aware that my client has only ever said that the parking lot that I'm flagging with the light can only be used by the boat slip owners or the renters of those boat slips in the marina, which is the same way it's been done for over 25 years, sir?

Mr. Perry: I was not told that. No, sir. I was not. I've also notated that since he's bought the place there's been three to four commercial fishermen renting spaces in there, and they're doing charter fishing out of there from year-round to mostly summer, which brings in another 12 to 18 vehicles every Friday, Saturday, and Sunday because usually four to six guys get on a boat and go fishing, so it's really taxing the parking lot. They're already parking in the hill and on the road in front of my house beside the brick wall, so it's already a parking issue with them now, along with the Airbnb or the Boatbnb stuff that's been going on.

Mr. Richardson: With respect to the parking, you talked about with respect to Mr. Harrelson, do you recall just saying that?

Mr. Perry: Yes, sir. I know Bobby. He's in my phone right now.

Mr. Richardson: In fact, you had a conversation with Mr. Harrelson, didn't you?

Mr. Perry: Are you kidding me? I had dinner with him and lunch with him about this. Yes, sir. I'm very upset about it.

Mr. Richardson: About making sure that there's a fence put up where the parking's been used for?

Mr. Perry: I have no.

Mr. Richardson: Let me finish, Mr.

Mr. Perry: I have no right or any authority to have about a fence. I don't know what you're talking about.

Mr. Richardson: So you never talked about a fence being put up where Mr. Harrelson has asked for it to be put up and the Town is planning to put it up now, which would take in a large footprint of the parking that's been in excess of 25 years there?

Mr. Perry: Well, as my grandfather said, you knew as a foot when you started out walking. I did not know anything about a fence. No, sir. Although I think if that's going to happen it's really going to take away a lot more parking spaces, isn't it?

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Mr. Richardson: Again.

Mr. Perry: What's going to happen if there's a fire out there?

Mr. Richardson: Mr. Perry, to answer your question.

Mr. Perry: Are you gonna wait for the fire department to get out there and take care of the barge when it's on fire?

Mr. Richardson: To answer your question, Mr. Perry, that's why part of our application, if you've reviewed it, has us having to relocate 17 parking spaces where there are none now because, let me finish, because of the fences being required. Are you aware of that application material?

Mr. Perry: What about that thousand-gallon fuel tank that's sitting off there over the ground that's 53 feet from my house that according to the fire marshals and the fire laws for the state and the federal government is supposed to be 100 feet from any property, and I know Mr. Harrelson said all that's been a statute of limitations that's passed but that only states that unless there is a danger to the occupant, so there's always a possibility that thing could explode and my house is 54 feet away from that. That needs to be removed and replaced somewhere else on the property.

Mr. Richardson: So going back to my question, have you seen and actually reviewed the application materials that show that my client has had to relocate the parking because of the fence around the well house?

Mr. Perry: I've not seen the new revised edition. No, sir. I saw the original one there without the well.

Mr. Richardson: Are you a licensed real estate appraiser?

Mr. Perry: No, sir. I am not.

Mr. Richardson: Have you ever been a licensed real estate appraiser?

Mr. Perry: I failed twice trying to get the license. Yes, sir.

Mr. Richardson: So your answer is no?

Mr. Perry: No.

Mr. Richardson: You said earlier that there was allegedly parking that's blocking your driveway access to your home. Is that correct?

Mr. Perry: That doesn't happen all the time, no, but it does happen during the summer. It's usually Fourth of July weekend is the worst.

Mr. Richardson: But that's already happening?

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Mr. Perry: Well, no, it didn't happen when I first bought the house, but it did happen after I'd been here for a few years.

Mr. Richardson: But it's already happening?

Mr. Perry: It's been happening. Yes, sir. Does that mean it's going to stop happening if he gets a barge? I mean, would you answer that question for me because I'd like to know?

Mr. Richardson: Do you ever have boats that are occupied out in front of your house, sir?

Mr. Perry: You talking about people living on 'em?

Mr. Richardson: No, just occupied. Using 'em.

Mr. Perry: Oh yeah.

Mr. Richardson: They got coolers of beer on there, sir?

Mr. Perry: Yeah, I think so. Most of them leave about 5:30 or 6:00 in the morning to go fishing and they don't come back until about 5 or 6:00 at night.

Mr. Richardson: How about any of 'em, do they have a little grill on the back of the boat? Grill hot dogs and hamburgers?

Mr. Perry: I've never seen that.

Mr. Richardson: Never?

Mr. Perry: No, sir.

Mr. Richardson: Do you have a grill?

Mr. Perry: No, sir. Not on a boat. I don't have a boat.

Mr. Richardson: Do you have a grill?

Mr. Perry: Is that relevant to this conversation?

Mr. Richardson: Do you have a grill?

Mr. Perry: Is that relevant to this conversation?

Mr. Richardson: Where's the grill located at your house, sir?

Mr. Perry: It's on my front porch, and it's a gas grill.

Mr. Richardson: Have you ever?

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Mr. Perry: A Wilmington Grill.

Mr. Richardson: Have you ever complained to anyone at the Carolina Beach Police Department, Fire Department, or staff about the odor of other neighbors using grills for cooking hot dogs, hamburgers, steak, whatever?

Mr. Perry: I have noticed a sewage smell from the discharge station that's not properly working at the marina that seems to be broken because I've smelled that before.

Mr. Richardson: That was, my question was.

Mr. Perry: I know, you asked me what I smelled. I've never smelled anything but sewage.

Mr. Richardson: No, I didn't ask you what you smelled, Mr. Perry.

Mr. Perry: Every once in a while I'll get a wafer of diesel fuel from the docks with the winds blowing our way when they're filling up the boats, so I would think if I'm getting that kind of smell from diesel dock fuel from right there I'm gonna definitely get hamburgers and hot dogs smell, so that's why I'm really not against it, I mean not for it. I'm against it.

Mr. Richardson: My question I'll try to get you to answer.

Mr. Perry: But no, I've never done that. I am a peaceful neighbor.

Mr. Richardson: You never done what?

Mr. Perry: Never called and complained about somebody else's grill.

Mr. Richardson: And the smell from the grills?

Mr. Perry: No. Because how long are they gonna cook a grill on a Saturday afternoon? For one hour? How long is a barge gonna be cooking a grill? From 8 a.m. until 9 p.m. at night? There's a big difference there. I'm sorry. Your theology does not work.

Mr. Richardson: Mr. Perry, you've been around Wilmington for a long time, haven't you?

Mr. Perry: 29 years.

Mr. Richardson: 47, almost 48 for me. You ever visited Bridge Tender down at Wrightsville Beach?

Mr. Perry: One time.

Mr. Richardson: Once?

Mr. Perry: 20 years ago.

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Mr. Richardson: How about Dockside?

Mr. Perry: Twice.

Mr. Richardson: How about Fish House?

Mr. Perry: Fish House? No.

Mr. Richardson: But you've gone to Dockside.

Mr. Perry: Dockside's at Wrightsville Beach.

Mr. Richardson: And you saw the homes across the road from Dockside?

Mr. Perry: I wasn't looking.

Mr. Richardson: You don't remember seeing homes across from Dockside?

Mr. Perry: No, it was at night when I was at Dockside.

Mr. Richardson: Well when you went to Dockside, did you feel guilty about the noise that might be generated and the odors with the neighbors across the street?

Mr. Perry: Didn't hear any noise. There wasn't a band playing or anything like that.

Mr. Richardson: No further questions at this time.

Mayor Pierce: Thank you, Mr. Richardson.

Mr. Perry: You're welcome.

Mayor Pierce: Mr. Potter, you can call your next witness. Thank you, Mr. Perry.

Mr. Perry: Valentine's Day's coming. Let it snow, let it snow, let it snow.

Mr. Potter: That's gonna be hard to follow. I'd like to call Mr. Olin Furr. Mr. Furr is the board president of the Oceana homeowners association.

Mayor Pierce: Can you state your address and your name again. I couldn't hear because.

Mr. Furr: It's Olin Furr, 440 Oceana Way.

Mayor Pierce: OK.

Mr. Potter: And Mr. Furr, what is your title, if you have one, with the Ocean owners association?

Mr. Furr: Currently I'm the president of the association.

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Mr. Potter: OK. And I've switched to the next, this is a plat of the Oceana subdivision. Can you tell me which property is yours?

Mr. Furr: It's lot number 21 in the top right corner.

Mr. Potter: There?

Mr. Furr: Yep.

Mr. Potter: And that's where you live currently? Is that right?

Mr. Furr: Yes.

Mr. Potter: OK, and Mr. Furr, how long have you lived at lot 21 in Oceana?

Mr. Furr: I purchased the property in January of 2018 and moved into the home in June of 2019.

Mr. Potter: OK, and as a member of the association, you can confirm that Mr. Perry lives in the subdivision. Is that correct?

Mr. Furr: Ah, yes.

Mr. Potter: And as a member of the association, have you formed your own opinion as to the likely impacts of the marina bar that's proposed on the residents of Oceana subdivision?

Mr. Furr: I have.

Mr. Potter: Would you please share that opinion with the board?

Mr. Furr: OK, you know, like I said, I haven't been there as long as Alan, but I have noticed that we have a lot of unusual or non-familiar faces that walk up and down the docks and on the streets sometimes. We really don't know who there are, and there has been a little increase in some theft and vandalism. We just had to have some signs replaced and Steve, Steve, what's your last name?

Mr. Stone: Stone.

Mr. Furr: Stone. That's right. Steve Stone had it on video. I don't know that we could really tell who they were. We weren't able to prosecute 'em, but they were wandering in the neighborhood at night and stole some signs and of course it cost us 4 or 500 bucks to replace, but we see this traffic and we know that the parking lot that is in the middle of the neighborhood that is, is by the zoning records of the Town of Carolina Beach an illegal use. We see that if this barge is permitted, the only reason they're spending that kind of money for a barge and a kitchen and the whole outfit, it's not gonna be cheap, it's to increase their business. They're gonna increase the traffic. If you don't increase the traffic, you're wasting your time, so we know that's coming. So this parking lot in the middle of their project, this parking lot is 60 percent of the total parking they have. Now I know they're coming out here and they're gonna add some parking, whether or not that parking, we'll address that in a little while, but it's not

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enough because I know they want people to pull up in boats. That's good. But you're gonna have drive-in and walk-in traffic. When you've got a grill and a bar, you need to generate income and you're gonna have to bring more traffic. Now once the, if this is approved and once the ink signs the paper, it hits the paper, they can do whatever they want to do. They can have whoever wants to come into that parking lot. If they get overcrowded out in the front, they can shift them inside. If they want to stay up unto 2 a.m., they can. It's all legal, so what we're doing is trying to stop it at the beginning because have you ever heard of exponential growth because that's what happened to this neighborhood and this parking lot since 1994 when it was created. And we've all experienced it. I haven't lived here, but I have talked people that have been here since the very, very beginning, and this exponential growth, you see it. It's just more and more, there's just more stuff going on, more people, so we know that that's gonna happen. Now you add this project on top of it, and the problem is if their parking, if 60 percent of their parking was not inside of a residential neighborhood, we would not be here tonight. But it is, and that's our stance is that we're gonna take a stance and say that because of this parking lot, it is affecting everyone that lives in Oceana, and we need to do something about it.

Mr. Potter: Mr. Furr, if I could maybe ask you to clarify something, is it your opinion that this project will increase traffic on Marina Street within Oceana?

Mr. Furr: Well, like I said, with the increase of business and in order to make your revenue to pay for the project, yes, it would increase it.

Mr. Potter: OK, and you testified a minute ago about some increase sort of criminal minor crime activity, do you have an opinion as to whether the bar will have a negative or positive impact on the existing sort of petty crime?

Mr. Furr: Well, by, by nature out of your zoning ordinance it says that bars do create serious adverse secondary effects. That's just what they do. That's why they're a little special, little special problem areas, and here we have, we have Oceana and all the neighborhoods, this huge single-family residential district, and we've got this dot of marina business over here in the corner. And the residents of this area, should, should, we should be the ruling class because we have the residential. The businesses should not take advantage of the residential, because the zoning ordinance again says that you need to protect your single-family housing for this community, so that's our position.

Mr. Potter: Now the impacts that you've discussed, are they impacts that are unique to Oceana or are these impacts that are gonna be common to all of Carolina Beach?

Mr. Furr: Well, in 2007 Land Use Plan, there's a problem in there that talks about, I'll address later if we get to move on, but, you know, bar and nightlife is an issue for Carolina Beach and has been, but repeat that question again and make sure I answer it completely.

Mr. Potter: Sorry. I said you've testified about the adverse consequences that you expect. Are those consequences unique to the Oceana subdivision, or are they gonna be the same for all of Carolina Beach?

Mr. Furr: OK, so the uniqueness about it is because of what happened years ago and has been allowed to persist unlawfully, and that is the parking lot that's in the middle of the

neighborhood. That is the issue, and without that parking lot in the middle of the neighborhood it would be less of an issue for most of us, but it is the main issue because it's in the middle of our neighborhood. Now, Alan, Alan's out here on the corner. He gets, he gets most of the crap, which is unfair but it just happens to be where his house sits. So yes, it is a special, a special thing that we are gonna catch the brunt of it.

Mr. Potter: And Mr. Furr, do you have a personal opinion as to the impact on the property values within Oceana as a result of this project, proposed project?

Mr. Furr: Well, for the attorney's sake. I'm not a professional, but I can tell you just from common sense that if you have bar patrons allowed to park in your neighborhood that common sense tells me that it will decrease the value of that property.

Mr. Potter: Is that the only way that this would decrease the value of the property is if bar patrons park? I mean, Mr. Richardson's point is that they're not gonna park in there.

Mr. Furr: Well, like I said before, you know, they can say they're not gonna park in there and I guess there could be a provision to say that they can't park in there, but they're gonna have a gate code. We can't regulate who comes in and out of that gate. Once you get the gate number, you can give it to friends, family and you can just, you know, it's like revolving door. We really don't have any way to control that.

Mr. Potter: Thank you, Mr. Furr.

Mr. Richardson: Mr. Furr.

Mr. Furr: Yeah.

Mr. Richardson: Good to see you again.

Mr. Furr: Hi.

Mr. Richardson: Grady Richardson. We met at the at the Board of Adjustment hearing. You remember that?

Mr. Furr: Yes, I do.

Mr. Richardson: And this reference to the illegal parking lot you're referring to, whoops, is this area right here, a triangle-shaped area parking lot. Is that correct?

Mr. Furr: It is.

Mr. Richardson: And that's behind the private gate into Oceana subdivision, correct?

Mr. Furr: Yes, sir.

Mr. Richardson: And that parking lot that's located behind the private gate of the Oceana subdivision was at the heart of the hearing we had in front of the Board of Adjustment based

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upon your HOA's complaint.

Mr. Furr: Exactly.

Mr. Richardson: To the Board of Adjustment, correct?

Mr. Furr: Yes. Yep.

Mr. Richardson: And the Board of Adjustment unanimously denied your complaint. You remember that?

Mr. Furr: Well, it was a rubber stamp of the Town Council, I mean, of the zoning administration. That's all it was. They didn't listen to the facts. If you go back and you look at that on video, I've looked at it three times, all the facts that our attorney presented at that were not even mentioned. He explained to Mr. Hartsell at the time that it was an illegal use. It's documented. I can, we can go back to book and page and show you the whole pathway of why that's illegal, and if we continue this on tonight I've got the package here to deliver it, and I hope you get to hear it.

Mr. Richardson: The rubber stamp, that hearing lasted for a couple of hours, didn't it?

Mr. Furr: Well, I mean, there was a lot of information delivered, but out of the hearing, two hours of testimony, that committee sat up there and they asked two questions. One question was well who's in control of the gate codes at Oceana? Wow. The other one was Jeremy, is that lot grandfathered in? Well, yeah. That was the two questions from that whole entire meeting. Now that's disgusting.

Mr. Richardson: Mr. Furr, during that hearing did you testify?

Mr. Furr: As a public comment. I did not, I was not sworn in. I didn't know I, if I could've spoken at that meeting I would've come prepared and given some more details. Whether or not that would've changed it, I don't know.

Mr. Richardson: You were represented by Mr. Potter at that hearing, weren't you?

Mr. Furr: Yes, and he gave a very compelling case, which was ignored and not even, in their response to us has their answer, it's shameful.

Mr. Richardson: But you spoke at that hearing. Did anyone shut you down from speaking exactly what you wanted to say?

Mr. Furr: No, I didn't bring my material with me, so I wasn't fully prepared. I just, and it wasn't admissible anyway. It's just public comment.

Mr. Richardson: Have you seen the written order that's been entered upholding Mr. Hardison's determination?

Mr. Furr: Oh yeah. It's half-truths.

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Mr. Richardson: So the 34 specific findings of fact are half-truths?

Mr. Furr: Yes. I can go and half of those by book, page number, dates, and times we can dispute that. We can go in the zoning code, bring it all out. If you'll let this continue, we will get to the heart of this matter, mister.

Mr. Richardson: Mr. Furr, this is your lot, lot 21R, is that correct?

Mr. Furr: Yes.

Mr. Richardson: And you're located to the far north of the Oceana subdivision, the furthest away from the proposed application that's before the board tonight?

Mr. Furr: Well, my lot borders common area that's connected to the common fishing pier or gazing pier. I look out my window all the time. People that don't belong in the neighborhood are always out there.

Mr. Richardson: And you call the Police Department to come get 'em, right?

Mr. Furr: Well, we, we had.

Mr. Richardson: No, sir. I'm asking you a question. How many times have you called the Carolina Police Department to remove trespassers at the Oceana subdivision?

Mr. Furr: One.

Mr. Richardson: When was that?

Mr. Furr: I don't remember the date, but you take a risk. We are trying to do this in a legal way, the legal processes to stop what's going on in here, and you go out and you confront people. We don't want our neighbors, if those, there's kids that come out there a lot. We don't want to piss 'em off. We've already had signs stolen, vandalism. We want to be good neighbors, and, you know, sometimes kids are kids, so I'm not gonna go out there and browbeat anybody over that, but it does happen.

Mr. Richardson: My understanding from your testimony earlier was that you bought the lot in 2018?

Mr. Furr: Yes.

Mr. Richardson: Was it an unimproved lot at the time?

Mr. Furr: It was just a bare, empty lot.

Mr. Richardson: OK, and then you built a custom home on it?

Mr. Furr: I did.

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Mr. Richardson: And you moved into that home in June of 2019?

Mr. Furr: Yes.

Mr. Richardson: Do you live at that home full-time?

Mr. Furr: I do.

Mr. Richardson: Prior to June 9, 2019, did you live in the Oceana subdivision full-time?

Mr. Furr: Ah, no.

Mr. Richardson: Where did you live?

Mr. Furr: We retired and moved from Monroe. I had a home in Monroe, so we would be back and forth between Monroe, and I have a boat that we docked, and I lived on the boat for quite a bit.

Mr. Richardson: Where was the boat docked?

Mr. Furr: Well, it was at, it was Port City Wilmington for probably six months and then it was out at the end of our pier for a few months.

Mr. Richardson: Fair to say that since moving into your house in June of 2019, your testimony tonight can only be firsthand knowledge whatsoever from June of 2019 to the present, in so far as what's going on in the Oceana subdivision?

Mr. Furr: Well, it depends on what you mean by that question.

Mr. Richardson: Well, you're not there day in and day out until June of 2019.

Mr. Furr: Are you talking about the history of it, or are you talking just about stuff that goes on?

Mr. Richardson: Your observation, sir.

Mr. Furr: Just my observations of what I see since I've been there?

Mr. Richardson: Yes, sir.

Mr. Furr: That goes on in the neighborhood?

Mr. Richardson: Yes, sir.

Mr. Furr: With physical people?

Mr. Richardson: Yes, sir.

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Mr. Furr: I told you already.

Mr. Richardson: Since June of 2019.

Mr. Furr: I see unfamiliar faces. I see kids. I see people walking from the marina go around the fence and come our way.

Mr. Richardson: And you don't know who those people are, do you?

Mr. Furr: Well, I know.

Mr. Richardson: Do you know who they are?

Mr. Furr: Well, that's just it. I recognize, I've been to several of our community meetings, so I know a lot of the faces. I don't know all of them and I don't know some at Spinnaker Point, but when I see 'em walk out of the marina and around the dock and around the pier coming our way, see my house I can look right down the dock, yeah, I don't know where they're coming from or who they are. One time I wanted to see where they were coming from so I followed 'em down they dock, and they went out and went into the neighborhood.

Mr. Richardson: Is it your testimony that the folks you observe walking from the marina down the streets in Oceana are somehow trespassing?

Mr. Furr: There's a good possibility, yes.

Mr. Richardson: But you don't know, do you?

Mr. Furr: Well, I mean.

Mr. Richardson: And other than the one, other than the one phone call to the Carolina Police Department, you don't have anything else to base that testimony on, do you?

Mr. Furr: Base what testimony?

Mr. Richardson: That they're trespassers or suspected trespassers?

Mr. Furr: Yeah, we know that there's trespassers all the time. There's people that come in there, you know, the ones, the people that come in there, you know they're just looking around, they're driving in sometimes if the gate's open. Anybody that comes in the cul de sac, turns around real slow, and just looks, and then goes out, they don't belong in there. They got in somehow.

Mr. Richardson: And how do you know they don't belong in there?

Mr. Furr: Because you don't recognize their face.

Mr. Richardson: Well, they've got a code, didn't they?

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Mr. Furr: If people come to.

Mr. Richardson: Hold on for a second, Mr. Furr.

Mr. Furr: Who goes to a cul-de-sac to turn around?

Mr. Richardson: Mr. Furr, you've been out there only since June of 2019. How many people, how many units are there in Spinnaker Point?

Mr. Furr: 72.

Mr. Richardson: 72. How many units are there in the Oceana subdivision?

Mr. Furr: 49.

Mr. Richardson: So in the eight, seven months you've been out there, do you think you know every face of every person that owns any interest in Spinnaker Point, Oceana, or the marina, sir?

Mr. Furr: OK. I don't know everybody.

Mr. Richardson: Just, just, just, I'm asking you to answer my question. Do you know every face out there?

Mr. Furr: I, I do not, but.

Mr. Richardson: And you, and the fact of the matter is while you see what you suspect to be trespassers, you've never once called the Police Department except that one time. Is that correct?

Mr. Furr: Exactly.

Mr. Richardson: Now with respect to the 60 percent parking complaint you're making about my client's application tonight, the parking that you're talking about is the parking lot that the Board of Adjustment has held to be a valid, not unlawful, a valid use, correct?

Mr. Furr: If you want to call that.

Mr. Richardson: I know you challenge it, but the Board of Adjustment at this point has spoken, correct?

Mr. Furr: Ah, yeah, I mean, they said they agree with Jeremy.

Mr. Richardson: And you remember at the Board of Adjustment hearing the fact that Mr. Cook testified?

Mr. Furr. Mr. who?

Mr. Richardson: Mr. Cook, my client, testified that the only people that could use this parking lot

inside of the Oceana were the people who had, that owned boat slips or were renting their boat slips at the marina. You heard that, didn't you?

Mr. Furr: What does that have to do with anything?

Mr. Potter: I'm gonna object. Mr. Cook did not testify at the Board of Adjustment hearing.

Mr. Richardson: OK. Look at the Board of Adjustment order. It speaks for itself. But I'll tell you what. Are you aware, sir, that the application that's before the Council tonight is not seeking to open up the parking lot for any, anybody other than what's been in place for 25+ years of boat slip owners and their renters. Not John Doe, member of the public that wants to park in my client's new configured parking lot due to the complaint by the Oceana homeowners over here. Those people who are not slip owners, not slip renters, are gonna park here. They don't have the code. They don't have access to get into this parking lot. Are you aware of that, sir?

Mr. Furr: Are you gonna be there to make sure that they don't?

Mr. Richardson: My question to you is are you aware that that's what the application is before Council tonight?

Mr. Furr: Listen, are you aware that part of the application means nothing to me because like I told you before, once the ink hits the paper all that's out of the window. I mean, it's just all gone. He can do whatever he wants to do. I'm telling you, but if you will let this go forward, you should have all these people sitting out here that have had their time, this Council coming here tonight. We need to hear what's going on here, and you need to allow it.

Mr. Richardson: So you're not aware of the application about the parking lot and the fact that the parking lot is not part of the application?

Mr. Furr: That parking lot has to be included in the application to make your park. You need 94 spaces of parking, and without that parking lot you can't make that project happen. Without that parking lot, that marina would have to close. There's not enough parking, even for the boat slips.

Mr. Richardson: So your position is that this parking lot located inside the Oceana gate is something that my client is seeking to have opened up for general public parking? Is that your testimony?

Mr. Furr: He can do that if he wants to.

Mr. Richardson: Is that your testimony?

Mr. Furr: If they approve it, he can do that.

Mr. Richardson: So your testimony is if the Council approves it, then any member of the public can just come through the gates of Oceana, how I don't know because they don't have the code, and park in this parking lot that's reserved for the marina boat slip owners and their renters?

Mr. Furr: All right, well let's just say.

Mr. Richardson: Is that your testimony?

Mr. Furr: Let me, let me qualify that. You got a barge out there, 40 by 120. You got everything going on. You got a grill. You got nightlife. He runs specials. 50-cent wings or whatever he wants to do. Have 25-cent beer. That parking lot on the left is gonna fill up. What are they gonna do? Park on the street? They're gonna park in Mel's yard. They're gonna come in the gate because they're gonna be pissed and want a place to park. He's gonna want to generate the income so he's gonna give 'em the code, and that parking lot in there will start being used and then that code is out everywhere. We don't have a \$10,000 gate code where we can give cards and change numbers every day. We don't have time to do that, so that's the problem.

Mr. Richardson: And when you bought your lot and you built your home and moved into it in June 2019, at all times of buying your lot and building your home the marina ship store was present, correct? Yes? Yes?

Mr. Furr: Yes.

Mr. Richardson: The boat slips and the boats were present, correct?

Mr. Furr: Yes.

Mr. Richardson: The parking lot facility that's gravel was occupied by cars, correct?

Mr. Furr: You're saying when I bought the lot?

Mr. Richardson: When you were looking, when you bought the lot and at all times since building your home that parking lot was being used for the marina, right? You saw it.

Mr. Furr: Both parking lots are used.

Mr. Richardson: You saw being used, right?

Mr. Furr: Yeah. Well, yeah, but now we gotta back up and get the facts. When I, when I purchased the property and you pull through that gate and you go through a gated community and you roll around there, that parking lot that's in the middle of a neighborhood.

Mr. Richardson: No, no. I'm asking about this parking lot.

Mr. Furr: But I'm trying to tell you that I had no idea that that parking lot was associated with that marina.

Mr. Richardson: And you didn't ask any questions about it?

Mr. Furr: Didn't know to.

Mr. Richardson: Did you have a lawyer do your closing?

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Mr. Furr: I've got a, yeah, they did title searches, I've got title insurance, the whole shoe match. But you know what? That lot that I bought, 21R, has nothing to do with that parking lot right there.

Mr. Richardson: But you had a lot?

Mr. Furr: So you want my attorney to research the entire neighborhood and the adjoining properties that I'm, I'm complete. Is that what you're asking?

Mr. Richardson: So Mr. Furr, you had an attorney represent you on the closing of your lot, correct?

Mr. Furr: Yes.

Mr. Richardson: At all times, even though you didn't know what it was, you saw the parking lot being used, correct? This parking lot?

Mr. Furr: Sure.

Mr. Richardson: You also saw the triangular parking lot inside of Oceana's gates being used, correct?

Mr. Furr: Ah, yes.

Mr. Richardson: Did anybody force you to buy lot 21?

Mr. Furr: I'm not complaining that I bought lot 21. I'm glad that I bought lot 21.

Mr. Richardson: Mr. Furr, are you a licensed residential real estate appraiser?

Mr. Furr: Nope.

Mr. Richardson: Have you ever been a licensed real estate appraiser?

Mr. Furr: Nope.

Mr. Richardson: Do you have anything in the field in your work experience to do with appraisals and valuations of anything dealing with real property?

Mr. Furr: As far as me personally giving valuations? I've been in business for 30 years. I've bought properties. I've built properties. I've had valuations done. I've dealt with banks. I know what they expect. I know what they require. I know what the value of the things are. I know how to run a business. I know how to make money. And I know that that is not right.

Mr. Richardson: In response to your Council's questions about likely impacts from this application, you stated that you don't know who folks are walking around on the property at Oceana. There's been an increase in theft and vandalism. Not able to prosecute those people

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that you're observing walking around in the neighborhood. Somebody stole some signs. And you're gonna see this increase in traffic because you contend that the triangular parking lot is gonna be open to the members of the public as part of this application. Is that correct? Did I sum up your testimony correctly?

Mr. Furr: Yeah, I mean, that's, and as being the president of the Board of Directors, and being in the neighborhood a couple of years, and knowing these fine people, and talking to them and listening to their concerns. I mean, you could ask these people over here and they would tell you the same thing about strangers being in the neighborhood.

Mr. Richardson: You also said, however, that it's good that folks are gonna pull up to the boats, to the boat docks, if this application's approved, floating down the waterway. That's a good thing, right?

Mr. Furr: I don't think it's a good thing.

Mr. Richardson: You didn't say that earlier, that it was a good thing that folks were gonna pull up in boats?

Mr. Furr: I don't remember. I thought I said that they would be pulling up in boats. They would be walking on and driving in, so I thought that's what I said. But see, I'm a boater, and alcohol and boats don't mix, so that's my position.

Mr. Richardson: So what does that mean? How does that have anything to do with tonight's application?

Mr. Furr: Well, you were just talking up pulling up with boats at the bar is a good thing.

Mr. Richardson: I'm not reminding you of your testimony. I'm not talking about the application. I'm asking you about your testimony earlier. Did you or did you not say that it's good that folks would be able to pull up in their boats on the docks?

Mr. Furr: I'm a boater. You got a fuel island there. You wanna pull up and get fuel, get a snack, drink, I think that's great. I don't have a problem with that.

Mr. Richardson: You also said that it was common sense that there's gonna be a decrease in the property values in the Oceana subdivision? What's that common sense based on?

Mr. Furr: Well.

Mr. Richardson: What's your statement based on, sir?

Mr. Furr: OK, I think I've said enough for you to understand that, but so what we're talking about is it's almost like Mission Creek. It's exponential growth. It's what's happened. See, I, what you don't realize is I've done an extensive, exhaustive history search on this property.

Mr. Richardson: Right you testified about that at.



Mr. Furr: It goes back to 1970. No, I didn't.

Mr. Richardson: You testified about that at the Board of Adjustment.

Mr. Furr: No, I didn't. I said that I did that, but I didn't present any evidence like I'm gonna present tonight. So in 1978 is when all this stuff starts. So I know the history of what's going on here, and I know it plain and I'm gonna share it with these good people if we could just get past this.

Mr. Richardson: And that exponential growth, you're one of the people that moved to the marina and built a home, increasing the growth, correct?

Mr. Furr: Well, for our gated community. For ourselves.

Mr. Richardson: No further questions.

Mayor Pierce: Thank you. Mr. Potter, do you wanna call your third witness?

Mr. Potter: Mr. Sanderford, James K. Sanderford.

Mr. Sanderford: I'm James Sanderford. I live at 418 Marina Street.

Mr. Potter: Can y'all, can y'all hear him OK?

Ms. Fox: He needs to lean in to the mic.

Mr. Sanderford: James Sanderford, 418 Marina Street.

Mr. Potter: OK. And Mr. Sanderford, on this plat map here, can you, over to your left, is this your property right here?

Mr. Sanderford: Yes.

Mr. Potter: OK, and the lot that's next to you, is that vacant?

Mr. Sanderford: Yes.

Mr. Potter: OK, and the parking lot that we've been talking about, that begins right here, is that right?

Mr. Sanderford: Yes.

Mr. Potter: OK, and what have you done to prepare for tonight's hearing as it relates to the impact on your property and your experience in Oceana?

Mr. Sanderford: Primary, primarily I've done extensive research with zoning, state codes, fire codes.

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Mr. Potter: And have you also done research on parking lots and the way that they're set up and designed?

Mr. Sanderford: Yes. The other thing I've done is looked at their design, me myself being a Licensed Professional Engineer. I've looked at the how they're laid out, what parking spaces that they're showing could and could not be used.

Mr. Potter: OK, and if you would look at the plat map there, this part of the parking lot right there, do you understand that part of this plan involves the expansion of that parking right there?

Mr. Sanderford: Yes.

Mr. Richardson: Objection. You're asking a legal question. Madam Town Attorney, back up before now in the application how we're expanding this parking lot as part of the conditional-use application.

Mr. Potter: That's fine, Grady. Fine.

Ms. Fox: And we'll remind both of the members of the bar that are here that y'all are having a hearing on standing right now, not the application that is before Council, so perhaps if you can focus on the issue of special damages we can have the Council make a determination of standing and then you can present your case in chief.

Mr. Potter: I promise this has to do with it

Mayor Pierce: And for everybody wondering about this parking issue, there will be a staff presentation that will explain the parking, so if we could get past that that'd be awesome.

Mr. Potter: Mr. Sanderford, is the parking spaces that are right there usable currently?

Mr. Sanderford: They are usable.

Mr. Potter: OK, and as proposed, will they become usable?

Mr. Sanderford: As proposed with the additional extending the length? Yes.

Mr. Potter: What impact, if any, would that have on your property?

Mr. Sanderford: Well, currently they cannot be used because they would in the easement area.

Mr. Potter: And they're not actually used, is that right? Do people regularly pull?

Mr. Sanderford: Yes, they are not currently used. They cannot be used.

Mr. Potter: And so if this permit is approved and those spaces become usable, you will now have usable parking next to your property. Is that correct?

Mr. Sanderford: That's correct. We will have parking adjacent to my property.

Mr. Potter: Is that, is that condition gonna affect anybody in Carolina Beach besides you?

Mr. Sanderford: No, it's not gonna nobody but myself.

Mr. Potter: Mr. Sanderford, you've also become familiar with the rest of the project. Do you have an opinion as to whether the project is going to negatively or positively affect your property?

Mr. Sanderford: It's gonna negatively affect our, my property. We really don't have any issues out there except around July Fourth it seems like all the crazies come out, and that's due to the influx of people that's there. And by putting, it's my opinion by putting the bar in this location would have that same influx all the time, not just once a year. We've had also issues with speeding in our neighborhood, which come to find out they were parking in the area that the parking lot inside of our neighborhood. What happened was we, we have, we have people that have small children in our neighborhood. We also have a lot of grandparents that have small grandchildren. They play in the streets because most of the time it's mostly safe. This past summer, we had somebody come flying through the neighborhood, one of the residents. I was the president of the HOA at the time. He sent notices out, I mean, sent texts out. You know, make a long story short, the person that did it was parking in that parking lot and he was flying through the neighborhood. The unfortunate thing is in this neighborhood, the police cannot control the speed because it's a private road.

Mr. Potter: Mr. Sanderford, do you have an opinion as to whether this project will increase traffic within the Oceana subdivision?

Mr. Sanderford: Yes, it's gonna increase the traffic, and what's in there, than what's in there now.

Mr. Potter: No further questions.

Mr. Richardson: Hey, Mr. Sanderford.

Mr. Sanderford: Hey, Grady.

Mr. Richardson: For everybody's benefit, you and I know each other. I consider you a friend.

Mr. Sanderford: Yes.

Mr. Richardson: We just disagree on this tonight. So how many parking lot, how many parking spaces do you contend are gonna be newly created as a result of this application next to your property? How many spaces?

Mr. Sanderford: Adjacent to my property? There's nine. They'll be a total of 17 inside the, inside of Oceana.

Mr. Richardson: Seventeen new parking spaces you contend as a part of this application inside

of Oceana?

Mr. Sanderford: Yes.

Mr. Richardson: Not.

Mr. Sanderford: And this, now this is off my memory, I don't have. Over here?

Mr. Richardson: Yes, sir. On my client, on my client's property.

Mr. Sanderford: I, I mean I, Grady, I'd have to look at the plans and count the spaces.

Mr. Richardson: Now, in response to Mr. Potter's question, you said that the alleged new parking spaces that were gonna go next to your property were distinct to you. How so when everybody else lives in the same subdivision and are going to be going by the alleged new parking spaces?

Mr. Sanderford: The alleged new parking spaces? What's your question, Grady?

Mr. Richardson: You said that the new alleged location of parking spaces that are now going to be used?

Mr. Sanderford: They're adjacent to the road. All the parking spaces that you pull off the road, Oceana, marina, they are gonna all be new because they cannot be using the current configuration.

Mr. Richardson: Yes, but the new parking, cars parking in those new spaces you contend are gonna happen, don't just affect your property use. It affects everyone in Oceana's property use, correct?

Mr. Sanderford: Yes. It affects everybody, yeah, but I'm here.

Mr. Richardson: You said that right now you have speeding in the neighborhood. Right now you have speeding in the neighborhood.

Mr. Sanderford: We had, we had an incident last summer.

Mr. Richardson: And was that incident tied directly to anything having to do with my client's marina?

Mr. Sanderford: He parked in there and it was my understanding the police came out, and I don't know what the end result was, but it's my understanding that he was a patron of the marina.

Mr. Richardson: So as a patron of the marina, was he a boat slip owner, a boat slip renter?

Mr. Sanderford: I don't know where he was. I don't know what he was.

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Mr. Richardson: OK.

Mr. Sanderford: I was the president at the time. I got, I got a notification what was going on, and I informed, and then I informed the parties of the situation the problems we were having.

Mr. Richardson: How long have you been a resident in the Oceana subdivision?

Mr. Sanderford: I bought my lot approximately about five years ago and built, and I built the house, living there approximately four years.

Mr. Richardson: With respect to the aerial photograph that's on the screen, is it fair to say your, your house is off the screen to the right?

Mr. Sanderford: No, sir.

Mr. Richardson: Where's it at?

Mr. Sanderford: It's approximately, you see those two trees, two trees right there? It's approximately right there. It's not shown on that map, but that's.

Mr. Richardson: These two trees?

Mr. Sanderford: Yes, sir. It's approximately there.

Mr. Richardson: That's where your house is presently built?

Mr. Sanderford: Yes.

Mr. Richardson: OK, so maybe it's a little dated of a photograph?

Mr. Sanderford: Yes.

Mr. Richardson: When you built your home, the ship store was being used by the marina, correct?

Mr. Sanderford: Yes.

Mr. Richardson: The parking lot, the gravel parking lot, that was being used, correct?

Mr. Sanderford: Yes.

Mr. Richardson: The boat slips and the boats in the boat slips was, were being occupied, correct?

Mr. Sanderford: Yes.

Mr. Richardson: And you still built your house inside of the Oceana subdivision when you saw the parking lot, correct?

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Mr. Sanderford: Yes.

Mr. Richardson: And the parking lot was being used. Is that correct?

Mr. Sanderford: Yes.

Mr. Richardson: And there was a gate leading into the Oceana subdivision, correct?

Mr. Sanderford: Mmm hmm.

Mr. Richardson: And you're not a licensed real estate appraiser, are you?

Mr. Sanderford: No, I'm a developer, engineer, contractor. I've done quite a bit of stuff over the years.

Mr. Richardson: And you said earlier that right now in your neighborhood you don't really have any issues except Fourth of July, correct?

Mr. Sanderford: If you want to go back historically, prior to the new owner, I don't really, I don't, as far as I'm concerned, there was really, I didn't really notice any issues. Worked, I worked long days, but I didn't know Sanford and Son's cousin was gonna buy the marina and make our, and make that parking lot into a marina junkyard. And then we, and then we had to, we had to file a complaint. Staff got it cleaned up. There was spaces out there being rented, and I do, you know, they did clean it up, and I think once if this permit's approved it was gonna go back just the way it was because we've had, the issues I've seen, I didn't see any issues there before, but I see, I've seen, we've had to go through issues, we've had issues under the new owner.

Mr. Richardson: Well, I'm sorry. Did, did you testify earlier that we don't have any issues except on July Fourth or not? Did you testify to that?

Mr. Sanderford: You talking about historically? Historically, yes, we've had issues. We've, they've, they've rented out, my understanding is they've rented out boat slips out there. We had to get all the boats moved. We had a bunch of boat trailers out there. You know, I don't know who drives a boat trailer, but we had all these boat trailers out there. We had all these boats out there. I don't know how you can drive a boat and get to your slips. So what you're saying about they only used for just the people coming to that rent those slips, that's not, that's not accurate.

Mr. Richardson: Earlier in response to questioning by Mr. Potter, you testified that you don't really have any issues out in the neighborhood except July Fourth, didn't you?

Mr. Sanderford: No, we've had issues in the past. He asked what kind of issues we've had.

Mr. Richardson: So you didn't testify to that, though? So you've had issues?

Mr. Sanderford: Yes, we've had issues out there. That's why, that's one of the reasons we filed the.

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Mr. Richardson: What were the issues?

Mr. Sanderford: Filed a violation. I just said the boats.

Mr. Richardson: The boat trailers?

Mr. Sanderford: Boat trailers, boats, it looked like a marina junkyard out there.

Mr. Richardson: And that was communicated to staff of the Town, staff communicated to my client, and it's been taken care of ever since, hasn't it?

Mr. Sanderford: There's been some few things, but minor.

Mr. Richardson: Minor?

Mr. Sanderford: Yes.

Mr. Richardson: This issue was talked about at the Board of Adjustment hearing, wasn't it?

Mr. Sanderford: Yes, I guess. I'm not sure. I can't recall, Grady.

Mr. Richardson: Any other issues?

Mr. Sanderford: Any other issues with the marina?

Mr. Richardson: With the neighborhood, other than this, the speeding, the one-time speeding. You've got children. I mean, there are children in every subdivision playing in and around streets, wouldn't you agree?

Mr. Sanderford: This is a gated community, and unfortunately when the codes, I mean, we, we been getting, they have been getting the codes and the codes get out, and it can be given to anybody.

Mr. Richardson: So speeding, the boat trailers that were cleaned up, and the parking lot. Anything else?

Mr. Sanderford: Anything, anything else as far as what's not in compliance?

Mr. Richardson: Bad issues at the, at the neighborhood that Mr. Furr talked about earlier. He talked about there being an increase in theft and vandalism and signs being stolen.

Mr. Sanderford: Well, that's true, yeah, yeah. There's, there, we've had issues not with our people, but we've had issues out there. I've had issues, I've had issues with my personal, my personal boat. July Fourth. Vandalism. One July Fourth we, we had somebody trying to break into houses. Last July Fourth, we had people in the middle of the day getting it on right in front of everybody. So, I don't know where these people, you know, I mean, obviously they.

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Mr. Richardson: Don't know where they came from?

Mr. Sanderford: Huh?

Mr. Richardson: You don't know where they came from?

Mr. Sanderford: No, but they, they walked back in the, this area so.

Mr. Richardson: Did anybody?

Mr. Sanderford: I mean, there's Airbnb boats being operated there, so it could've been one of them. Who knows? I don't know.

Mr. Richardson: Did you make any complaints to the Carolina Beach Police Department?

Mr. Sanderford: The only complaint we made was about the speeding.

Mr. Richardson: And was that person arrested and given a citation?

Mr. Sanderford: I have no idea. I think, I think the Police Department might've spoken to 'em. I'm not sure what they did.

Mr. Richardson: Thank you, Mr. Sanderford.

Mr. Sanderford: OK.

Mayor Pierce: Thank you, all.

Mr. Potter: One more. Mr. Baker. No, no. Not you.

Mayor Pierce: Is this a witness again for Oceana?

Mr. Potter: He's an expert on the property value issue.

Ms. Fox: On the issue of standing? You're still, we're still determining standing.

Mayor Pierce: We're just, is this, we're gonna determine standing first.

Ms. Fox: No, he's gonna present a witness to help you determine whether or not Oceana has standing. Is that correct?

Mr. Potter: That's correct.

Ms. Fox: OK.

Mr. Potter: Be very briefly. Please state your name.

Mr. Baker: My name is Jeffrey Baker. I'm a licensed real estate attorney and also real estate

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broker.

Mr. Potter: OK, and Mr. Baker, I understand as part of your case or presentation later you'll talk about this in more detail, but what have you done to prepare for today exclusively as it relates to the impact on value of the proposed marina bar?

Mr. Baker: OK, so just a brief background. I am not an appraiser, so in order to, in order to come up with a valuation of property, that's only for an appraiser. As a broker, we can provide a broker price opinion. In order to calculate a broker price opinion, what you would look at is the facts of what you are dealing with and find a comparable situation to determine what impact that has had. Given that this is an exclusive gated neighborhood geographically located uniquely, I am able to find any, anything comparable to give us direct answers. So, first of all I would say that it's impossible to say that this would not have an impact detrimentally to the property. From that, we have to look at this more generically and look at some factual patterns as what is happening, so in putting this bar in there you'd have your, obviously you're gonna have an increase in traffic to the area, increase in noise. This is gonna be bringing in public versus boat owners and boat renters, so looking at the marketability and saleability of this property, it would be of my opinion that having a bar open to the public marketed as such with the sale and consumption of alcohol on the premises would have a detrimental impact on the marketability of the property, the saleability of the property, whether that be a realized sales price or days on market, which also has a direct impact to the homeowner who is trying to sell the home because they have carrying costs as well as lost opportunity. So overall, I would say negative impact.

Mr. Potter: And Mr. Baker, you heard Mr. Perry testify about his property. Would the, would the impacts be one way or the other with respect to Mr. Perry?

Mr. Baker: I think his would by far have the most impact. I think as you go in you'd be a little bit less because you're gonna be further removed from that, but the traffic is going to be on the road coming and going from the, from the project, from Oceana.

Mr. Potter: So whether it's a decreased sales price or a longer time on the market in order to grant a sale, your opinion is that it would have an impact on the saleability of at least Mr. Perry's property, but possibly others?

Mr. Baker: Correct.

Mr. Potter: I have no further questions.

Mr. Richardson: Mr. Baker.

Mr. Baker: Hey, how are you doing, Grady?

Mr. Richardson: We also know each other. Consider you a friend and your wife as well. Mr. Baker, do you have any specific examples that you can point to tonight to support any of your opinion you just gave to Council?

Mr. Baker: No specifics.

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Mr. Richardson: Have you ever been qualified as an expert to render any broker price opinions in court?

Mr. Baker: In court? No.

Mr. Richardson: In any proceeding as a contested quasi-judicial setting?

Mr. Baker: No.

Mr. Richardson: Did you do any traffic impact study?

Mr. Baker: No, I would look to see if it, the applicant had performed any impact study or any specific, the size, the use, the any, any proposed. I didn't notice any of that in the, in the application, so I didn't but.

Mr. Richardson: Well actually, the applicant only has to do what the Town's ordinances require.

Mr. Baker: Sure.

Mr. Richardson: Are you aware that the Town ordinances don't require a traffic impact analysis?

Mr. Baker: Yes.

Mr. Richardson: Are you aware that the code doesn't require any sort of professional engineering on noise ordinance impact?

Mr. Baker: Yes.

Mr. Richardson: You're not a licensed real estate appraiser?

Mr. Baker: No.

Mr. Richardson: Thank you. I have no further questions.

Mayor Pierce: Do you have anything else, Mr. Potter?

Mr. Potter: I don't. Just a, just a sort of legal argument that will take three minutes, but that's.

Ms. Fox: You're gonna make a legal argument on the issue of standing and then Mr. Richardson will also make his argument and then Council will vote.

Mr. Potter: I think that's what we agreed is the procedure. Is that correct?

Ms. Fox: Correct.

Mr. Potter: Members of Council, I thank you for your patience in listening to the witnesses and the cross-examination that took place. The question before you right now is standing. It's not all

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of these other things we've been talking about, for the most part, and as Madam Attorney Ms. Fox said at the very beginning of this, the question is whether or not any one of the members. Actually, she didn't say that. She said standing, you have to show special damages, and special damages is showing that you will suffer consequences that are different than the public as a whole. And then there's a statute as well that says if you are an association and any one of your members satisfies the requirement for standing that the association itself has standing. You first heard from Mr. Perry. Mr. Perry testified at length. I won't regurgitate what Mr. Perry had to say about the impacts on his property. You heard from Mr. Furr and Mr. Sanderford regarding the same. I expect that Mr. Richardson is gonna argue in part, based on his questions about whether somebody's an appraiser or not, that there is some sort of requirement that we show actual diminution in value, meaning not just that there's an adverse consequence but also that there's a reduction in value. I know you're not lawyers and I know you're not judges, but the Supreme Court has said special damages do not require a diminution in property values, and this is from the Mangum vs. Raleigh Board of Adjustment case, but the party claiming standing will suffer adverse consequences that are particular to the party and not applicable to the general public. We have put on evidence of the diminution in value. Despite that not being a requirement to further our case that there is a unique injury to at least Mr. Perry but certainly the other people that immediately adjoin this property. Mr. Richardson's focused on, or it seems he's focused, I'm predicting on what he's focusing on, this lack of an appraiser's opinion, and in another North Carolina case the court found that the lay testimony for purposes of standing that those people believe that their property values will be negatively affected. Affected is sufficient, and that's the second case for it versus County of Cumberland. It's a 2012 case. This just sort of regurgitates and, and is a overview of what our, our witnesses testified to. Again, this is just a limited inquiry at this point. Whether or not the Oceana homeowners would expect to experience a adverse consequence as a result of this marina bar that is different from the general public, and we believe we've met that burden. Thank you.

Mr. Richardson: Mayor, members of Council, thank you for your patience. Just using Mr. Potter's presentation, these bullet points that he's got for you to review, you, to establish standing, you have to get up beyond and testify and present improper evidence that's beyond naked conclusory statements. When Mr. Perry testified that he's gonna suffer, he never testified, he was, he never testified particular special damages. He never testified that it would be a result of increased traffic, trash, noise, and odor. Instead what Mr. Perry, Mr. Furr, Mr. Sanderford, and Mr., well, not Mr. Baker, the three residents out there all testified they're already experiencing allegedly these, these issues: parking problems, noise, allegedly impermissible trespassing, and use of their roads. Course, they can't actually support that. It's already happening, though. They've not proffered you any evidence of what is actually going to be a new special damage and one that's going to be particular as to them. They rely on a parking lot inside of the Oceana that has nothing to do with the application tonight. It was vetted by the Board of Adjustment because they challenged it. It was unanimously denied, and if they want to get any recourse from that position, they'll have to persuade a Superior Court to reverse the Board of Adjustment. It's a red herring when they're talking about the use of that parking lot inside of the gates because only the boat slip owners or their renters of the boat slip are able to use that parking lot facility. Only them, not any of you as members of the public, not me, not the Town Attorney, not Mr. Potter unless you own the boat slip or you're renting it, period. If they believe there are people that have gained access to the code, then it's incumbent upon the Oceana residents to change the code. Communicate that to the marina so that the marina can notify its owners and boat slip renters. But to sit up here and blame the applicant for everything, even

things that none of which have been forecast as new. They're already experiencing them. They talk about increase in traffic. That's impossible because of the parking lot inside of the Oceana gate not being used by members of the public. So then they want to point to, I guess, the parking gravel facility that we've been using for 25+ years. Yes, we're having to reconfigure it. You know why? Because they complained about it and Bobby Harrelson has a deed restriction and we've got a fence going up that's going to encroach upon the current existing parking lot, which is why, I don't know if I can get to it, which is why we're having to knock down these trees and bushes and going as part of this application and put in new parking spaces here that are right now here because the Town's fence is going to encroach upon them. That's why. Well, we've got the ability to put the parking spaces more than what's required by the Town ordinance over here. There's not gonna be any increase in traffic inside the Oceana because this is used by the marina boat slip and owners. People out here on boats, if the application's approved, they could use the facility, but they're not gonna have a car to drive through. Either they're gonna have to bust the gate or get access code to get through the gate, so the increased traffic's a red herring. The bottom line is you've heard nothing tonight about special damages. They do not have standing, and Mr. Baker gets up here, with all due respect, he has no specific examples, none on which to draw from to support his opinion, nor do any of the other people beyond speculation and conjecture, and that's being generous, to support that they're gonna have some sort decreased value. They don't establish standing, and I came in here tonight, and Madam Town Attorney, look, I represent three towns. I've been Town Attorney for since 2005. I get it. I know this is a complicated issue, but where is their standing? What have you heard tonight that's been competent, material, and substantial evidence to support that they have standing to challenge this permit application? I respectfully request that this Council, relying on Mr. Potter's own presentation and his clients' own feeble testimony on this issue, grant our motion to dismiss on the basis of lack of standing and allow the staff to put on their materials, allow us to put on our additional materials, and make the, make a decision on the application without opposition being heard on because they don't have standing. Thank you.

Mayor Pierce: Thank you.

Ms. Fox: Mr. Potter, do you, are you seeking to rebut?

Mr. Potter: I have one sentence, and maybe a joint sentence. This issue about the parking lot being limited to boat slip owners and renters, you all have the application in front of you. I would challenge any of you to find that in the application. Thank you.

Ms. Fox: Mayor, Council, you've heard from a party who wishes to participate as a party with standing. You've heard from four witnesses the applicant had an opportunity to cross-examine. At this time, you must weigh the evidence that was presented and make a motion to either find or find that the party has standing or does not have standing.

Mayor Pierce: So, gentlemen, do you have any discussions?

Mayor Pro Tem Healy: From what I've heard, when it comes to land value and quality of life, I don't think the case was presented on Oceana's behalf to validate that, so I would, I would say lack of, not with standing.

Mayor Pierce: OK, does anybody wanna make a motion or do you have any more discussions?

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Council Member Barbee: Have one more quick one. The one for me that has to do with, is the parking lot, are any changes being made on the parking lot or being proposed in this CUP? I heard both sides say yes and no, and that for me seems that it would affect standing.

Mayor Pierce: You think that's relevant?

Council Member Barbee: I think it's relevant to whether they have standing or not. If, if there's absolutely no changes going on there, because we heard about extending parking places and then I heard it's not so I'm, I'm a little confused as to whether this CUP. I've gone through it and I don't, I'm either able to find or to understand if they are actually making, requesting any changes to the parking lot.

Mayor Pierce: So, so that's a good point, Councilman Barbee, and just to make a comment. I've heard a lot tonight about a fence going up, and just so the public knows, that is a North Carolina requirement that we have a 100-foot radius that's unencroached around our well site, and that is why that fence is going up. Has nothing to do with this applicant. That is us protecting that well site and our deed restrictions. Jeremy, can you make any comments that might help Councilman Barbee.

Ms. Fox: I, I would, I would suggest that that is not appropriate at this time. You have heard evidence from Mr. Potter. He has the burden of proving that his party has standing. He has been cross-examined by Mr. Richardson. You should the weigh testimony. If you heard both, you must weigh that testimony and determine whether or not Oceana is a party of standing.

Council Member Garza: That's a tough one. It's tough because Mr. Potter's thing specifically says that they don't have to say value off that statute, but at the same time to a small degree it feels that it may not have been enough information that we need to make that call. So as tough it is on my behalf, I, I would have to agree that I think that there wasn't enough in the favor Oceana.

Mayor Pro Tem Healy: Agree.

Mayor Pierce: And I understand. I do believe Oceana has standing in this. I do believe that they would possibly have some special damages, but if I would entertain a motion and we'll take a vote on it and we'll go from there.

Council Member Garza: What's your reasoning on that side? You can test us out.

Mayor Pierce: I did hear a lot about the noise and I don't necessarily know that the traffic is, but I do think there will be some noise issues and operation of a business, so I do think being in an adjoining, an adjoining neighborhood they would have some kind of impact, which is what I've heard from some of those residents.

Ms. Fox: Mayor, Council, just as a reminder, under 160a 393d, this association, who has members, can be found to have standing if there is a party who has standing individually within that association, so that is why you've heard this discussion between these witnesses.

Mayor Pierce: So, so say that again.

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Council Member Garza: If one has it, they all have it.

Mayor Pierce: One of, you're saying if one of the witnesses was to have a standing, they all have a standing.

Ms. Fox: That's what the legislature says.

Mayor Pierce: And, and, and I do believe that. I understand.

Council Member Garza: So Mr. Perry's property?

Mayor Pierce: I agree with what you're saying. Some of them may not have standing.

Council Member Garza: So Mr. Perry's property?

Council Member Barbee: Yeah.

Mayor Pierce: That would be the one I would reference.

Council Member Garza: And so it states that if one has it, that then they all have it.

Mayor Pierce: Right. Correct.

Council Member Garza: So then I make a motion to allow them to have their standing.

Mayor Pierce: All in favor?

Council Member Garza: Aye.

Mayor Pierce: Aye.

Council Member Barbee: I'm gonna say aye.

Mayor Pierce: Opposed?

Mayor Pro Tem Healy: Aye.

Mayor Pierce: So is there anybody opposed?

Ms. Fox: 3 to 1.

Mayor Pierce: 3 to 1. OK. So is there anybody else, and, and is there anybody else that would like to present that they have standing in this case? Standing being that you may, you may acquire special damages, not your opinion about the project or what you think, that you may have special damages from the applicant. Is there anybody else who would like to present that? Sir? OK, come up. If you'll state your name and address, and we'll go through this same process with every person that wants to claim special damages.

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Ms. Fox: Can we please confirm that you've been sworn?

Mr. Machovec: Yes, I've been sworn. Right.

Mayor Pierce: Mr. Richardson, I'm sorry. Hang on.

Mr. Richardson: May I? Excuse me, sir. I'm gonna have to object. We had our motion hearing. Unfortunately, I lost on my motion to dismiss for lack of standing. The only proffer was made, and to open it up now for new people to come forward after a motion to dismiss for lack of standing's already been made, the record's been complete on it.

Ms. Fox: I think it's individual by individual, Mr. Richardson, so Oceana has made an allegation they had standing. They've presented evidence. Now, sir, are you a member of Oceana?

Mr. Machovec: No, I'm not, but I was under the impression she said would it, did I have an issue with the value of it.

Ms. Fox: No, she's asking.

Mayor Pierce: Would it damage your personally?

Ms. Fox: She's asking you if you.

Mr. Machovec: What, what was it?

Mayor Pierce: You, am I saying that correctly?

Ms. Fox: You're, do you want, you're, she's asking anybody in the audience who would like to participate as a party of standing to come forward and submit evidence subject to cross-examination of Mr. Potter and Mr. Richardson. You could be for or against the project. I don't know.

Mr. Machovec: Well, I'm not a member of Oceana. I live just out, out, outside of that, if that's what your ask, asking.

Ms. Fox: You would need to produce substantial competent material evidence that you are a party with standing. That means that you have special damages that you will, which would result from either the approval or denial of this conditional-use permit.

Mr. Machovec: Yes, ma'am. It would affect me majorly. My house is one of the closest houses besides Mr. Perry's. And so yeah, I'm major league affected, if that's what you're asking.

Ms. Fox: Well, I'm not, I'm just telling you what your burden of proof is. You'll be subject to cross-examination of Mr. Potter and Mr. Richardson. Yeah, that's fine.

Mayor Pierce: OK, state your. Did you swear in?

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Ms. Fox: Yeah.

Mr. Machovec: Yes.

Mayor Pierce: OK, sir. What's your name, name and address?

Mr. Machovec: Melvin Machovec, 309 Georgia Avenue.

Mayor Pierce: OK, Melvin. Go ahead.

Mr. Machovec: Well, I mean, he seems to be making a deal that it's, you know. 17 parking spots aren't, that they don't have a right to argue about the 17 parking spots because it's not gonna be used because it's inside of the gate. And so in his argument that's irrelevant. Well, now let's put 17 parking spots 15 feet from my driveway. Fifteen feet from my driveway, where right now, you come out of my driveway, and he's, and they're not proposing, he's already said they're putting 15 parking spots right there. Now I'm not a real estate agent, which I know he's probably going to tear me apart about this, but, I mean, common sense says you put 15 parking spots, 17 parking spots 15 feet from my driveway that that's not gonna decrease the value of my house, I mean, you're fooling yourself if you think that that's not the case.

Mayor Pierce: Mr. Hardison, are you finding that on the map for us?

Mr. Machovec: And then for the decrease, you know, and to sit here and say that well, traffic is not gonna be an issue. I mean, it's crazy. You're putting a bar in a residential area and you can't tell me that traffic is not gonna be an issue, especially from my house?

Mayor Pierce: Is this your house where the pointer is? Is this your house where the pointer is?

Mr. Machovec: Where am I at?

Mayor Pierce: Right there.

Mr. Machovec: Correct. Yes. Yes, that is my house.

Mayor Pierce: And what's the parking, Jeremy?

Mr. Machovec: And then there's an empty lot next to me, which you can bet your bottom dollar that there's gonna be cars parked in that, in the lot next to me, and 15 feet across the street from my house, here's my driveway where I am, at that thing right there he's gonna put 17 parking spots in there. Now let's do that in front of your house, put 17 parking spots in there and then tell me how you feel and tell me that, that, that that's not decreasing the value of, of your house. I mean, I'll, I'll argue that till we're blue in the face, and the thing is too is, you know, I gotta live with these guys, and to a certain extent, I love these guys, man. You know, we're, we all got a good relationship, but I'm just standing up for what's mine. I, I, I worked hard for my beach house, and I feel like it's being terribly destroyed by this, by this thing happening. And then, you know, promises are being made, promises are being made. He put, I sit on my deck. I got a beautiful house. I take care of my house. I sit on my deck. He put a Maersk tractor trailer right there, man. I mean, people come up on my deck and they go God, Mel, you got a

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beautiful view, and then now staring at this thing, which he dumped that thing. I went over and asked him he goes oh, calm down, it'll be there for three months. Well, I mean, how long has it been? Three years now? You know, the gas tank is a mess. That's a mess. He's got logs stacked, so what I'm going with this is there's no neatness involved in this, and now promises are being made that aw, this is gonna be great. It's gonna be wonderland. It's, he can't keep up with what he has now, you know, and that's gonna, it's devastating for the value of of my house. It's terrible for it.

Mayor Pierce: Yes, sir.

Mr. Machovec: Yeah.

Mayor Pierce: OK.

Mr. Machovec: You know what, what Dillon's doing there, working there, he's doing a good job because Dylan is just the, you know, but it's the big structure that's there that is not being properly maintained. I personally think it's being horribly maintained. Mr. Perry here's gotta back out. He's gotta dodge two trashcans when he backs out of his driveway. They got a whole parking lot to put them trashcans. Where do they put 'em? Right there in front of Mr. Perry's park pad. It's, it's, it's not going, it's not being represented very well, and 17 spots 15 foot from my driveway is devastating for the value of my house.

Mayor Pierce: OK, Mr. Richardson?

Mr. Richardson: I didn't catch your name.

Mr. Machovec: Machovec. M-A-C-H-O-V-E-C.

Mayor Pierce: Are you on this list, sir? What was your name again? I'm sorry.

Mr. Machovec: Melvin Machovec.

Mayor Pierce: OK.

Mr. Richardson: I don't have a microphone, but Mr. Machovec, you live at 309 Georgia Avenue?

Mayor Pierce: Let me let you get one so our people at home can hear.

Mr. Richardson: You live at 309 Georgia Avenue?

Mr. Machovec: Correct.

Mr. Richardson: And that is where the white cursor is and the red light?

Mr. Machovec: Yes, sir.

Mr. Richardson: OK. Your driveway, your access to your home is over my client's property by way of an access easement, isn't it?

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Mr. Machovec: All's I did was build a house there. I got all the proper permits. You know, I didn't gypsy this house. I went and got permits, they asked me which way I want my house to face, I chose that way, and they said okey dokey, you're in good shape. So I'm not the judge of that, you know. I'm not a sur. Just like you said I'm not a real estate agent, I'm not a land surveyor either.

Mr. Richardson: So your testimony is today under oath.

Mr. Machovec: I don't, I don't know whose driveway.

Mr. Richardson: Let me finish. Your testimony is today under oath that you're not aware that you have an access easement over my client's property to get access to your property?

Mr. Machovec: I don't know that that's proof, no. I know that he approached me and said hey, you know that my, your driveway's on property. You know, there's a road there. There's a street sign. There's a stop sign on that road and there's a street sign that says Georgia Avenue, so how you can tell me he owns that property, I don't know. Once again, I'm not a land surveyor.

Mr. Richardson: When you, when did you build your home?

Mr. Machovec: Ah, four years ago.

Mr. Richardson: Four years ago, and you decided to build it facing the marina?

Mr. Machovec: That would be correct, as you can see, because I wanted to look at beauty. I wanted to stare out my window and look at the beauty of a beautiful marina before he owned it. Yes, so that is why I did that because I wanted to look at beautiful things.

Mr. Richardson: So you wanted to look at the beautiful fuel tank?

Mr. Machovec: That's the one thing that I, you, you seem to be agreeing with me that it's not so beautiful.

Mr. Richardson: The beautiful fuel tank, right? That was your choice?

Mr. Machovec: Yeah, yeah. Unfortunately, yes, I do have to look at that.

Mr. Richardson: And you moved to the marina where the ship store is located across the street from you, correct?

Mr. Machovec: I don't know that there's a store there right now, no. I don't, I don't, I don't never go in there, so is there a store there? I don't know.

Mr. Richardson: OK, so your testimony is today after living there for four years you don't know whether that's a ship store?

Mr. Machovec: I don't know that they, what do they sell in there? I have no idea what they sell.

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Mr. Richardson: So you have no idea what's going on in that building?

Mr. Machovec: I've been in there before when the old owner owned it, but since the old owner, I don't, I don't think you guys sell anything in there, as far as I know. I see a ice truck pull up every now and again, but no, I'm unaware of what they sell in there.

Mr. Richardson: And so from, from, is your house on stilts, pilings?

Mr. Machovec: Yes.

Mr. Richardson: And so is there a little apron off of the pavement that goes to your driveway to your home?

Mr. Machovec: Well, yes.

Mr. Richardson: OK, so the 15 feet that you've talked about, is that from the edge of your roof to the pavement of the access? You said 15 feet. The parking lot's gonna be 15 feet away from your property.

Mr. Machovec: Right. You don't have to holler at me. I'm telling you it's 15 feet from the drive.

Mr. Richardson: What, what, what, what 15 feet?

Mr. Machovec: From my driveway, 15 feet from my driveway to across to where he's putting these parking spots at, yes.

Mr. Richardson: So your testimony is from your driveway where the red light is across the street of the pavement is only 15 feet?

Mr. Machovec: Yes.

Mr. Richardson: And the presence of parking vehicles off of your land, not obstructing your access, actually in front of the fuel tank, your testimony is today, that's gonna impact the value of your property detrimentally?

Mr. Machovec: Correct.

Mr. Richardson: And you're not a residential appraiser?

Mr. Machovec: Not at the moment, no.

Mr. Richardson: But yet you built your house facing all of what we see there to, to the north, correct?

Mr. Machovec: Yes, sir.

Mr. Richardson: No further questions.

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Ms. Fox: Mr. Potter, as Oceana is now a party of standing, do you have any questions for this person?

Mr. Potter: I do not.

Mr. Machovec: Thank you.

Mayor Pierce: OK, thank you. OK, so, Council, we will, we will do the same thing. Any discussions about whether this gentleman has standing?

Mayor Pro Tem Healy: I think, Mr. Machovec, I think that was very impactful, actually, your statement. So, yes, I think he has standing.

Council Member Garza: I do as well.

Council Member Barbee: Same.

Mayor Pierce: So can I get a motion?

Council Member Garza: Make a motion to allow Melvin Machovec standing stand.

Mayor Pierce: All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: Is there anyone else that would like to claim special, special damages? Special standing, sorry. And, and just for the public, you'll have a opportunity to speak for or against the project later on in the hearing. No one else? Yes, ma'am?

Ms. Burton: Hi.

Mayor Pro Tem Healy: Good evening.

Ms. Burton: I was sworn in. My name's Elizabeth Burton, and I live at Spinnaker Point, which I've been on the Board of Directors there for the past 10 years, and I feel like I represent that property. We're a huge part of all of this. We're also in the gated community. We have four buildings. I can see two of them, and I live actually close to the marina. That's where I live. Right there where that dot is, and I, I live as close as Alan Perry lives to the marina. I face the trash cans that we've addressed for a couple summers now that are overflowing every weekend, they smell, they are not big enough. You know, there are things that they've promised us that would happen and change the huge thing that's on the property. They told us it would be there for three months. It's been there for years. And so I just, I, I feel like, you know, letting this happen is just more of the same of stuff not happening that we need to have happen to make our area clean and not smell and that's it.

Mayor Pierce: And, and that's what you, you want us to consider for your special damages is odor?

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Ms. Burton: Well, and also we are part of the gated community, and the idea of just randoms allowed to come through the gate. We've had, we own the swimming pool and Jacuzzi on the property. We've had a lot of problems in the past with people on the boats coming and thinking they could use our facilities. We also have tennis courts. We also have a walkway that hasn't been talked about that we own with Oceana that goes over to the beach and in the past year we had so much, so many randoms using our parking lot, parking in our parking spaces. Parking's tough on the north end. It's expensive, and there isn't enough of it, and that's only gonna get worse, so people come and park in our parking lots. We do have to have passes. Currently the marina doesn't. They've told us they're going to at some point, but anybody can park over there now, and, and they do, and they walk to the beach, and oftentimes they try to use our walkway, which is private. We've now put up gates on the walkway to try to keep the randoms out, but it's all just, there are more and more and more people, and that's not gonna change on Carolina Beach, and we just, we're just a special, special place in our Spinnaker/Oceana world. So, that's it.

Mayor Pierce: Are you on in this building where the pointer is?

Council Member Garza: That's her spot?

Ms. Burton: That's exactly where I am.

Ms. Fox: And, for the record, you are not here on behalf of Spinnaker Point. Is that correct?

Ms. Burton: That's correct.

Mayor Pierce: OK, Mr. Richardson. Wait, you gotta stay up here, Ms. Burton.

Ms. Burton: Oh, yeah.

Mr. Richardson: I didn't get your last name. It sounded like Burden.

Ms. Burton: It was Burton. B-U-R-T-O-N.

Mayor Pierce: Burton.

Mr. Richardson: I don't have any questions, Ms. Burton. I do wish to make an argument over testimony. I don't have any questions.

Mayor Pierce: You just wanna let her sit down and you speak?

Mr. Richardson: Unless Mr. Potter has any.

Mr. Potter? Or. Mr., what's the other man's name?

Council Member Garza: Richardson.

Mayor Pierce: The other man.

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Council Member Garza: Richardson.

Ms. Fox: So, Mr. Richardson, you'd like to make an argument regarding the issue of standing for this person?

Mr. Richardson: Yes. My argument on Ms. Burton's testimony is you didn't hear from her about anything connected to the application or bring any supposed effects from it. She just talked about present day what she's experiencing.

Mayor Pierce: Mr. Potter?

Mr. Potter: I have no other questions.

Mayor Pierce: And Mr., is it McKelvin?

Council Member Garza: Machovec.

Mayor Pierce: Do you have anything?

Mr. Machovec: No.

Mayor Pierce: OK, so what do you guys wanna discuss about Ms. Burton's claim that Spinnaker, her unit at Spinnaker Point?

Council Member Garza: I don't think there was anything substantial. The only thing that would have me tilt on that is the fact that she lives in that neighborhood, and if we gave the standing to the others because the HOA leeway then that would be the reason I would go that way.

Council Member Barbee: My concern is, all I heard was association with like just by mere fact of proximity.

Council Member Garza: Association Oceana?

Council Member Barbee: Yeah, but I didn't hear anything substantial damages to her.

Mayor Pierce: You didn't hear her present a case that showed she would have substantial damages?

Council Member Barbee: Correct. Correct.

Mayor Pierce: Councilman Healy? I understand where you're coming from.

Mayor Pro Tem Healy: I agree. I agree. I didn't, what she's going through right now is, it's been there for a while, so I would say not with standing.

Mayor Pierce: So we're burdened by the speaker that they prove that they might present a case that they might have substantial damages, whether you think they might or not, so can I get a

motion on Ms. Burton?

Council Member Barbee: I'd make a motion that she does not have standing in this case.

Mayor Pierce: OK, all in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: OK, anyone else? And Ms. Burton, you can still speak later. Anyone else? OK, gentlemen, do we need a break?

Council Member Garza: Five minutes?

Mayor Pierce: Let's take a five-minute break 'cause when we come back we're gonna go right into staff presentation, applicant presentation. So let me give you a five-minute break. Let's make it quick.

Ms. Fox: And just as a reminder this is a quasi-judicial hearing so, Council, you should use a restroom separate and apart from the rest of the building and not speak with anybody about this matter.

Mayor Pierce: Don't talk to anybody. We'll go to the back. OK, guys, we're gonna go ahead and get started with our staff presentation. Yeah, go ahead.

Mr. Hardison: Mayor, Town Council, good evening. This is a conditional-use permit for Carolina Beach Yacht Club and Marina, which is located at 401 Marina Street, formerly Joyner Marina and before then it was Oceana Marina. I wanna just go over some of the issues that we've heard and hopefully answer some questions. I'm gonna start off just by looking at what's existing there. So regardless of what would happen tonight, what's existing is existing. They're operating today. They can operate tomorrow. But they're 69 boat slips within this marina. There is one building with a residential unit above with a marina store and an office. There is a fuel dock, and there is an existing off-site 56-space parking lot, which is the triangle area. That is owned by the applicant. So I wanted to just give kind of a brief history of this area to kinda see how we got here. And different elements of the marina were developed at different times and this area, it's currently there's three entities that you've heard tonight. There's the Carolina Beach Marina and Yacht Club, the applicant, the Spinnaker Point, which is a 72-unit multi-family consisting of four buildings, and the Oceana subdivision, which is a 49-lot subdivision. And but this at one time was all owned by one entity. In 1982 the entity came to Town Council, was granted a conditional-use permit for 372 multi-family units, which mirrored what Spinnaker Point is today. They were, it was approved with their excavating the land for the boat slips, they were approved for parking, tennis courts, swimming pool. As you can see, they had the beach access. There was a marina store associated with it, and certainly after the CUP they went to build and in 1985 they completed four of the buildings, which consist of the 72 units, the tennis courts, the swimming pool, the beach walkway, and the boat slips. But after 1985, the development stalled. There were multiple ideas and plans that were developed for the rest of the area. The original ideas was abandoned until 1994, when a subdivision plat was approved by Town Council for the 49-units Oceana subdivision, or 49 sub lot. At that time, that's when the reference triangle parking lot was created from this plat for this parking, and there was also an easement that was

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grated to access to the boat slips, where the owners or people leasing the slips would park here and they could access to the marina. At that time, there, with this approval there were gates that were erected, and that was, from testimony from the minutes, is because Spinnaker Point was promised when they were developed to be a gated community. As part of that also subdivision plat, there were slips that divided the section of the slips approximately in half that some went with the marina and some of 'em went with the lot of Oceana Marina. So brings us to the conditional-use permit for the expansion of the marina by adding an eating and drinking establishment. This is not considered a restaurant. It is, by definition, a bar from the zoning ordinance, which does require the CUP. The zoning district of the marina is in the Marina MB-1, the Marina Business District. The parking lot that services the boat slips is in a, the residential gated community of Oceana and Spinnaker Point. The proposed addition for you to consider tonight is a 40-by-120 barge that they would like to bring in and dock, that's behind the fuel, existing fuel docks. This will be registered as a vessel. They want, would like to put a 40-by-16 building on there that would consist of a concession stand, an office, a retail area. It would have a horseshoe service area for outdoor seating. They'd like to provide hot dogs, sandwiches, and beer and wine, according to their application. They'd also like to expand the fuel docks by 180-by-12 foot to the north. That's shown here. The existing building would be utilized as an office and storage area with remaining, remaining the residential unit above. They are going to be providing additional parking spaces, proximity at the, at the entrance of their parking lot and around the Georgia Avenue bend. It's just an aerial of the existing site. With the additional parking spaces, the 13 parking spaces are gonna be adjacent to what is known as the Georgia Avenue, where it does bend. Georgia Avenue bends and then it terminates into the subdivision of Marina Street. That is a private gated right-of-way, a 30-foot right-of-way. Georgia Avenue, it does open up to a 40-foot right-of-way in that area. The property of where Georgia Avenue was extended is actually owned by the applicant. The Town does have an access easement, 30 foot of that property, which terminates into the Town property, which is the well site that connects back up to Florida Avenue. This was prior to the development of the, of Oceana or of the Spinnaker Point. It was a dirt road. In the early 90s it was improved. Here's the existing condition of the road, and the proposed parking will be to the north. Just adjacent uses, there is a single-family on Georgia Avenue to the south, the Town well to the south, and this was put in in 1983 and just staff had concerned about adequate water in that area, adding 372 units originally, so the developer donated land and the Town did put in a well to provide water. To the northeast, see a single-family is the Oceana subdivision along the adjacent to the marina. East is Spinnaker Point, and the north is as you can see here is the Oceana gate and the beginning access to Carolina Beach Yacht Club. So the applicant must make, there are seven specific standards that make provisions for. One is ingress and egress. There is just an existing drive to get to the marina off of Georgia Avenue. The existing approved parking lot inside the gate of Oceana subdivision along, with the would provide the parking for the boat slips, and there's also 13 newly designed parking spaces as mentioned between Florida and Georgia Avenue. The parking area that was brought up earlier of with the parking spaces, this is the triangle area inside the gated community pictures of. When I went out there I observed the bold yellow line with letters that says no parking here. Looks like that at one time there were where the stripe there was parking spaces, so I asked the applicant, I said if you do not have a right to park in that area, then you would need to accommodate to make sure you have room for a standard parking space. And on the application you see here in the bold area is where the applicant has adjusted those parking spaces to meet standard parking size. Parking regulations is based off the existing boat slips, the proposed retail, the eating and drinking establishment, and the existing uses on site, which come to 94 parking spaces.

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Mayor Pierce: Jeremy, can you go back to that? How, so you figure, so the proposed retail space, is that in the existing building, or are you talking about just on the barge?

Mr. Hardison: That is on the barge:

Mayor Pierce: OK, and so does, you based it on the square footage?

Mr. Hardison: Correct.

Mayor Pierce: How many spaces they would need?

Mr. Hardison: Correct. That's how the parking is calculated.

Mayor Pro Tem Healy: So is that 2.9, is that how many people can be in the bar?

Mr. Hardison: That is based on square footage, so you would round up to the parking. That's just for 110 square feet or 200 square feet for outdoor area.

Mayor Pierce: But you have accounted for the spaces needed for the existing building?

Mr. Hardison: Correct. Yes, the existing uses and proposed uses.

Council Member Barbee: So Jeremy, can you connect the dots? I'm, I'm, I'm back on the issue of if this permit is or this CUP is for putting the barge in place and the people going to the barge don't have access to the parking lot, I'm just trying, going by what I heard here, why is extending those park, how is that connected? I missed something on how the.

Council Member Garza: Get in more boat slips.

Council Member Barbee: How the additional, what is driving the need for additional parking inside the gate. That's really my question.

Mr. Hardison: They are not providing anymore parking spaces than what's already there. There was just a land dispute on if half of that space was actually owned by the association versus the applicant.

Mayor Pierce: So.

Council Member Barbee So are those parking spaces required as a condition of this CUP?

Mr. Hardison: They are of the, correct, yes, of the marina 'cause there is a 69-slip marina, so you have to have a space for every slip; 56 of those spaces are provided inside the marina gate; 13 of 'em are provided outside of the gate onto, to meet the parking requirement.

Council Member Barbee: I, I gotcha. Yeah.

Mayor Pierce: So they don't have to access that parking lot?

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Mr. Hardison: Correct.

Mayor Pierce: You're saying they're providing that parking outside of the community, outside of Oceana and that parking lot?

Mr. Hardison: For the, the use of the eating and drinking establishment.

Mayor Pierce: The barge.

Council Member Barbee: But the Town is trying to fix another problem not specific to the barge in that there's not sufficient parking for the existing.

Mr. Hardison: This problem exists regardless of the conditional-use permit.

Mayor Pierce: Right.

Mr. Hardison: If it was in front of you or not.

Council Member Barbee: OK, so it is a separate issue, but your.

Mr. Hardison: Correct.

Council Member Barbee: Solving them together? OK, thank you.

Mr. Hardison: Trash and recycling containers will service the site. It is required to be screened on all three sides. The new building will connect to the existing utilities. No upgrades are required. No landscaping is required from this proposal. At this point, no additional signage is part of the application. There's no new upland structures that are proposed. It's just the barge and the extension of the fuel dock. There are four general conditions they must satisfy before you. The use will not materially endanger the public health or safety. The use will meet all required conditions and specs of the code. That the use will not substantially injure the value of adjoining or abutting property. And that the location and character of the use if developed according to the plan and 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 planning policies. This area is in the Marina Business District. The district is there to establish around the water's edge for maritime uses, water-dependent uses, water-oriented. It also provides for certain residential areas other than non-water-dependent uses as well to align closely with water-oriented uses with the marina. And in, in the Land Use Plan this area's classified as Marina Mixed Use, which does include commercial uses for intensity water-oriented restaurant and services. Can I answer any questions that you may have?

Council Member Barbee: Does general, really a zoning question for you, but where the new proposed parking places are on, I guess that's Georgia. Is that what that is? Is there any sort of land, for that, the way the current zoning ordinance read is there no sort of landscape buffer that's required. I'm thinking about the gentleman across the street. Is there any sort of landscape buffer required there?

Mr. Hardison: It's definitely a unique situation where there's a road on the adjoining property, and normally landscaping would go about the property line. Since this is his, the applicant's property and that they could just about those parking spaces up.

Council Member Barbee: So what you're saying is if they only own to the street and the Town own the street, they would probably have to have landscape buffer, but since the street itself is where their landscape buffer would go.

Mr. Hardison: On the perimeter of the property. Correct.

Council Member Barbee: Thank you.

Mayor Pierce: And it's also zoned Marina Business.

Mr. Hardison: The, the residents here?

Mayor Pierce: The parking. The proposed parking.

Mr. Hardison: The parking lot, yes, that's Marina Business.

Mayor Pierce: And what about the housing development?

Mr. Hardison: The neighborhood and the properties off of Georgia Avenue and Florida Avenue are zoned residential.

Mayor Pierce: So, I have a couple of questions, and one I'll just pass to the applicant when the time comes, but how will electricity be provided to the barge?

Mr. Hardison: That will be where the barge would come in and essentially would plug in to electricity, from my understanding.

Mayor Pierce: So the barge is movable, then?

Mr. Hardison: It, it will be.

Mayor Pierce: And part of the CUP, it won't always be located in the exact spot that it's being proposed. It, it, it might be or it could be moved. Is that?

Mr. Hardison: It would be self-propelled or be able to, but from my understanding the applicant's wishes are just, you know, to keep it at that location.

Mayor Pierce: But you basically plug it in and unplug it? So it could be moved because it's registered as a vessel?

Mr. Hardison: Correct. Yes, ma'am.

Council Member Barbee: I've got another, was gonna wait on, these may come back up with the applicant as well, but so are there any other services? I heard electricity connect, whether it be

water, sewer, gas, any other services going to the barge other than electricity?

Mr. Hardison: So there will be much less like a slip where you could provide water and sewer to provide to it where they would connect to those services.

Council Member Barbee: Is there sewer available at the slips already? I know there's a pumpout station, but is there actually sewer provided to the slips anywhere?

Mr. Hardison: There will be water provided. There's not sewer.

Council Member Barbee: OK.

Mr. Hardison: Sewer would not be part of this.

Council Member Barbee: And would any of those connections be easily removable, or are they, would they be fixed connections?

Mr. Hardison: They would be movable.

Council Member Barbee: Removable. OK.

Mayor Pierce: And just a question, I assume the actual cooking will be done on the barge, so are they required like a restaurant to have like a grease trap and different things like that?

Mr. Hardison: Correct. They will if the food what they're providing is subject to a grease trap.

Mayor Pierce: And health department inspections.

Mr. Hardison: They would have to provide it.

Mayor Pierce: Health department. Are there seats proposed on the barge?

Mr. Hardison: There are some outside seating. Yes, ma'am.

Mayor Pierce: So there would be a capacity of how many people could be on it?

Mr. Hardison: The parking is just based off square footage. Their proposal outside area.

Mayor Pierce: I guess my question would be a safety issue is how many people, well, and the applicant can answer this too, I mean, are there 12 seats proposed to sit, to sit around an open area where you would serve out? I mean, how many people could possibly be on the barge at one time? Is there an occupancy?

Council Member Garza: Like a patio.

Mayor Pierce: Right.

Council Member Garza: Just like a patio.

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Mr. Hardison: Normally, when the, a building permit is applied for, then that's when those capacity, those occupancy is determined.

Mayor Pro Tem Healy: Can you tell me a little bit about the exterior lighting?

Mr. Hardison: There's, in this application there is none additionally proposed.

Mayor Pierce: Is there a proposal for hours of operation?

Mr. Hardison: There are not.

Mayor Pierce: I know usually in a CUP we do address those.

Mr. Hardison: With the alcohol? That is subject to State of North Carolina regulations, and we cannot control the hours of sale other than what the state already regulates.

Mayor Pierce: So it could be open to 2 a.m.?

Mr. Hardison: Correct.

Mayor Pierce: And I just have one more question. How many square footage are in the existing building where the marina currently operates?

Mr. Richardson: I'm sorry. I missed the question.

Mayor Pierce: How many square feet are in the existing marina building where, I guess, the ship store is? It says there's a ship store and then a residential unit. How many total square feet is that? 'Cause then I'll have a question for the applicant about that.

Mr. Hardison: I think it's approximately 2,400.

Mayor Pierce: Which only the bottom part is accessible to the public, and the top is a residence?

Mr. Hardison: Yes, ma'am.

Mayor Pierce: OK. OK.

Mr. Hardison: And I will say that Planning and Zoning Commission heard this and they made a motion to approve the conditional-use permit. A vote was made and it was 3 to 3, so it did not pass but it would still come before Town Council.

Council Member Garza: When you say they approved in the notes here specifically says only the Chairman approved it, correct?

Mr. Hardison: It was a motion for approval, and then it went to vote.

Council Member Garza: And then it was 3-3?

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Mr. Hardison: Yes.

Mayor Pierce: So you're saying the motion for approval.

Mr. Hardison: And the, and the reason stated for the nay votes, that it was not in harmony with the area in which was located.

Mayor Pierce: OK.

Mayor Pro Tem Healy: So it's currently in a no-wake zone, correct?

Mr. Hardison: I don't think it starts right there. I think it's a little bit right when you get into the actual sound. 'Cause that's right where the Intracoastal.

Mayor Pro Tem Healy: So the dock, so the barge itself is gonna be mounted onto the dock?

Mr. Hardison: it will be docked. I don't know how about, how permanently those connections are gonna be.

Mayor Pro Tem Healy: I guess we can ask the applicant.

Mr. Hardison: And again, the action approval or denial should be directly related to one or more of the specific standards and general conditions.

Mayor Pierce: OK, Mr. Richardson, would you like to present for the applicant?

Mr. Richardson: Yes, Mayor. Thank you. May I have just a moment?

Council: Yes.

Mr. Richardson: Good evening, Mayor, members of Council. As you know, I'm Grady Richardson, and Jennifer Carpenter, my associate and I represent the applicant, the Carolina Beach Yacht Club LLC, CBYC LLC. I'll just refer to that for purposes of tonight as the marina, if that's OK with everyone. We are here tonight seeking approval of a conditional-use permit that's approved, that's allowed under the Town zoning ordinances. What I'd like to do is kinda forecast the approach here and explain to you what we've been handing out over the past few minutes. For purposes of the record, I would identify collectively Mr. Hardison's slide presentation that you've all, that he's walked you through tonight collectively as Applicant's Exhibit 1 and to the record. I have also handed you, some of you have the good fortune of having a tabbed collection, and I also handed you the first page of which is blue and it's horizontally oriented labeled Carolina Beach Yacht Club and Marina Conditional-Use Permit Application with tonight's date on there. That is a PowerPoint presentation. We plan to go with, go over with Mr. Cook on behalf of the marina to just kinda give an overview, some renderings for you and some of the laws and standards that govern this. We're gonna collectively identify that as Applicant's Exhibit Number 2 and move that into the record. And then ult, and then finally, well, not finally, the big packet, some of you have tabs, the lead document on the top is a report that you'll hear about tonight by Mr. Hinnant, John Hinnant, our expert on real estate appraisal. He's given a report.

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Behind that report are all the documentation that Mr. Hinnant relied upon in providing his report and additional documentation as well. This whole document is going to be labeled as Applicant's Exhibit 3. The subdocuments inside of that are labeled A through J. Some of you unfortunately don't have the tabs. Every document of A through J is separated by a bright yellow sheet, and I'll make sure that we're all on the same page as we go through that tonight.

Ms. Fox: Mr. Richardson, do you have a copy of that for me?

Mr. Richardson: Yep. I knew I'd leave somebody out.

Ms. Fox: Thank you.

Mr. Richardson: Somewhat overkill, but for purposes of the record I also have my own full copy of the 2007 Town of Carolina Beach CAMA Land Use Plan. You've already heard from Mr. Hardison, pointed to several sections of that with the staff overview, but we'd like to put this entire matter into the record as Applicant's Exhibit Number 4 just for the record. There will be sections referenced in that tonight. So without further ado, oh, the last thing I gave is what would be part of my summation and closing tonight once the hearing is over or before you go to your vote is a memorandum of law that's in support of our application, and I will go through it and cite you the case law and the standards that govern tonight's proceeding. All right, so I'd like to begin by asking Mr. Hardison some questions. Mr. Hardison, what is your position with the Town of Carolina Beach?

Mr. Hardison: Town Planning and Development Director.

Mr. Richardson: You're the Town Planning and Zoning Director?

Mr. Hardison: Yes, sir.

Mr. Richardson: And how many, how many staff comprise your department that you oversee?

Mr. Hardison: There's six of us.

Mr. Richardson: When any conditional-use application comes in to the Town, kind of generally walk us through what the protocol is for the Town staff, including your, yourself in reviewing that application?

Mr. Hardison: So they come in a submittal, we record it, scan the documents in and give it a permit number. I put it on the docket for the Technical Review Committee. Staff will review it prior to. We'll come in and give a, invite the applicant in, give an overview of the project, get a staff position if there's any issues at that time, and then we'll go over those issues, and then we'll give them a deadline if they would like to move forward, if there's something outstanding that would prohibit them from moving forward to the recommending board, which is the Planning and Zoning Commission, and then from there it would go to Town Council. From start to finish, it's about a three-month process.

Mr. Richardson: Before the application ever gets to the Planning and Zoning Commission, is it fair to say your department and your staff, together with the TRC, the Technical Review

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Committee, must review the application and verify that it's a complete application?

Mr. Hardison: Correct.

Mr. Richardson: And if there's any deficiencies to address that before you go to the P&Z. Is that correct?

Mr. Hardison: Correct.

Mr. Richardson: OK, and in part of your process, just give a general, how long have you been doing this, Mr. Hardison?

Mr. Hardison: So I'd I was hired in 2000, January of 2003, so that was 17 years ago.

Mr. Richardson: All with the Town of Carolina Beach?

Mr. Hardison: That's correct.

Mr. Richardson: All in Planning and Zoning?

Mr. Hardison: Umm hmm.

Mr. Richardson: Yes?

Mr. Hardison: Yes.

Mr. Richardson: Not your first conditional-use application you reviewed?

Mr. Hardison: No.

Mr. Richardson: And just generally, what's your educational background to serve as the Planning and Zoning Director?

Mr. Hardison: I have a undergrad in regional planning and development and urban and have a master's in public administration with coastal, emphasis on coastal planning.

Mr. Richardson: Does every member of your department review a conditional-use application because of their specific expertise that comes in with the applications, or is it just all of you sit in a room and go through the applications and do your thing that way?

Mr. Hardison: With our specific department, we are a small department, it would, it'd be me and the Town Planner to review it from a zoning standpoint and to make sure that the application is indeed complete.

Mr. Richardson: And with respect to Exhibit 1, which is your overview, the staff overview, prior to tonight, did staff review the marina's application to satisfy itself that it met all the requirements for submission of a conditional-use application?

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Mr. Hardison: Correct.

Mr. Richardson: And did the TRC, the Technical Review Committee, also review and and verify that the application met all the Town's requirements?

Mr. Hardison: Correct.

Mr. Richardson: And as we sit here tonight has Town staff made its opinion known in its report that it believes that the marina's application satisfies the seven specific criteria under the Town code as well as the four general requirements for granting by the Council body of the conditional-use application that's been applied for?

Mr. Hardison: Correct, from a the site plan requirements and the conditional-use permit submittals.

Mr. Richardson: Turning your attention because this was a key point in the motion to dismiss on standing issues. Behind you I'm flagging in red the triangular parking lot. Do you agree that that parking lot is located behind the private gate of the Oceana subdivision?

Mr. Hardison: It is.

Mr. Richardson: Do you agree that that parking lot was the subject of the Board of Adjustment hearing we had a few months ago in front of the Board of Adjustment?

Mr. Hardison: Correct.

Mr. Richardson: Do you agree that the applicant, the marina, as part of this application, is not increasing the number of parking spaces in that parking lot?

Mr. Hardison: They are not.

Mr. Richardson: Is the applicant, as part of its application tonight, trying to get approval for every member of the public to be able to access that parking lot inside of the Oceana subdivision?

Mr. Hardison: The Town hasn't or doesn't get involved on who grants access or who gives out the code.

Mr. Richardson: But in the application, is there anywhere where Mr. Cook, on behalf of the applicant, has said that he's trying to get unfettered access to that parking lot for members of the public?

Mr. Hardison: I have not heard that.

Mr. Richardson: And in fact, in order to support, there's 69 boat slips in the marina. Is that correct?

Mr. Hardison: Correct.

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Mr. Richardson: And those 69 boat slips have been there for over 25 years, correct?

Mr. Hardison: Yes.

Mr. Richardson: And in order to support the boat slip owners and/or their renters' use of the boat slips, they must have the ability to park in the 56 spaces in that parking lot in the Oceana, correct?

Mr. Hardison: Correct.

Mr. Richardson: Just as they've been doing for over 25 years, correct?

Mr. Hardison: That's correct.

Mr. Richardson: The, then on the bottom of the page below you, there's the 13 spaces that are being proposed as part of this application. Is that correct?

Mr. Hardison: Correct, for the expansion.

Mr. Richardson: All 13 of those parking spaces are located on the applicant's personal, private, let me strike that. All of those 13 spaces are located on the applicant's real property?

Mr. Hardison: Correct.

Mr. Richardson: Outside of the access easement that's shown, there is a 30-foot access easement, correct?

Mr. Hardison: Correct.

Mr. Richardson: And you heard, and I'm gonna butcher his name, Marocheck, Marovec, you heard Mr. Marovec or check talk about how the parking spaces are going to be a mere 15 feet from his driveway. Did you hear that?

Mr. Hardison: I did.

Mr. Richardson: Based on the site plan that's been submitted that's behind you in part of the staff presentation, in fact, it's gonna be, the parking spaces are going to be at least 30 feet before you get to Mr. Marocheck's property on his driveway sleeve that gets into his driveway, correct?

Mr. Hardison: Correct.

Mr. Richardson: And we've got a blowup of, if I can find it, on this blowup behind you the 30-foot ingress and regress, that's the private easement and that's the property that's owned by the applicant that has that private easement over it, correct?

Mr. Hardison: Correct.

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Mr. Richardson: It actually is a misnomer. A private easement, but it's in favor of, among others, the Town of Carolina Beach?

Mr. Hardison: It's, it's an access easement granted to the Town of Carolina Beach.

Mr. Richardson: The parking spaces on here show them ending at the right-of-way boundary line for the 30-foot access easement, correct?

Mr. Hardison: Correct.

Mr. Richardson: There's no buffering requirement under the Town's ordinance for the marina's application that's before Council tonight, correct?

Mr. Hardison: That is correct.

Mr. Richardson: But looking at that would you say that if, if, if some landscape buffering were required with some ligustrum or something, is there some space there based upon that site plan where, where some bushes could possibly be planted there? Does it look like it?

Mr. Hardison: In the proximity around the sign, there's some open space.

Mr. Richardson: And then maybe right, I'm pointing here at some of this, this spacing right here, where some might, something might be able to be put there, including but not limited to a fence, a privacy fence.

Mr. Hardison: If there were anything blocking to get access to those spaces, I would, that would be a concern.

Mr. Richardson: But they could get access to those spaces coming in this way too, right? They could come in this way?

Mr. Hardison: Their current design does not have them accessing through their property those spaces.

Mr. Richardson: So right now, they have to use their private property that's subject to the easement to access these, these parking spaces. Is that correct?

Mr. Hardison: Correct.

Mr. Richardson: And there's nothing under Town ordinances that prevents that, is there?

Mr. Hardison: Not on a private easement, there is not.

Mr. Richardson: And if you took out just the mere fact that the conditional-use permit application tonight and put that on a shelf, just, just if the applicant wanted to build those parking spaces, there's nothing that prevents the marina from building those parking spaces where it's shown on the site plan under the Town's ordinances, is there?

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Mr. Hardison: Other than with a conditional-use permit for a marina is required, so we would have to review those standards and if additional parking spaces were looked at as an expansion of a marina, that would trigger a conditional-use permit.

Mr. Richardson: But if he wasn't applying for a conditional-use permit and wasn't applying for all the other things, just wanted to put those 13 spaces there, is there anything to your knowledge that would prevent those spaces from going in?

Mr. Hardison: I would still want to review the proposal to see if it would trigger a conditional-use permit.

Mr. Richardson: Fair to say, though, nothing off the top of your head would, would stand out to you as prohibiting that?

Mr. Hardison: But other than that, no.

Mr. Richardson: On this slide behind you, there's the circle which is the Town's water well area. Is that fair to say?

Mr. Hardison: Correct.

Mr. Richardson: And the black line that's shown here on two sides of that circle is the, the anticipated fence that's going to be built around that well area. Is that correct?

Mr. Hardison: Yeah, and what that bold line is depicting is the property line.

Mr. Richardson: OK, the property line and the fence would go, the fence of the Town would have to be on this side of the property line of the marina because otherwise it'd be encroaching into the marina's property.

Mr. Hardison: Yes, we, we would not encroach any fencing onto private property.

Mr. Richardson: Right. Right now, with this next slide I'm showing you, do you see the faint line of the property line?

Mr. Hardison: Yes.

Mr. Richardson: And inside of that is the well house of the Town's water well, correct?

Mr. Hardison: Correct.

Mr. Richardson: And there's parking presently taking place inside of the Town's well area that's outside of the marina's real property. Is that correct?

Mr. Hardison: Correct. That's.

Mr. Richardson: And that's, that's been in place for years, hasn't it?

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Mr. Hardison: It has.

Mr. Richardson: 25 plus years?

Mr. Hardison: Yeah, based off, yeah, aerial photos.

Mr. Richardson: Is this slide behind you the street view of Mr.

Mr. Machovec: Machovec. Mel.

Mayor Pierce: I think it's McKelvin.

Mr. Richardson: I'll just say Mr. Melvin. It's this a aerial, I mean a street view of Mr. Melvin's front of his house facing the private access easement, the land of which is owned by my client?

Mr. Hardison: Correct. The easement granted to the Town.

Mr. Richardson: Correct. Over my client's property.

Mr. Hardison: Yes.

Mr. Richardson: And that pavement is 30 feet wide. Is that correct?

Mr. Hardison: The easement is 30 feet. The pavement is not quite that wide.

Mr. Richardson: OK. And these hedges right here would be taken down as a result of the fencing that we're talking about on the well site and the 13 additional parking spaces.

Mr. Hardison: The areas proposed on the plan for parking.

Mr. Richardson: But the parking spaces are not inside of the asphalt area, are they, that's being proposed?

Mr. Hardison: Correct.

Mr. Richardson: And if they're parking in the parking spaces, Mr. Melvin's access isn't gonna be blocked, is there?

Mr. Hardison: Correct.

Mr. Richardson: And just so we're clear, with the parking lot inside of the Oceana with the 56 spaces, plus the 13 proposed spaces on the marina's own property, does the marina's application satisfy the Town's code of ordinances for parking?

Mr. Hardison: Correct.

Mr. Richardson: In this Town's, in the staff's review of the marina's application, did you also

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review the Town's governing Land Use, CAMA Land Use Plan?

Mr. Hardison: Correct.

Mr. Richardson: Did you find the marina's application to be consistent with the Town's CAMA Land Use Plan?

Mr. Hardison: It was consistent with the desired uses in that classification area.

Mr. Richardson: I have no further questions of Mr. Hardison at this time. Again, we would move into the record the staff's presentation that we've just gone through as Exhibit 1 for the applicant. I'll, I'll I'm sure Mr. Potter has some questions. I'm gonna sit down. I'll leave my stuff up here.

Mr. Potter: Mr. Hardison, I'm gonna be brief 'cause I'll just recall you on direct, but just a couple follow-up questions to Mr. Richardson's. Mr. Hardison, it's fair to say that Town staff viewed the applicant's CUP application as holistic for all of the property that's part of this project. Is that correct?

Mr. Hardison: Correct.

Mr. Potter: So you added the, all the parking spaces together to come up with 95 parking spaces that are required for the overall project. Is that correct?

Mr. Hardison: In order to accommodate the, the proposed additions for parking we had to consider the existing uses on site.

Mr. Potter: And we talked a little bit about this previously, or Mr. Richardson asked you, again looking, I know you can't see but you can probably imagine what I'm pointing at here, are these parking spaces within the Oceana subdivision. Do you see those?

Mr. Hardison: Correct.

Mr. Potter: OK, and we've talked a little bit about the Board of Adjustment hearing and your opinion as to that parking lot previously, is it your opinion that the parking lot within the Oceana subdivision that we're talking about here is a nonconforming use under the Carolina Beach Town ordinances?

Mr. Hardison: Correct.

Mr. Potter: OK, so currently as it sits it's nonconforming, in your opinion, previously and currently is that it's a permitted or a legal nonconforming use because it was previously approved by Town Council. Is that correct?

Mr. Hardison: That's correct.

Mr. Potter: OK, and you would agree, would you not that the applicant has agreed with my client and with you that the current parking spaces encroach onto Oceana property and need to

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be moved within the applicant's property. Is that correct?

Mr. Hardison: I saw lines that it would be very confusing to the public or to a boat owner on where to park, so I would want that clarified to make sure that those spaces could meet a standard parking space.

Mr. Potter: And the applicant has agreed as part of this to modify their parking spaces, to move them into the open space adjacent to the current parking spaces. Is that correct?

Mr. Hardison: Correct. I'd say if there was an issue and that is actually the private drive of the right-of-way, then those spaces would need to accommodate a standard space.

Mr. Potter: Mr. Hardison, I, I don't know that you have the code committed to memory, but I'm gonna ask you if you are familiar with Section 40-425 of the Carolina Beach ordinances entitled extension or enlargement of nonconforming situations.

Mr. Hardison: I'm familiar with it.

Mr. Potter: Can I approach and show it to you?

Mr. Hardison: Yeah, certainly.

Mr. Potter: Mr. Hardison, in particular I'd direct your attention to 40-425d, and I, I'm gonna ask you this, if I read this correctly. Does 40-425d of the Carolina Beach code of ordinance state that a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.

Mr. Hardison: That is, you want me to just confirm that's what it says?

Mr. Potter: That's what it says. Yes.

Mr. Hardison: Yes, sir.

Mr. Potter: And the applicant is proposing to cover more open land than they previously covered by moving these parking spaces into the open undeveloped land that's adjacent to them, are they not?

Mr. Richardson: Objection. Number one, this has been litigated at the Board of Adjustment. A ruling has been made. You're bound to the ruling. This isn't before this Council tonight on the board on the application for a conditional-use permit, and it's also not covering the land distinct in the footprint of the parking lot. On those bases, I will render my objection.

Mr. Potter: Just, just so, I guess.

Ms. Fox: Well, Mr. Potter, to the extent you're getting ready to re-litigate issues that have been taken up by the Board of Adjustment where an order's been entered, where you have a right of appeal, I would suggest that you steer clear of that.

Mr. Potter: And I would submit this was not part of that at all. That had to do with a zoning issue. This has to do with whether or not the paving is going to be extended to land, which it was not current previously on as part of this project.

Mr. Richardson: He's had the right of the affluent. They can appeal to the Superior Court, 'cause they challenged this very thing at the Board of Adjustment.

Mr. Potter: That's absolutely false, Grady.

Mr. Richardson: It is not false.

Mr. Potter: Did not say a word about that.

Mr. Richardson: He did. The whole night was about it.

Mr. Potter: Well, the good thing, great thing is there's a record, so.

Mr. Richardson: And 34 findings of fact.

Mr. Potter: Well, show me. Where are the findings of fact in the order, Grady, that have to do with the expansion of the parking lot?

Mr. Richardson: What is I know is you challenged the parking lot. You lost. Your remedy.

Mr. Potter: Challenged the zoning of the parking lot.

Mr. Richardson: Your remedy, exactly. Your remedy.

Mr. Potter: This is not a zoning question.

Mr. Richardson: Your remedy is to the Superior Court on appeals.

Mr. Potter: Well, let him answer the question and then you, we can deal with that. Mr. Hardison, is the proposed plan submitted by the applicant, does it contemplate covering more land for the parking lot than it previously did?

Mr. Hardison: Yeah, and so, Ms. Attorney, is it to proceed?

Ms. Fox: Yes.

Mr. Hardison: I would argue that if there was additional information that those parking spaces were encroaching into a right-of-way that the making those spaces more conforming or to bring 'em up to conforming is not, this is increasing more land if you're adding parking. They are not adding any parking. They are just simply trying to conform to the parking standard of what a dimensional standard parking space is.

Mr. Potter: Irrespective of the language in the ordinance, are they expanding the parking lot to cover more land than it previously covered as part of this?

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Mr. Hardison: They're not expanding the number of parking spaces or intensity of the use.

Mr. Potter: But are they covering more land, more dirt?

Mr. Hardison: You could say they're subtracting from where their parking spaces were, they're just moving, but I don't, I don't believe they're in violation of the nonconforming section. We're simply bringing the parking spaces to conform with dimensional requirements.

Mr. Potter: Mr. Hardison, you have that notepad, I mean, that notebook up there in front of you. You testified earlier that there were no landscape buffering requirements that this proposal does not meet. Is that correct?

Mr. Hardison: Correct.

Mr. Potter: That was not your opinion back in October, though, was it?

Mr. Hardison: For the Planning and Zoning?

Mr. Potter: That's correct.

Mr. Hardison: Correct. No, it was the same, consistent.

Mr. Potter: OK, would you flip to tab 2 in the materials that you have there? And Mr. Hardison, if you would just take a moment to review the document behind tab 2 and confirm that this is your report that you generated for this project on October 8, 2019, for the Planning and Zoning meeting?

Mr. Hardison: Correct.

Mr. Potter: And if you would, just as you did in your agenda and your report in for this hearing, you prepared a similar agenda and report for the Planning and Zoning meeting, is that correct?

Mr. Hardison: Correct.

Mr. Potter: OK. Would you flip to page 2, at the very bottom under General Conditions number 2, please? In General Condition number 2, and correct me if I'm wrong, states that the use meets all required conditions and specifications. Is that General Condition number 2?

Mr. Hardison: Correct.

Mr. Potter: And in your report to Planning and Zoning in October, your, your words are immediately below that. Is that correct?

Mr. Hardison: Let me make sure. Is that on tab 1?

Mr. Potter: That's tab 2. I'm sorry. Let me restate that. So your general, your, your statement of the General Condition number 2 that the applicant's plan meets all required conditions and

specifications in your report to Planning and Zoning in October, immediately under that General Condition is your response to whether or not that General Condition has been met. Is that correct?

Mr. Hardison: Correct.

Mr. Potter: OK.

Mr. Hardison: Of what was presented.

Mr. Potter: And correct me if I'm wrong, it states 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. Did I read that correctly?

Mr. Hardison: You did, and that was a typo that I did correct in the minutes. And if you would go to Specific Standards item number 5, it talks about screening and buffering with reference to type, dimensions, and character, and it states no additional landscaping is required.

Mr. Potter: So your report to Planning and Zoning that there were landscape buffering requirements that were not being met by this plan was a mistake?

Mr. Hardison: Correct, well, there was some discrepancies in the report that I clarified at the meeting.

Mr. Potter: But you did submit a report that said that it did not meet the landscape and buffering requirements. Is that right?

Mr. Hardison: That it says landscaping is not, would not be required.

Mr. Potter: Thank you.

Mayor Pierce: Mr. McKelvin, would you like to ask the witness any questions? Are we saying your name right now?

Mr. Machovec: You're close.

Mayor Pierce: Tell us how we say it?

Mr. Machovec: It's Machovec.

Mayor Pierce: Gotcha. OK, Machovec.

Mr. Machovec: OK.

Council Member Garza: We're gonna ask four more times.

Mayor Pierce: No, we got it now.

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Mr. Machovec: That's OK.

Mayor Pierce: Go ahead.

Mr. Machovec: All right, so, you know, I'm no, no lawyer, but I'm gonna put this in layman's terms.

Ms. Fox: Jeremy, will you stand back up, please, at the podium since you're getting ready to be cross-examined?

Mr. Machovec: Can I operate this thing?

Mayor Pierce: Yes, yes, sir.

Mr. Machovec: Let's see what we got here. I'm not real sure how this thing works. OK, well let's.

Mayor Pierce: I can't tell you how, but.

Mr. Machovec: OK, well let's start here then since we're here. So, you know, for starters I don't even know why we're here at this point because can someone tell me, is there a pointer on here, OK, so this thing right here's gonna be extended 140 feet, right? And the barge is gonna be right here? So, people gotta walk down here, walk across the boardwalk where me and my grandson, my granddaughter, and my wife, and, you know, are pumping gas, so drunk people are gonna walk down here, walk right by where I'm pumping gas with my lovely family, and be drunk and get on that barge, and smoke cigarettes?

Mr. Richardson: I'm gonna object. Madam Town Attorney and Mayor.

Mr. Machovec: Will you be allowed to smoke cigarettes?

Mr. Richardson: The witness is up here to ask, to answer questions, not to have Mr. Machovec grandstand and talk without having questions being asked.

Ms. Fox: Mr. Machovec, I know you're not an attorney, and we've got two polished attorneys here today. I won't count myself in that category.

Mr. Machovec: OK.

Ms. Fox: But you do need to limit your cross-examination to the direct examination that was previously conducted.

Mr. Machovec: Right, but I'm asking about, you know, he keeps saying about, OK, well let's change that, then. Let's go to, allow me to do something. Three, six, nine, 12, 15. That's, that's how far 15 feet is. That's not 30 feet, so for you to say that 30 feet is from my property to where that parking lot is, you're wrong. That is not 30 feet.

Mr. Richardson: This is.

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Mayor Pierce: Mr. McKelvich, direct your questions to the planner, Jeremy Hardison.

Mr. Machovec: So for, so it's not 30 feet from my property line to where the parking is going. I mean, you can blow it up, you can look at it. There's a road right there. That road is, you can barely get two cars by there. So for the, so to be saying to influence the judges that it's 30 feet, it's not 30 feet, to clear that up.

Ms. Fox: Sir, you need to ask questions to the witness and let him answer?

Mr. Machovec: Ask questions. Is there a picture of this dock with this proposal? Can also his neighbors see what this, what this barge looks like?

Mr. Hardison: There was not a, a rendering of the barge or this dock. It was, it's not required as part of the application submittal.

Mr. Machovec: So we have no idea.

Mr. Hardison: Just where what Council is asked to do is approve a site plan of the proposed layout.

Mayor Pierce: Mr. Machovec, I think there is a rendering that probably will be presented a little later in the applicant's presentation.

Mr. Machovec: OK so.

Mayor Pierce: We see it up here that we, that we get, just got. Do you have any questions for Jeremy?

Mr. Machovec: Well, I have a ton of questions, but they all don't seem to be working right now.

Mayor Pierce: Just whatever you have for the, for, for our planner.

Mr. Machovec: For your planner? I guess I also, you're telling me that I have to come step back up in a little while and.

Mayor Pierce: Yeah, it's just a different procedure we're having tonight, and then he, I, I assume Mr. Richardson's gonna come back up and he's gonna present another witness, and then each witness you will be able to ask questions to, correct?

Ms. Fox: Yes. Questions, not statements.

Mayor Pierce: So when it gets to something you have a question about when your turn comes you can ask that witness the question.

Mr. Machovec: Will there be handicapped parking?

Mr. Hardison: Yes.

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Mr. Machovec: And, you know, this whole thing seems to be going all.

Ms. Fox: Again, sir, not statements. Questions.

Mr. Machovec: OK, I'll, I'll, I'll come back when my time is right.

Ms. Fox: That's correct.

Mayor Pierce: That's right.

Mr. Machovec: Will I be allowed to voice my opinion?

Ms. Fox: Yes, you will.

Mayor Pierce: Yes, sir. Thank you.

(Man in audience): Do I have a right to ask a question since I'm a primary homeowner that's got the property.

Mayor Pierce: You, we will have a, a, a section during of public comment, and you'll be able to come up and you'll have three minutes.

Ms. Fox: Are there any other parties who would like to ask Mr. Hardison questions?

Mr. Richardson: I don't have any further questions.

Mayor Pierce: So we're going through a procedure now, while he's calling his next witness, and when we go through all this the public will have an opportunity to come up and anyone who wants to speak will be able to come up for three minutes and speak, yes.

Ms. Fox: And Mayor, I will remind those in attendance that this is a quasi-judicial hearing. Any commentary that's coming from outside of the microphone needs to not occur because it is a quasi-judicial hearing.

Mayor Pierce: Wait your turn is what she's saying.

Mr. Richardson: At this time, I would like to call the marina's agent and a principal in the marina, Chad Cook.

Mayor Pierce: And I think, you know, we asked Jeremy, just let me clarify something. We asked Jeremy questions earlier, but Council has a chance to ask each witness after Mr. Richardson, correct?

Ms. Fox: Correct.

Mayor Pierce: OK.

Mr. Richardson: Do y'all have any questions?

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Mayor Pierce: No, I think, I think we got him earlier.

Mr. Richardson: Mr. Cook, state your name for the record.

Mr. Cook: Chad Anthony Cook.

Mr. Richardson: Mr. Cook, let's get one thing into the record on top of what Mr. Hardison has already testified about. For the parking lot inside of the Oceana, are you in any way as part of this application seeking to increase the number of parking spaces of beyond 56 spaces that have been there for 25 years or longer?

Mr. Cook: No, sir.

Mr. Richardson: In, is any part of your application on behalf of the marina seeking to have members of the public who have no ownership of boat slips, no rental right in boat slips to just gain access into the Oceana and use that 56-lot parking, parking lot inside of the Oceana?

Mr. Cook: No, sir. In fact, can I expand on that?

Mr. Richardson: Sure.

Mr. Cook: So, over the past six eight months we've had this issue come up. How are we gonna handle this? And so during the P&Z we, I wish we'd have brought 'em tonight, but we brought the stickers that our slip holders will get, and we informed the Oceana's president several months back that they had every right to tow anybody that does not have a sticker that's inside of that 56-lot parking lot, that we'll police it with our dock master and our dock hands. They'll go be cleaning up trash or anything that's inside of there on a, we do it on a weekly basis anyway, but we will go in there and if there's someone in there that doesn't have a sticker, we'll tow 'em. We've given Oceana permission. If you see someone in there that does not have a sticker, tow 'em.

Mr. Richardson: And do you stand by that as part of your application tonight?

Mr. Cook: Yeah, we've already made the stickers, and they're, we plan on sending them out as soon as this is over.

Mr. Richardson: As part of the marina that your acquisition, did you have to acquire financing to buy it?

Mr. Cook: We did.

Mr. Richardson: And what was the approximate amount of the financing?

Mr. Cook: First round was 2 million.

Mr. Richardson: And are, are you under kind of a construction advance loan where, based upon progress then you get a draw to finish out the improvements to the marina?

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Mr. Cook: So we refinanced late 2019, and we secured a \$800,000 expansion loan to do the improvements to the marina.

Mr. Richardson: And if you get approval, you'll be able to begin implementing those improvements.

Mr. Cook: Yeah, we're under the gun to start as soon as possible.

Mr. Richardson: Behind you and I've got a hard copy is what I've marked in advance as Application Exhibit 2, does that appear to be a PowerPoint slide presentation that Ms. Carpenter and I have assembled on your behalf leading into tonight?

Mr. Cook: It is.

Mr. Richardson: Have you reviewed the PowerPoint slide presentation for its accuracy?

Mr. Cook: I have.

Mr. Richardson: OK, walking you through, and I know you're not a staff planner, and so with respect to the purpose of a conditional-use permit we'll skip that. We'll skip the legal standards for arguing. You're familiar with the Town of Carolina Beach Land Use Plan?

Mr. Cook: I am.

Mr. Richardson: And have you seen this quote of with limited land available soundside the Town would like to encourage low-intensity water-oriented restaurant or other low-intensity water-oriented commercial services with public docking and water access to develop soundside in place of dense multi-family units with private-only marina and docking facilities?

Mr. Cook: I have.

Mr. Richardson: Is Spinnaker Point something you would classify as a dense multi-family development?

Mr. Cook: It is.

Mr. Richardson: The next page is labeled Proposal. Does that appear to be an overview version of your site plan that's before the Council tonight?

Mr. Cook: It is. It's a site plan.

Mr. Richardson: And the next page that's labeled Proposal (parking), does that appear to be a true and accurate rendition of your proposed 13 additional parking spaces on your property?

Mr. Cook: It is.

Mr. Richardson: On the next page labeled Proposal (barge), does that appear to be a blowup of

the barge location, its dimensions as well as the dock extensions and the fuel pump relocations?

Mr. Cook: It is.

Mr. Richardson: The next page, does that appear to be page 1 of a rendering of the barge that you are hoping to be allowed to put in place as part of tonight's application?

Mr. Cook: It is.

Mr. Richardson: And do you intend to, in fact, put the handrails, the railings around the barge, like shown on here?

Mr. Cook: We do.

Mr. Richardson: There was a question tonight I believe asked by the Mayor or another member of Council as to the maximum amount of people that can be on there. Do you have that figure, sir?

Mr. Cook: I do. Eighteen.

Mr. Richardson: Eighteen people would be the maximum occupancy based upon the footprint of the rendering and the application tonight. Is that correct?

Mr. Cook: Correct.

Mr. Richardson: For any alcohol served, you're gonna be under state rules and regulations by the Alcohol Law Enforcement known as ALE. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: And the Alcohol Beverage Commission control?

Mr. Cook: That's correct.

Mr. Richardson: And you're gonna be subject to food inspection standards and safety standards?

Mr. Cook: Yes, all state and local codes.

Mr. Richardson: The sort of, in addition to beer and wine, there was some concern, I think maybe mention by the Mayor or another member of Council, as to given that there's a possibility that you could be open and serving beer and wine until 2 a.m. in the morning. Dd you recall that?

Mr. Cook: I do.

Mr. Richardson: Do you have any intention, sir, well, first of all, have you ever communicated any proposed hours of operation in your discussions with the neighbors?

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Mr. Cook: We have.

Mr. Richardson: And what have been those hours of operation you've been willing to propose?

Mr. Cook: We explained to them that we plan on having the same exact hours in the winter and the summer that we currently have. In the winter, we shut down at 5. In the summer, we shut down at sunset, which is, it ranges from, what's the latest? 8:30, maybe? As you can see, there's no proposed lighting anywhere on the barge because we don't plan to light this up at nighttime. It's not gonna be.

Mr. Richardson: This is a, this is a, it's going to shut down at dusk.

Mr. Cook: Correct.

Mr. Richardson: And open in the mornings based upon your, your standard hours right now in the winter you open up at what time?

Mr. Cook: 8:00.

Mr. Richardson: And in the summer, how early?

Mr. Cook: 7.

Mr. Richardson: Are you planning on serving a full array at that early in the morning?

Mr. Cook: No, we will not serve breakfast.

Mr. Richardson: OK, so for, for purposes of everyone in the audience and the Council, if approved, your actual hours in which you would operate that barge for serving food items and beer and wine would be the earliest, what part of the day?

Mr. Cook: I would say 11.

Mr. Richardson: And then again the same hour where it closes at sunset, yes?

Mr. Cook: Or 5 in the winter.

Mr. Richardson: OK. There was some question about utilities. Can you explain for Council the utilities that will be serving the barge in the proposed use, sir?

Mr. Cook: So it's basically a plug and play. It's gonna be a vessel that will have an electrical and a water connection. There will not be a sewer connection. We will use the restrooms that are existing in the current facility at the current structure. The intent is for the Coast Guard regulations, it has to be a permanently moored vessel. It has to be have the ability to move based on a hurricane or any reason that we deem that we need to move it, but it has to be permanently moored. Otherwise you would need a full-time captain.

Mr. Richardson: To that end, how do you plan on mooring the barge to the dock facilities?

Mr. Cook: There's a spud on each end.

Mr. Richardson: What does that mean?

Mr. Cook: It's a large steel pole that's driven into the ground.

Mr. Richardson: And that keeps the barge in place like a permanent anchor?

Mr. Cook: The reason this barge concept came to fruition was not that we were trying to put a concession stand down at the, the docks. We've talked about this earlier about the no-wake zone, and Mr. Parvin has been working on trying to get us a wake zone installed, but currently boats just fly by and we could have 2-, 3-foot wake. So when you're trying to get on and off your boat, trying to get fuel, it's really dangerous, and people will, it's very, very unsafe. And so with a barge, we made it as long as we possibly could to give security and a secure platform that will stabilize the entire fuel dock.

Mr. Richardson: And, and everyone that's on the dock for fueling purposes, loading up for some provisions at the store and then getting on their, their boat and leaving?

Mr. Cook: Correct.

Mr. Richardson: Are you familiar with the Bridge Tender dock down at Wrightsville Beach?

Mr. Cook: I am. And Dockside.

Mr. Richardson: Similar concept of any boater can pull up to the dock, refuel, and then be on their way. Would you agree with that?

Mr. Cook: I do.

Mr. Richardson: The next page, does that appear to be a excerpt from the Town's permitted use table, sir?

Mr. Cook: It is.

Mr. Richardson: And listed under MB-1 where your property is located, bars and taverns are specifically listed as a conditional-use permittable use?

Mr. Cook: It is.

Mr. Richardson: And when you bought your property, did you buy your property in reliance upon the Town's zoning ordinances and its permitted table of uses?

Mr. Cook: I didn't.

Mr. Richardson: The next two pages deal with the standards that Mr. Hardison has gone

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through, the specific and the general standards. The next, is it labeled concerns? Do you see that?

Mr. Cook: Concerns. I do.

Mr. Richardson: Those concerns were put there not because you agree with them but because those were concerns you've heard from the neighbors and the community?

Mr. Cook: Correct.

Mr. Richardson: Um kay. Is there any, well, are you aware that the Town has a noise ordinance?

Mr. Cook: I am aware, but.

Mr. Richardson: Do you plan on violating the noise ordinance?

Mr. Cook: I do not plan on violating the noise. I'm sorry. I do not plan on violating the noise ordinance. I, I don't mean to laugh, I just, it's kinda.

Mr. Richardson: Do you understand, sir, that if you violate the noise ordinance that you can be cited by the Town of Carolina Beach and subject to the penalties of that noise ordinance that the Town provides?

Mr. Cook: We do. We plan on following all the, the rules and regulations of local.

Mr. Richardson: Was there any requirement in, in, in concert of submitting your application for tonight that required you to do some sort of a noise ordinance study?

Mr. Cook: No, it's not required.

Mr. Richardson: You've hired an expert for tonight to address the decreased property value concern, and his name is John Hinnant. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: And Mr. Hinnant's here tonight?

Mr. Cook: He is.

Mr. Richardson: Transient loitering, what do you, what do you understand that to mean by the neighbors as a complaint, if you have an understanding?

Mr. Cook: I mean, I understand what transient loitering is, but we have not, not to my recollection, we have not had any complaint. I have not been told any issues regarding any members of our community, boating community, that, that currently rents a slip or is visiting someone that rented a slip has wandered off into the Oceana's neighborhood or Spinnaker Point.

Mr. Richardson: Earlier tonight did you hear Mr. Furr, Mr. Sanderford, Mr. Machovec, Mr. Perry talk about people wandering through the neighborhood of the Oceana? Do you remember that?

Mr. Cook: I did.

Mr. Richardson: Did any of those gentlemen ever communicate any complaints to your, to you, about any perceived loitering or, or trespassing by patrons of the marina?

Mr. Cook: No.

Mr. Richardson: Has anyone holding themselves out as part of the Oceana subdivision or Spinnaker Point prior to tonight ever come to you and complained about supposed transient loitering?

Mr. Cook: No, but I do think it's, it's a point that they brought up about some, maybe a boat in our marina is renting on VRBO, but Spinnaker Point, I know that they're renting VRBO, and they have a ton of people that are coming in there transient 'cause I've had friends of mine outside of in Raleigh that, that come down here and rent every summer. So I don't know how they're policing their situation with the traffic and people speeding through the, the subdivision, and I don't know how we're getting blamed for that.

Mr. Richardson: But prior to tonight, nobody's ever complained to you alleging that your marina was responsible for speeding, trespassing, and loitering?

Mr. Cook: No, sir.

Mr. Richardson: Has anybody from the Oceana or Spinnaker subdivision ever complained to you prior to tonight about any alleged illegal parking?

Mr. Cook: I'm not sure if it was Spinnaker or Oceana did complain about trailer storage in the rear parking lot.

Mr. Richardson: Well, hold on. The parking lot you're talking about is the one that's the 56-lot one inside of Oceana?

Mr. Cook: Correct.

Mr. Richardson: And there was a complaint about boat trailers being stored there instead of cars?

Mr. Cook: Correct.

Mr. Richardson: And you got that complaint from who?

Mr. Cook: From Jeremy.

Mr. Richardson: Mr. Hardison?

Mr. Cook: Correct.

Mr. Richardson: And what did you do?

Mr. Cook: We had Dillon go try to, we have rented, we were renting several spaces. Did not know we were in violation. We immediately terminated those leases and told 'em they had to remove 'em. There were three other trailers that were part of Spinnaker Point or Oceana. One guy was Ken Clausen. I'm not sure who the other two were, but they eventually removed their trailers.

Mr. Richardson: And prior to tonight, did you think that that had been taken care of to?

Mr. Cook: That had been taken care of months ago. Maybe five, six, eight months ago. I don't know how long.

Mr. Richardson: And has anyone complained that you hadn't taken care of it?

Mr. Cook: No.

Mr. Richardson: Prior to tonight, had anybody from the Oceana or the Spinnaker subdivision complained to you about littering by the marina?

Mr. Cook: Not personally, no.

Mr. Richardson: With respect to the complaint of additional traffic, first of all, your application provides for or complies with the Town's minimum required parking spaces and then some. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: And again, you're not increasing the traffic through the Oceana subdivision beyond its private gate to that 56-lot parking lot. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: And that's what you plan on dealing with as well by the additional measure of the authorized sticker that must be displayed or, I guess, something that can hang on the rearview mirror to show that whoever is there is authorized to be there as a marina boat slip owner or renter. Is that correct?

Mr. Cook: That's correct. It's a, it's a sticker that will go inside the windshield.

Mr. Richardson: If someone is driving a boat up from Wrightsville Beach and they pull over to your dock that you've proposed, to your, have you ever seen a 20-foot Grady White also have a car on it?

Mr. Cook: I have not.

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Mr. Richardson: OK, so if they pull up, I know this sounds crazy, but they pull up their boat to your dock, they're gonna fuel it, perhaps, right?

Mr. Cook: Correct.

Mr. Richardson: Maybe get out, buy some provisions, maybe hang out enjoy the nice day, the beauty that we all get to share, and then they're gonna get back in their boat. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: If they don't because they've maybe, maybe they've had too much to drink. Who knows? I mean, that's, that's what all of us are subject to as boaters. They could always Uber it or Lyft it home through your parking lot of your marina facility, correct?

Mr. Cook: That's correct.

Mr. Richardson: Has anyone prior to tonight ever complained to you at all about some alleged increased crime associated with your marina?

Mr. Cook: No, sir.

Mr. Richardson: Has anyone prior to tonight ever communicated directly to you about anything alleged about community safety and increase in vandalism and theft.

Mr. Cook: No, sir.

Mr. Richardson: You've heard the, the claim about drunkenness. What is your understanding of the neighborhood's complaints where they're saying there's gonna be drunkenness as a result of your proposed application?

Mr. Cook: No one has complained to me directly.

Mr. Richardson: So you don't even have an understanding of what they mean by public drunkenness. Would you agree with that?

Mr. Cook: Not in relation to our current slip holders.

Mr. Richardson: Is there anything that prohibits, to your knowledge under boating laws, whether it's the North Carolina Wildlife Commission, the Fisheries, Division of Coastal Management, Carolina Beach Police that prohibits having alcohol on a boat? Beer?

Mr. Cook: Yes, beer is permitted.

Mr. Richardson: Wine?

Mr. Cook: Wine's permitted.

Mr. Richardson: But not liquor?

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Mr. Cook: Correct. I think it's called spirits.

Mr. Richardson: You're not, you're not gonna be selling spirits, are you?

Mr. Cook: That's correct.

Mr. Richardson: Will you be carrying liability insurance on your facility, sir, if it's approved?

Mr. Cook: We will.

Mr. Richardson: In the next page of your, of the PowerPoint that's labeled Benefits, do you agree with the summary there listed of the benefits?

Mr. Cook: We do.

Mr. Richardson: We've already talked about dock stability by the barge. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: We've already talked about how you're trying to get a no-wake zone past the docks area. Is that correct?

Mr. Cook: That's correct.

Mr. Richardson: You gonna put in a new upgraded fire suppression system, sir?

Mr. Cook: That's correct.

Mr. Richardson: Talk about the safer refueling with the relocated pumps for the Council's benefit?

Mr. Cook: Can you go back to the site plan? One more. The pointer though.

Mr. Richardson: Let me give you the. Hold on. Here's the pointer. This center button points it right.

Mr. Cook: So we're currently proposing to extend our fuel docks 180 feet. This will allow for the additional parking, the transient parking, for the barge and allow for in the spring and summer months, fall, we have a tremendous amount of boats that stack right through this area. I'm waiting 'cause currently we have a one gas and one diesel dispenser. We're wanting to extend, expand the fuel dock, add additional dispenser, which will allow for these boats to come in and have greater access, and which would be far safer.

Mr. Richardson: So your fuel is gonna, your, your traditional gasoline is gonna now be separated further from the diesel to also avoid confusion for the boaters?

Mr. Cook: Correct. We're gonna flip flop the diesel and the gas and put the diesel on the

southern end and the two gas on the northern, in the center in the northern end.

Mr. Richardson: So the state is gonna be regulating the alcohol, right?

Mr. Cook: That's correct.

Mr. Richardson: It's gonna provide additional boat parking, which you've just highlighted, correct?

Mr. Cook: That's correct.

Mr. Richardson: So, let's talk about the amenities that you're proposing to build there. Are you, with the money that you have invested, is it your intent, sir, to build something there that's not going to be a desirable marina for people to come to?

Mr. Cook: No, we're, we're hoping and trying to make this a family-oriented facility. I know we've given it the stigmatism as a, as a bar, but yes, we will have an opportunity where you can buy a beer and wine, but we're mainly doing it so people can stop in and get a cheeseburger, get chicken sandwich, get a pimento cheese, have somewhere to come relax for a few minutes and then go back out boating. Our goal was to provide amenity for the Town of Carolina Beach where people want to come here. Currently, there is nothing. Stoked is at the end of the basin. They have three or four spaces. There's no amenities. People were forgoing coming to Carolina Beach and going to Wrightsville Beach and other places to spend their entertainment dollars.

Mr. Richardson: When you first acquired the marina, what was your approximate boat slip occupancy.

Mr. Cook: I would say 70 percent, and of the 70 percent they were, some were less than desirable.

Mr. Richardson: Is it in your best interest to have those boat slips completely occupied or less occupied?

Mr. Cook: Completely occupied.

Mr. Richardson: Since you've taken over, what's your occupancy now of the boat slips in the marina?

Mr. Cook: We're currently at a hundred percent.

Mr. Richardson: I would move Applicant's Exhibit 2, the PowerPoint slide presentation, into the record. I have no further questions of Mr. Cook at this time.

Mayor Pierce: Does Council have questions for Mr. Cook?

Mayor Pro Tem Healy: So, I just have to understand this. A boat pulls up, gets gas, once the gas is completed, they then dock and go the barge. Or do they pull up, get gas, get out, go to the barge, come back, go to the boat, then park, then go back to the barge, or, plus how many boats can you park there?

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Mr. Cook: I mean, that's dependent on the size of the boat.

Mayor Pro Tem Healy: That's true.

Mr. Cook: But yes, that is the intent. We will not be blocking the fuel dock, but you'll be able to park on both sides of the transient dock.

Mayor Pro Tem Healy: So, so there's gonna be someone to manage that piece?

Mr. Cook: Yes.

Mayor Pro Tem Healy: Um kay.

Mayor Pierce: You guys wanna go?

Council Member Barbee: I, I have some, I don't know where you're going, but I'm gonna diverge into the food prep issue, and I'm back on what are the connections and all. Can you just kind of describe what you see in terms of what you would be preparing, how you would be preparing that, not in great detail, but I'm just curious about the facilities there. I'm on the facilities and the connections and the services that that's gonna need.

Mr. Cook: So, the structure is 40-by-16 structure. This would be separated in the middle. It'd be 20-by-16 will be the concessions, and 20-by-16 will be the ship store. We plan on having a ice machine and ship store, vending machines where you can come in and grab Coca-Cola, Sprite, chips. The restaurant will be same. It'll have electrical service and will all come back to a 220. Will be just like a standard boat. You'll come in. Will just do, it's a quick connect. Will power the entire vessel.

Council Member Barbee: So there would be no, it would be all electric. There's no flammable material, propane, any, anything like that used in food prep.

Mr. Cook: Correct.

Council Member Barbee: And then what about, I think we said there was a water connection, right? So in the, and a, and I'm not a resident.

Mr. Cook: Well, there will be a water connection.

Council Member Barbee: So if I ask a stupid question, then so be it. So I was, so are there any requirements that you know of around food prep to have water. I'm getting to I would think there would be some sort of sink for cleaning. You know, whoever's preparing this food is gonna have some requirements, and that's way out of my scope, but I'm just curious. I'm back on the connection.

Mr. Cook: Yeah, it'll be a stainless-steel sinks. The reason the, the container that is there on the property now, it houses a multitude of kitchen equipment that we bought a year ago in anticipation of not having this issue and not having to go to this length to get this CUP approved.

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We know it's ugly. We hate it. We don't want it there any more than any of our neighbors, but right now until we get this resolved, but inside that container is all of our kitchen equipment, which is all electric.

Council Member Barbee: Right. So where would the wastewater go from the sink? If there's no sewer connection, where does the wastewater go?

Mr. Cook: It'll be a holding tank.

Council Member Barbee: And how's that serviced?

Mr. Cook: We have a pumpout on the.

Council Member Barbee: Just like a boat, sailboat or something.

Mr. Cook: It's connected to the main sewer with the city.

Council Member Barbee: OK, thank you.

Mayor Pierce: So Mr. Cook, I would assume that you would be under the same regulations as other establishments, that they would not be able to be served a drink and leave the barge with the alcohol?

Mr. Cook: We'll have someone, a host, that will be at the front that will not allow people to come. You won't be able to bring your alcohol from your boat to the barge, and you will not be allowed to leave whether it be in an open container or the container. It will have to be finished on premises.

Mayor Pierce: And this is registered as a vessel in North Carolina through the North Carolina Wildlife Commission as a vessel?

Mr. Cook: Through the coast, yes.

Mayor Pierce: Aren't you required to have lights as a registered vessel? I know you commented you would.

Mr. Cook: It's permanently moored. It's not a vessel that will be taking people on boat rides.

Mayor Pierce: So you're not required to have lights? So.

Mr. Cook: Not that, not that I'm aware of. Now, I could be incorrect, but I'm, not that I'm aware of.

Mayor Pierce: And, but you could add lights later. I know you said you didn't want to, but legally you could add lights and you could be open till 2 a.m. or you could extend your hours because this CUP doesn't restrict your hours.

Mr. Cook: I mean, by law that's, that's correct, but we have no intention.

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Mayor Pierce: I mean, whatever we say here today may or may not happen with 'cause I, I get it. I mean, I'm a business owner, too. I might, you might decide that between 9 and midnight that you would sell more food and alcohol, so it's a possibility.

Mr. Cook: Well, you're.

Mayor Pierce: I just want everybody to understand it's a possibility.

Mr. Cook: It is.

Mayor Pierce: Right. And, am I'm really curious about your 2,400-square-foot existing building. Why not remodel that and make that the restaurant and bar and everything that you're proposing on the barge?

Mr. Cook: Because we haven't, we're not anticipating it being a bar. I mean, if that was our intention, that may make more sense is to have it, but our intention is to have it where the boating community comes up, gets on and off the boat, doesn't stay there six hours. It's, it's not somewhere somebody's gonna come watch the NFL playoff games. It's somewhere you come in, you get, like the Trolley Stop if the Trolley Stop served beer. You come in and get some hot dogs, whatever you want food and drink, and get back on your boat and go. Currently where our currently facility is, it's roughly 220 feet away from the fuel dock, so if our computers are out down at the fuel dock our dock hands have to run, run all the way from the boat, and I'm sure anybody that's in here that they've been at our marina, they've, they've seen the guys have to sprint all the way up and then sprint all the way back just to run a credit card, but what, what happens is people when they, they don't want to get off their boat and walk 220 feet to grab a bag of ice or grab drinks or grab ice cream or, you know, we get occasional people that have to use the restroom, then they'll come in, but it really limits our ability to serve the community.

Mayor Pierce: But you could? You could remodel that facility, and I know it might not be the ideal plan, but you could take that property and do exactly what you're doing inside that property.

Mr. Cook: Jeremy and I have had that discussion. I don't think that I can. I'm not sure about. I think that if you designate it a restaurant, it changes the parking configuration and we would not have.

Mayor Pierce: You wouldn't qualify for parking because of the, the higher square footage based on a restaurant. He, he doesn't have to comment 'cause I know that's the answer, I think, you know. And I, I just have one more question. You, you, and, and I appreciate you saying you wanna follow the rules, and that's what we want for all our citizens and all our business owners, but I have to ask you this question. When I was down there, and I have to ask you if you're aware of it, are you aware of the encroachments of the parking and the benches and the tables and I think I saw a hammock and a couple other things that are in the radius of the Town well site?

Mr. Cook: Yes, we have been aware of that. We were hoping that we were going to be able to figure out a way that the fence would have to be installed.

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Mayor Pierce: Us, too, 'cause we're having to pay for it.

Mr. Cook: Well, I, I think that's for a later day. I don't really I, I guess I have my opinions on it, and I don't know.

Mayor Pierce: But we have protect that area, you know, for ourselves, for, for our situation.

Mayor Pro Tem Healy: Have they, have you talked about live music at all? Having music there?

Mr. Cook: We have not. We have no intentions.

Mayor Pierce: Councilman Garza?

Council Member Garza: I'm OK at the moment.

Mayor Pierce: OK.

Mr. Richardson: May I just add a couple of things? To alleviate.

Mayor Pierce: I think.

Mr. Richardson: Well, to alleviate what I'm hearing as a concern of you could come in later and add lights.

Mayor Pierce: Right.

Mr. Richardson: Or you could come in later and increase. I don't mean to speak for Mr. Cook. He might slap me, but I, as, as Council in approving a CUP, you can impose restrictions. If he wants to do it or not it would be subject to those restrictions. I'm willing to bet Mr. Cook's willing to enter into a restriction on the hours of operation and the lighting, and if there's ever a modification to that, he would have to come in and ask for permission and give his reasons and his evidentiary reasons for why. My hope is, and I think I speak for Mr. Cook. Well, first of all, are you willing to agree to those restrictions, sir?

Mr. Cook: Sure.

Mr. Richardson: The hope would be that once it's up and it's working within those restrictions, the community appreciates it, the boating community, the community around there, because it's in his best interest to build a beautiful place and a nice amenity for everyone to enjoy. So, as far as the fences goes, because it's been opened up, and I had a brief discussion with Ms. Fox about this, it's, you have, you have a well that has a well house, and I have an email. Mr. Cook, did you receive an email from Heidi Cox of the North Department of Environment and Natural Resources?

Mr. Cook: I did.

Mr. Richardson: What's the date of that email?

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Mr. Cook: December 4<sup>th</sup>, 2019.

Mr. Potter: Objection to the extent this is hearsay.

Ms. Fox: Can we have a copy of the email to review?

Mr. Richardson: Sure, I can let y'all, it's short, so I'll let you review it. And so, I have to address it if I'd known it could be an issue. I, I don't want the Council to be left with unanswered questions, and I also don't want those questions to impact their decision adversely, when it can be addressed. When they're talking about parking and modifying, the ship store that's there now. I guess what I'm getting at is, as I understood it, there was a, a hypothetical raised about why don't you just modify the ship store, right? And then it got into the fencing and having to pay for it. And this email addresses that directly, Madam Mayor, because.

Mr. Potter: I've got to raise an objection to this.

Mr. Richardson: That's.

Mr. Potter: It's an email from somebody who's not here to testify.

Mr. Richardson: Well, then it shouldn't be part of tonight's consideration by Council. They can't have it both ways.

Ms. Fox: I concur. I concur that the issue regarding parking on the well site should not be part of the competent materials, substantial evidence that you must consider tonight.

Mr. Richardson: Nor fencing being required, and it being the something that's paid for by the Town 'cause we disagree with that entirely, with all due respect, but I, I mean, I just don't think that's.

Mayor Pierce: OK.

Mr. Richardson: I don't think that's something that's before the Council tonight and shouldn't be part.

Mayor Pierce: Mr. Richardson, that's been noted. I was just referring to following the rules. Go ahead, Mr. Potter.

Mr. Potter: Sorry, I didn't know Grady was done. Mr. Cook, one of the things that you stated in response to a question from Mr. Richardson was about your reliance on the availability, I think is what you said, of a, a conditional-use permit to expand the current use of the marina at the time you bought the property. Did I understand you correctly? I'm not trying to put words in your mouth. If that's not right, if you could clear that up.

Mr. Cook: No, I, I didn't. When we purchased the property I didn't know what a conditional-use permit was.

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Mr. Potter: OK, so what was your testimony then about your reliance on the zoning and the ordinances as it relates to your property?

Mr. Cook: I'm not trying to be difficult, but you'll have to tell me what my testimony was. I don't remember what you're talking about.

Mr. Potter: So you don't recall testifying that you relied on the existing zoning by the time that you acquired the property?

Mr. Cook: I, I don't recall saying that. In relation to what?

Mr. Richardson: Sam, it wasn't relying on zoning. It was relying on the permitted use table.

Mr. Potter: Which is part of the zoning, but I understand what you're saying, so that's, thank you, Grady, for clarifying that. I keep trying to move closer to it. Your counsel pointed out that what I'm referring to is the permitted use table, which is part of the zoning ordinance. Do you recall that testimony?

Mr. Cook: I do.

Mr. Potter: And I, if I understand your testimony correctly, you testified that you relied on the availability of a conditional-use permit as part of your decision in acquiring the property as you saw in the zoning, or the permitted use table. Is that correct?

Mr. Cook: I don't think that, I think you're asking a different question to get someone else because as I just stated I didn't rely on a conditional-use permit, although that is what the marina is based on. I bought the marina based on the fact of how many slips it had and what the approved uses were.

Mr. Potter: Do you have that permitted use table there in front of you?

Mr. Cook: I do. Under MB-1, I could read 'em.

Mr. Potter: And second to the bottom, bars and taverns, which is what you're asking for here, is listed with a C next to it designating a conditional use. Is that correct?

Mr. Cook: That's correct.

Mr. Potter: And that was, you were testifying earlier that that was part of your calculation in buying the property was that the permitted use table noted that a bar and tavern was possible.

Mr. Cook: Again, when I purchased the property, I never looked at a permitted use table for the property.

Mr. Potter: OK, so your testimony in response to Mr. Richardson's questions that you relied on the permitted use table in buying the property was incorrect.

Mr. Cook: I bought the property based on what the current zoning regulations were. I didn't

necessarily look at a table.

Mr. Potter: I, I'm sorry. I've, I've gotta just gotta restate the question because I'm not sure that you're answering it. You're, to the extent Mr. Richardson asked you a question about whether you relied on the permitted use table in the making a decision to buy the property, your testimony in response to that question is that you did not rely on the permitted use table. Is that correct?

Mr. Cook: Let me see how I can. I think we're. I relied on the current uses that the, that a, a MB-1 was. I did not go back and memorize every single use that's in MB-1. Is that what you're, are you asking that?

Mr. Potter: I, I'm just asking a follow-up to Mr. Richardson's question about whether you relied on the permitted use table. I'm not trying to be tricky. I'm just asking you whether you relied on it or not, and I thought that that's what you testified to in response to your counsel's question.

Mr. Cook: OK, I, I feel like I've answered this.

Mr. Potter: Are you aware of any conditional use permits that are applicable to your property that permit you to operate a commercial marina?

Mr. Cook: The marina is based on a conditional-use permit.

Mr. Potter: What commercial, you, I'm sorry, excuse me. What conditional-use permit?

Mr. Cook: Are you asking me when the conditional-use permit was applied for?

Mr. Potter: I'm asking you what conditional-use permit do you understand applies to the marina as it sits there today?

Mr. Cook: For a commercial marina with fuel, retail, the parking.

Mr. Potter: So you think there's an existing conditional-use permit that authorizes all of those things?

Mr. Richardson: I'm gonna object. This was litigated directly at the Board of Adjustment and they lost on it. It was, you raised it as a complaint because I remember gettin' up and repeatedly talking about a three decades that this marina's been in use and you're trying to shut it down by eliminating the parking. The Board of Adjustment took all of that in, all of it, and that's not even before the board tonight. This application's before the board tonight, not one that was approved back in 1995 or 1985.

Mr. Potter: Grady, this has nothing to do with that.

Mr. Richardson: It does.

Mr. Potter: I'm not even asking about parking. It has nothing to do with parking. I will, you will not hear the word parking.

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Mr. Richardson: You're trying to collaboratively attack a, a conditional use permit that Mr. Hardison testified about at the Board of Adjustment that's been in place for over 30 years. That's for you to take up on appeal with the Board of Adjustment.

Mayor Pierce: Mr. Potter, can you just ask a direct question, whatever you want him to answer?

Mr. Potter: Is it your understanding that the marina operates under a conditional-use permit? That has nothing to do with parking. I'm not asking about parking. It has nothing to do with the parking lot. Is it your understanding that there's a conditional use permit that permits the operation of a commercial marina?

Mr. Richardson: Objection removed, but you can answer it. It's completely irrelevant.

Mr. Cook: Based on conversations I've had with Jeremy, I would have assumed that we were under a conditional-use permit.

Mr. Potter: OK, and your understanding is that that was the commish, conditional use permit back from the 80s. Is that correct?

Mr. Cook: As Grady just said, what I remember was '95. I'm not sure of the 80s.

Mr. Potter: OK, so your test, you, you recall a conditional-use permit from the mid-90s?

Mr. Cook: I think, the land was, I think, I don't have the exact dates of when the marina was built.

Mr. Potter: Are you aware that a, that a commercial marina requires a conditional use permit to even exist?

Mr. Cook: Yes.

Mr. Potter: OK.

Mr. Cook: Again, not on anything other than what I've spoken with Jeremy.

Mr. Potter: Mr. Cook, I believe you testified that this is a rendering of what you would expect the barge to look like. Is that correct?

Mr. Cook: That's correct.

Mr. Potter: OK. Have you located a barge that looks like that to purchase?

Mr. Cook: We have located one that's similar. It's a concrete structure.

Mr. Potter: OK. How is it dissimilar from what you have here as the, the rendering?

Mr. Cook: They're just a flat concrete structure. The, the actual building would have to be



erected.

Mr. Potter: OK, and is it your testimony that if you acquired that flat concrete structure or other barge that you would build substantially identical structures on that barge?

Mr. Coke: Yes.

Mr. Potter: OK. Who prepared this rendering?

Mr. Cook: I'm sorry. I, I don't remember. I hired a guy out of Georgia who prepared it.

Mr. Potter: OK. Was he an architect or a, a boat designer of some type?

Mr. Cook: I can't answer what his credit, credentials are.

Mr. Potter: OK.

Mr. Cook: He advertised as a CAD operator.

Mr. Potter: OK. So, are you even sure that that build, that that can be built to appear that way?

Mr. Cook: I am.

Mr. Potter: And as part of your permit application, you'd be willing to make it a condition that it actually appears the way that you have shown in your presentation. Is that correct?

Mr. Cook: Within reason.

Mr. Potter: What do, what do you mean by within reason?

Mr. Cook: Well, I mean, are you gonna say like this it's exact same building? I mean, it's not dimensions, it's not, I mean. How can I, this is a rendering. How can I say it's gonna be exactly like a rendering?

Mr. Potter: OK, so then it's possible that it's not exactly gonna look like that, is that right?

Mr. Cook: If you're asking on details to the specific exact, I can't say that it will be exactly that way.

Mr. Potter: You don't have any photographs or anything that would show an actual?

Mr. Cook: Again, this is a proposal. This is not. This is what we envision putting in.

Mr. Potter: So you would testify that you're not obligated to put that in if you get approved tonight. Is that right?

Mr. Cook: I would testify that's correct. We're not obligated.

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Mr. Potter: I, I believe you testified in response to, perhaps it was a Council question, that the bathrooms that would service the bar would not be located on the barge. Is that correct?

Mr. Cook: That's correct.

Mr. Potter: And they would be located on the two-story building that's right here. Is that right?

Mr. Cook: That's correct.

Mr. Potter: OK. Do you know how far that building is from Mr. Perry's house?

Mr. Cook: No.

Mr. Potter: Do you have any dimensional measurements or anything else that have been made to figure out how far the bathrooms that service the bar will be from Mr. Perry's house?

Mr. Cook: No.

Mr. Potter: And you acknowledge in response to the mayor's questions that your promises regarding hours of operation and closing at dusk and those types of things are not actually enforceable promises that you're making? Isn't that true?

Mr. Richardson: Objection. On what do you draw that?

Mr. Potter: I'm asking.

Mr. Richardson: He's saying under oath if they put in the conditional use permit he's bound to follow it.

Mr. Potter: I believe he answered in response to the mayor's question that he wouldn't be bound by it because of the alcohol regulations and other regulations, and I'm just asking him to clarify that.

Mr. Richardson: No, see now, see, this is the game you're playing. He said that.

Mr. Potter: It's not a game. It's a question.

Mr. Richardson: He said that before I offered up the restrictions. He's not otherwise subject to 'em, but if he agreed to the restrictions on the record, he's bound to 'em.

Mr. Fox: Well, I, Council, I, I do disagree that they would be bound by it. I think that it, I, I, on the alcohol-related condition. I don't think Council can impose a condition. I don't think he can agree to a condition. I think if it came back, it would be null and void.

Mr. Richardson: As part of his permit?

Ms. Fox: Yes.

Mr. Richardson: He could come back and ask for an expansion of that, but you don't think that the permit would be en, enforceable? We're not asking for sale legal enforcement.

Mayor Pierce: I thought we asked Mr. Hardison in his presentation and he said we could not enforce hours of operation or could not write, could not put that in the CUP.

Mr. Hardison: Yeah, it's my understanding you cannot be more restrictive than what the state allows you to sell alcohol, what those hours are.

Mayor Pierce: Sorry, I didn't mean to interrupt, but I was, wanted be that to be clear.

Mr. Potter: Mr. Cook, is it your understanding that your assurances before Town Council that you won't operate your bar beyond dusk are not actually legally enforceable obligations?

Mr. Cook: Based on what I'm hearing from Jeremy, that's correct.

Mr. Potter: And if you sold the property, you certainly couldn't promise for the people that you sold the property to that they would abide by your. Let's just say you're a good guy and you abide by your word, regardless of the regulations, but if you sold it to somebody else, they wouldn't be bound by those either, would they?

Mr. Cook: No.

Mr. Potter: How far away is the dining area from the closest fuel pump on your proposed plan?

Mr. Cook: I would say it's roughly 50 feet.

Mr. Potter: So this, so this existing diesel.

Mr. Cook: Again, it's a, that's an approximation.

Mr. Potter: OK. So, is this existing diesel pump gonna stay there?

Mr. Cook: Diesel moves to the south.

Mr. Potter: Down here?

Mr. Cook: Correct.

Mr. Potter: And this will now be gas, if I understood your testimony correctly?

Mr. Cook: We haven't, we don't have a final location.

Mr. Potter: OK.

Mr. Cook: That's where it currently is, but we are reworking the fuel dispensers.

Mr. Potter: So, part of your application, if I'm correct, is also an expansion of the proposed fuel

dock. Is that right?

Mr. Cook: That's correct.

Mr. Potter: You're adding 180 feet of new fuel dock and repositioning your existing fueling system. Is that correct?

Mr. Cook: That's correct.

Mr. Potter: OK. And as you stand here tonight, you can't say whether there will be a fuel pump immediately next to the dining area or whether it'll be further up here or exactly where it will be. You don't know. Is that right?

Mr. Cook: We will follow all the NFPA fire codes and regulations that govern where the dispenser has to go.

Mr. Potter: Do you agree that both of these docks are fuel docks?

Mr. Cook: I would agree.

Mr. Potter: That's all the questions I have for you. Thank you.

Mayor Pierce: Mr. Mishelvin? Nothing? OK. Mr. Richardson?

Mr. Richardson: With respect to this restriction stuff and enforceability, is it in the Town code of ordinances that you can't agree to restrictions, to your knowledge?

Mr. Cook: Repeat the question one more time.

Mr. Richardson: This business about your willingness to agree to restrictions in a Council order, to your knowledge is there anything in the Town code of ordinances that doesn't allow you to do that?

Mr. Cook: Not to my knowledge.

Mr. Richardson: Is there anything that's standing in your way from agreeing to that?

Mr. Cook: No.

Mr. Richardson: I don't have any further questions of Mr. Cook at this time.

Mayor Pierce: Ms. Fox, I guess my question would be is it enforceable?

Ms. Fox: Keep hearing testimony and we'll get to that.

Mayor Pierce: OK.

Mr. Richardson: If there's no other questions of Mr. Cook, I'd like to call John Hinnant to the

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stand.

Council Member Garza: I have a quick question. What's the difference between a concrete structure and a barge?

Mr. Cook: I would, as far as I know they're one and the same. I was just stating what the material would be made of. I don't know if there are fiberglass barges, or there could be other types of materials, but our intentions was the concrete.

Mr. Richardson: I do have.

Mr. Cook: Due to the stability and the weight. We're trying to hold down the fuel dock, so we don't want it to be light.

Mr. Richardson: I do have a fellow, follow-up question based on Mr. Garza's question if he's done.

Council Member Garza: Yes, sir.

Mr. Richardson: With respect to the rendering, first question is, like Mr. Hardison testified hours ago, is there any requirement in the Town's code of ordinances that you provide a rendering that you must absolutely do to the exactness of the rendering?

Mr. Cook: There's not.

Mr. Richardson: There's not any requirement of any rendering, is there?

Mr. Cook: There's not.

Mr. Richardson: Are you, on the record, under oath tonight, saying that it's your intention to build as close as possible the rendering that's been submitted as part of Applicant's Exhibit 2 tonight?

Mr. Cook: We do.

Mr. Richardson: Thank you. I don't have any other questions. I'd like to call John Hinnant to the stand, please. Mr. Hinnant, will you state your name for the record?

Mr. Hinnant: My name is John Hinnant.

Mr. Richardson: And in front of you is that your report, sir?

Mr. Hinnant: Yes, it is.

Mr. Richardson: And your report is dated today's date?

Mr. Hinnant: Yes, sir, it is.

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Mr. Richardson: Did you prepare this report in anticipation of tonight's contested hearing?

Mr. Hinnant: I did.

Mr. Richardson: At my request?

Mr. Hinnant: I did.

Mr. Richardson: Why don't you, well, first of all, as we go through this, and reminding Council I'm separating the sub-exhibits, after your report, do you have. Behind your report, the first sub-exhibit A appears to be your resume, your CV. Is that correct?

Mr. Hinnant: Correct.

Mr. Richardson: Describe generally your credentials, sir.

Mr. Hinnant: I am a licensed real estate broker and a, with North Carolina, and then I'm a North Carolina certified residential real estate appraiser.

Mr. Richardson: And how long have you been in the licensed residential appraisal business?

Mr. Hinnant: I've been appraising real estate since 2004, when I was a registered trainee. I became certified in the fall of 2006.

Mr. Richardson: And is your, a copy of your license attached to the back of your CV?

Mr. Hinnant: It is.

Mr. Richardson: Is your licensure in good standing?

Mr. Hinnant: It is.

Mr. Richardson: Have you ever been subjected to any penalties, fines, or other disciplinary proceedings?

Mr. Hinnant: No, sir.

Mr. Richardson: Is your, is your appraisal experience exclusive to residential appraisals?

Mr. Hinnant: It, it, 99.9 percent of my appraisal experience is residential.

Mr. Richardson: But you also have commercial real estate experience?

Mr. Hinnant: My brokerage license, I specialize in commercial investment real estate.

Mr. Richardson: And I see on your CV that you've been president and CEO of Wilmington Downtown Inc. What was that about?

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Mr. Richardson: So, Wilmington Downtown Inc. is a public-private partnership for the City of Wilmington and New Hanover County for the economic development and revitalization of downtown Wilmington.

Mr. Richardson: And you were involved in that?

Mr. Hinnant: In, in my capacity I was responsible for business improvement, business retention, general economic development events, marketing, promotion.

Mr. Richardson: We go all the way back to high school, don't we? Wilmington guy?

Mr. Hinnant: Wilmington guy, born and raised.

Mr. Richardson: That's right. So you're familiar with the City of Wilmington, New Hanover County in general?

Mr. Hinnant: I, I actually was for three summers in college a lifeguard here in Carolina Beach.

Mr. Richardson: Is it fair to say, sir, that you've been familiar through your years as an appraiser, a licensed appraiser, and also a commercial broker with land-use plans for the various municipalities in New Hanover County?

Mr. Hinnant: Yes, sir. A large part of our business is being knee-deep in the zoning codes.

Mr. Richardson: And why is that?

Mr. Hinnant: Because when you're appraising a property you have to have understand the highest and best use, and the highest and best use is often restricted by what is permitted in the zoning codes.

Mr. Richardson: Do you engage in also assisting your clients that may be wanting to buy a property, residential or commercial, for development in ascertaining and looking at the codes, including the Town of Carolina Beach, what can and cannot be done?

Mr. Hinnant: As, as well as HOA restrictions.

Mr. Richardson: As well as conditional use permits?

Mr. Hinnant: Correct.

Mr. Richardson: Special use permits?

Mr. Hinnant: Correct. That's a big part of the business.

Mr. Richardson: The aspect of rezonings and whether they're likely to get approved?

Mr. Hinnant: I've managed a rezoning process through the County before.

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Mr. Richardson: So in, in reviewing your report tonight, first of all, is the report that's identified as the front document to Exhibit 3 a true and accurate of your report, sir?

Mr. Hinnant: It is.

Mr. Richardson: In the report, and I'll summarize it, but have you undertaken to review, among other things, Mr. Cook and the marina's complete CUP application?

Mr. Hinnant: I have.

Mr. Richardson: Have you undertaken to review the Town of Carolina Beach's zoning ordinances?

Mr. Hinnant: I have.

Mr. Richardson: The Town of Carolina Beach's Land Use Plan?

Mr. Hinnant: I have.

Mr. Richardson: Have you undertaken to review the conceptual renderings and proposed site plan?

Mr. Hinnant: I have.

Mr. Richardson: Did you look at the October 10<sup>th</sup>, 2019, Carolina Beach Planning and Zoning hearing materials?

Mr. Hinnant: I did.

Mr. Richardson: Did you look at the November 18, 2019, Carolina Beach Board of Adjustment hearing materials?

Mr. Hinnant: I did.

Mr. Richardson: Did you drive down to the marina in the Carolina Beach basin and yourself directly inspect and observe and review the marina area in question?

Mr. Hinnant: I did on Tuesday, December 17<sup>th</sup>, 2019.

Mr. Richardson: On the second page, you go through the methodology of your report. Can you explain what your methodology was beyond what's in, or you can read it into the record if you like.

Mr. Hinnant: So this report compares sales prices of properties adjacent and/or nearby to similar water-based businesses to determine to what extent, if at all, said use affects nearby adjacent property values. As a courtesy to the reader, I've included opening dates of those commercial uses to highlight any potential influence on the identified abutting properties. As, as previously stated, this is a waterfront property. It's a finite inventory of waterfront properties,

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and it is a, it, it is, it's unique in that this subdivision is gated adjacent to a marina that services the public. And so finding the exact match is difficult, if not impossible.

Mr. Richardson: Have you ever been hired as an expert to give the sort of report you're provided tonight for Council's benefit?

Mr. Hinnant: I have. About a year ago I provided a report for the City of Wilmington City Council on behalf of Arrive Hotels on South Second Street.

Mr. Richardson: The methodology, have you implemented that methodology during your career as a licensed residential appraiser?

Mr. Hinnant: I have. I did for the Arrive Hotels project in that there was a commercial use adjacent to the historic district, so I identified properties in similar context.

Mr. Richardson: Does your report identify three properties that you inspected that were, in your estimation, comparable properties for purposes of your report?

Mr. Hinnant: I, I felt like the uses were comparable and a good example of what the subject is being proposed.

Mr. Richardson: The first one was the Anne Bonny's Bar and Grill on the waterfront of downtown Wilmington?

Mr. Hinnant: Correct. It opened in 2017, and coincidentally it is a barge anchored to the Riverwalk that is a bar and grill. They also feature live music.

Mr. Richardson: And what, you've got sale examples 1A and 1B. Can you just summarize what those sale examples demonstrated?

Mr. Hinnant: Certainly. There's two, there's two mixed-use buildings adjacent to Anne Bonny's. The first one is directly across the street at 101 South Water Street. Unit 5 sold in June 2017 for \$335,000 after 19 days on market. It sold later in November of 2019 for \$359,000 after four days on market, and that was a 7 percent increase in value. The second sale is at the adjacent building, the, the, the Brooks Building or some call it the Stonetorium Building at 18 Water Street. This is on the Riverwalk. The two units for comparison are different sizes, so the unit of measure for value is the dollar per square foot. Interestingly enough, both units have since come on the market. One is active and one is pending. Unit 11 sold in 2016 for \$239 per square foot. It is currently active at \$324 a square foot. Unit 8 sold in August of 2018 after Anne Bonny's opened for \$301 per square foot, and it's currently pending, reported as pending, and the list price is \$364 per square foot.

Mr. Richardson: And as part of Exhibit 3, sub-exhibit B contains the data for the Bonny sale examples 1A and 1B. Is that correct? That'll be the next.

Mr. Hinnant: Correct. I've in, I've included the MLS data sheets as well as the sales verification from the New Hanover County tax page.

Mr. Richardson: And the data is also behind sub-exhibit B for Property 2 and Property 3 identified in your report. Is that correct?

Mr. Hinnant: Correct.

Mr. Richardson: OK, so Property 2, the Dockside Restaurant. That's been, been around. It's kind of a cornerstone of Wrightsville Beach. Would you agree?

Mr. Hinnant: I would.

Mr. Richardson: And that has a restaurant, bar facility, outdoor live music, and across the two-lane road are residential homes.

Mr. Hinnant: Yep. I, I believe at one point Dockside also offered gas services.

Mr. Richardson: Yep.

Mr. Hinnant: Fuel services.

Mr. Richardson: And what's your report show there?

Mr. Hinnant: So, the Dockside is, address is 1308 Airlie Road. The, there is a townhome adjacent with the address of 1310. It sold in 1993 for \$330,000, and it sold again in December 2007 for \$1.35 million, so \$1,350,000.

Mr. Richardson: Given your general familiarity with Dockside, hasn't it expanded its footprint of its business operations?

Mr. Hinnant: It's exactly. It's added a second floor deck. It is expanded onto the grounds.

Mr. Richardson: And in Property 3 is the Stoked Restaurant. Is that correct?

Mr. Hinnant: Correct.

Mr. Richardson: Where is that located?

Mr. Hinnant: It's located at 313 Canal Drive.

Mr. Richardson: And then the sales examples there also tab behind a sub-exhibit B, and that sets out your report. Is that correct?

Mr. Hinnant: Correct. It's across the street, 302 Canal Drive, Unit 31. Previously sold in June of 2017 for \$145,000 after six days on market. It's currently listed for \$265,000. This unit literally overlooks Stoked. Both, both listings were arm's-length transactions. Another unit within the facility, 33-B, previously sold in September 2017 for 159,000 after 294 days. It later sold in November 2019 for \$239,000 after only two days of being on the market.

Mr. Richardson: So before we get to your summary and conclusions, under sub-tab C which is

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the next yellow sheet, does that appear to be the conditional-use permit application materials?

Mr. Hinnant: It does.

Mr. Richardson: Sub-exhibit D, the next yellow highlight, does that appear to be portions of the Town of Carolina Beach zoning ordinance Chapter 40?

Mr. Hinnant: Under D?

Mr. Richardson: Well, it'd be the next tab. It'd be the next yellow section. Should say Town of Carolina Beach zoning ordinance. I'm sorry. I don't have a tab for ya.

Mr. Hinnant: Oh, I've got it. Is it, is it B?

Mr. Richardson: Yeah.

Mr. Hinnant: There we go. Yes, that is.

Mr. Richardson: And you reviewed that as part of your report?

Mr. Hinnant: I did.

Mr. Richardson: And then the next sub-exhibit E is a, a three-page rendering of what we've seen tonight, just in different colors and schemes?

Mr. Hinnant: Um hm.

Mr. Richardson: Yes?

Mr. Hinnant: Yes.

Mr. Richardson: And you reviewed that as well as part of your report?

Mr. Hinnant: I did.

Mr. Richardson: Sub-exhibit F, does that appear to be another copy, 11x17, of the site plan of the marina's application?

Mr. Hinnant: It is.

Mr. Richardson: And you review that?

Mr. Hinnant: I did.

Mr. Richardson: And then there's the more comprehensive sub-exhibit G, which is a, a lot more comprising the marina's application with exhibits from the October 10, 2019, hearing. Is that correct?

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Mr. Hinnant: Correct.

Mr. Richardson: Sub-exhibit H, is that the November 2019 hearing materials you reviewed, sir?

Mr. Hinnant: It is.

Mr. Richardson: We'll skip the next one and, 'cause that's my brief, the motion to dismiss, but the next one, the last one, sub-exhibit J, are those the various color photographs you took, sir, when you physically inspected and reviewed the marina's application and property?

Mr. Hinnant: I did.

Mr. Richardson: And you took those yourself?

Mr. Hinnant: I did.

Mr. Richardson: So, going back to your report, sir, and you can either read it verbatim or you can summarize, whatever you'd like to do, what were you, what was your conclusion as to the impact, if any, that the marina that's before Council tonight would have on the adjacent property values, sir?

Mr. Hinnant: It is my opinion CBYC's proposed CUP will not negatively impact or injure adjacent property values. The existing data and evidence suggest that the uses proposed by CBYC's CUP are less intrusive than comparable properties of waterfront and/or direct water access. Additionally, the data and evidence indicate that CBYC's proposed expansion may, in fact, may enhance values in nearby or adjacent residential properties. In, regards to the four items of the quasi-judicial process, I'm speaking specifically to item 3, and my last paragraph addresses that. It should also be noted there's only one other facility that offers fueling opportunities to boaters on the water within Town of Carolina Beach and/or nearby. The applicant's property is the only one east of Snow's Cut Bridge. The opportunity to capture retail sales, fuel tax, general convenience features for the boaters is something that would enhance the community atmosphere of Carolina Beach.

Mr. Richardson: Is it fair to say that that last paragraph about the, the lack of facilities like this goes to the Town's Land Use Plan and it specifically noting the Town's need for this sort of development?

Mr. Hinnant: Given my experience in planning, it's is you don't, good results without a good plan is called good luck, and the reason you do these plans is so that you get good results.

Mr. Richardson: Thank you, Mr. Hinnant. I have no further questions at this time. I'd like to move Mr. Hinnant's report and the sub-exhibits A-H and J into the record. I'll deal with. Is my motion to dismiss for lack of standing? I move that into the record as already having been argued, just for the record purposes. I don't have any other questions of Mr. Hinnant at this time.

Mayor Pierce: Does Council have any questions for Mr. Hinnant? Mr. Hinnant, where does the barge, I know what you're referring to, the barge downtown. Where does that dock at exactly?

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Mr. Hinnant: It docks where the Henrietta used to locate at the foot of Dock Street.

Mayor Pierce: OK. Gotcha. And, and I'm pretty familiar with those buildings down there. They're pretty mixed-use, I think.

Mr. Hinnant: Ground floor, commercial. Upper floor, residential.

Mayor Pierce: Gotcha. OK. That's, that's my only question.

Council Member Barbee: I have a quick one, I think. When you're evaluating, and I'm asking you as the expert because I clearly have no knowledge of this, when you're evaluating property in what's considered a hot market, right. So all of, everyone's property value is increasing, pretty much, no matter what you do, right now. We're all fortunate for that. How do you evaluate the potential loss as opposed to, do you compare it to the average market increase and say these, these are actually increasing? You understand my question?

Mr. Hinnant: So.

Council Member Barbee: In other words, everything's on an upward trend. So just saying that it's going up might not be good enough. So, I'm curious how you evaluate that.

Mr. Hinnant: So every market has sub-markets within it, and, and each sub-market moves differently, and our tools within our MLS allow us to actually draw polygons around a neighborhood and get neighborhood trends. So if I were to do waterfront in Carolina Beach on the sound, I would exclude interior and I would exclude ocean and I would try to develop a trend line for what waterfront is doing, or if it were second row. Specific to the impact of an adjacent use, so I'm, I'm, is your, is your question, is it more specific about general market or is it?

Council Member Barbee: No, I was just curious if you, so what you're saying is you develop a trend line and then, what you're saying with the examples that you gave is that they are above the trend line. That's, so you're, you're pointing out they did not go below the trend line.

Mr. Hinnant: I, I think what my report demonstrates is that the value was not injured or negatively impacted by the adjacent commercial use.

Council Member Barbee: Does it say the potential value? You, you understand where I'm going?

M. Hinnant: So, so, I don't have a crystal ball, and I can't forecast.

Council Member Barbee: I understand that.

Mr. Hinnant: But what I can do is go find like kind examples and the historical data around 'em, and that is an indicator of what may happen.

Council Member Barbee: OK.

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Mr. Hinnant: If we were proposing a tire dump, I might have a completely different opinion.

Council Member Barbee: Thank you.

Mayor Pierce: I mean, I guess my only comment would be it must be hard to, to do a cost comparison on this particular property because these are, even the one down by Stoked is in Central Business District, which is CBD, and these are mixed use, and I'm guessing, I don't know what the one is over in Wrightsville Beach. Is that mixed, is that a marina business?

Mr. Hinnant: It is a mixed-use business.

Mayor Pierce: I know there's some offices in there, too.

Mr. Hinnant: Yeah, the Alpha Mortgage, I believe.

Mayor Pierce: Right.

Mr. Hinnant: It's the, is a mortgage company that's in there, but those townhomes are allowed by their HOA to be either commercial or residential. This unit specific was a residential unit.

Mayor Pierce: OK. Thank you. Mr. Potter?

Mr. Potter: Mr. Hinnant, the Mayor asked you a question and Council Member Barbee asked you some other questions that sort of beat me to the punch. Isn't it true that the properties that you identified in downtown Wilmington are located in the Central Business District?

Mr. Hinnant: The one property identified in downtown Wilmington is Central Business District.

Mr. Potter: The one that's actually next to the barge that's parked on the river downtown.

Mr. Hinnant: The, the, the barge itself is also CBD.

Mr. Potter: Right. And so, and, and that property is also a condominium, correct?

Mr. Hinnant: Correct.

Mr. Potter: It's, it's not a single-family residence? It's, it's not a. I'm sorry. That was a bad question. It's not a standalone single-family structure?

Mr. Hinnant: It is not a stick-built detached structure.

Mr. Potter: And the same is true with respect to your comps, both in Wrightsville Beach and overlooking Stokes on Canal Drive. Is that right?

Mr. Hinnant: That's correct.

Mr. Potter: Each of those properties is located. I'm sorry. The Canal Drive property is located in the Central Business District. Is that right?

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Mr. Hinnant: Correct.

Mr. Potter: And it's condominium. Is that right?

Mr. Hinnant: Correct.

Mr. Potter: And something I didn't know until you said it a second ago is that the Dockside property can be both residential and commercial, so it is different in that it's not simply a residential structure. It could also be used as a commercial structure, right?

Mr. Hinnant: Correct. The use that both sales that I reported was it a residential use.

Mr. Potter: OK. And you understand, for example, with respect to Mr. Perry's property, that his property is in a residentially zoned area. Is that correct?

Mr. Hinnant: Correct.

Mr. Potter: OK. And he has a single-family stick-built luxury home. Is that fair?

Mr. Hinnant: I've not seen it. I can't speak to that.

Mr. Potter: OK. You saw the picture, at least, of the outside of it?

Mr. Hinnant: Saw the exterior and knowing Mr. Perry I'm sure it's nice.

Mr. Potter: OK. And so are the comps that you've come up with really substantially similar to what Mr. Perry's property is?

Mr. Hinnant: I've, I've been inside the Brooks Building units, and I can, I can testify that those are very nice units. High-quality finishes, 10-foot ceilings, granite counters, tile baths. They're very nice.

Mr. Potter: And, and presumably the person who bought them wanted to live in the Central Business District. Is that right?

Mr. Hinnant: As I understand.

Mr. Potter: Mr. Barbee asked you a series of questions as well, or a couple of questions about a trend line, and I think what he was asking was related to the improving market conditions that we've had in Southeastern North Carolina for an extended period of time, and how everybody's property values are going up. Is that right?

Mr. Hinnant: I, I, I would use caution in saying that phrase because there are areas that don't necessarily follow the same trend line. As I said, within a market there are sub-markets, and you have to treat each neighborhood uniquely.

Mr. Potter: OK.

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Mr. Hinnant: If I'm, if I'm appraising in Kings Grant, I have to do the trend line for Kings Grant and not assume that because Pine Valley is trending up that I can't assume that Kings Grant is, too.

Mr. Potter: So you have within your repertoire of professional capabilities the ability to determine a trend line for a specific area?

Mr. Hinnant: I do.

Mr. Potter: OK. Did you do that for Oceana?

Mr. Hinnant: I did not.

Mr. Potter: So you don't know what the trend line is with Oceana, whether it's up or down, how high up or how far down. Is that right?

Mr. Hinnant: I was not doing an appraisal for it.

Mr. Potter: OK. And so you can't say, as you stand up here today, whether or not Mr. Perry's property specifically will be negatively or positively affected because you haven't done the research on his property. Is that correct?

Mr. Hinnant: I've not done the research on his property, but the evidence that I've used to support my opinion would suggest that it will not negatively impact it.

Mr. Potter: Is there a reason that you didn't do that research on the properties that are adjacent to this, to the proposed marina?

Mr. Hinnant: In, in my site visit I felt that those properties are a greater distance away from the proposed use than the comparables that I chose.

Mr. Potter: So.

Mr. Hinnant: Mr. Perry's home is a much further distance away from the marina use proposed.

Mr. Potter: From the bar.

Mr. Hinnant: For the barge, much further away from the barge, than Dockside is to the adjacent property, than Anne Bonny's is to the adjacent residential properties, or the Stoked property is to the residential properties.

Mr. Potter: So you didn't do the trend line analysis with respect to Oceana because you didn't think it was necessary? Is that fair?

Mr. Hinnant: Again, I can't, I have to use trends from established businesses with residential adjacent. I, if, if I were to, if I were to do a trend line, those homes were built after the marina. The, the marina hasn't negatively impacted them that I can see.

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Mr. Potter: Well, but I think.

Mr. Hinnant: It, it because they keep building. I mean, the demand is there. They keep building. They keep buying lots and building homes.

Mr. Potter: And, and I think that's what Councilman Barbee's question was aimed at, is if you have an existing trend line and you have a proposed change for related to this conditional-use permit, is there some sort of analysis that you do to determine whether or not it's gonna continue on the trend line or whether it's gonna deviate from the trend line? It sounds like you haven't done the analysis of the trend line to begin with.

Mr. Hinnant: Well, I didn't, but the analysis I did do demonstrates what happens after the fact in comparable properties.

Mr. Potter: In different zoning districts with different types of structures.

Mr. Hinnant: Well, if I were to do it for the Oceana, it would be a crystal ball. It would, it would, I would have to be, we'd all have to guess 'cause there's no after-the-fact data of a barge being installed and expanding the dock.

Mr. Potter: With the Dockside example, the sale that you used there was from 2007. Is that right? Or I'm sorry, the initial sale is from 1993 and the subsequent sale is from 2007. Is that?

Mr. Hinnant: Correct.

Mr. Potter: And so you're using evidence of an increase in value over 14 years approximately at Wrightsville Beach as a comparable sale for Oceana.

Mr. Hinnant: It's included to demonstrate that the value was not injured by the adjacent use.

Mr. Potter: I've no further questions.

Mayor Pierce: Mr. Mishelvin, do you have a question?

Mr. Machovec: So, my question is you, can you guarantee me that, right now I have grass across the street 15 from feet from my house. You put a gravel parking lot in there with cars in and out and cigarette butts and some litter. Can you guarantee me that my house is not gonna lose value?

Mr. Hinnant: I can't because I don't know what kind of condition your home's gonna be in.

Mr. Machovec: OK. No further questions.

Mayor Pierce: OK. Mr. Richardson?

Mr. Richardson: I have no further questions. I'm subject to any questions y'all may have.

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Mayor Pierce: Do you have any other witnesses?

Council Member Garza: Do you guys have any questions for him?

Mr. Richardson: In the, in the interest of time I won't have any other witnesses.

Mayor Pierce: Questions? OK. Oh, we're used to these long night meetings.

Mr. Hinnant: May I step down?

Council Member Barbee: We are?

Mayor Pierce: Oh, I, I'm sorry. These, this is their first real meeting.

Council Member Garza: Hey, now.

Mayor Pierce: OK, hang on one second. Lost my spot. So, would any parties of standing present their case now? Mr. Potter, do you have anything else to present? I thought you would.

Mr. Potter: Mayor, may I have just a few minutes to talk to my client before the first, the first witness to.

Mayor Pierce: You wanna take a five-minute recess?

Mr. Potter: That would be fine.

Mayor Pierce: How about a five-minute recess?

Mr. Potter: For my benefit.

Mayor Pierce: So it's, I didn't check the time last time. It's 11:20. We'll start back at 11:25. OK, guys. Let's get seated and get started so we can finish this up. Are you ready, Ms. Fox? OK, guys. Let's settle down. If you gentlemen in the back will take a seat. Mr. Potter go ahead.

Mr. Potter: Thank you, Mayor. I'm gonna call Mr. Furr to testify. Oh, if you want to go up there, we'll just do like they did.

Mr. Furr: OK.

Mr. Potter: Mr. Furr, I know you testified during the part of this hearing on standing, but would you please state again your name and your address.

Mr. Furr: Olin Furr, 440 Oceana Way.

Mr. Potter: OK. And you're the current board president of the Oceana owner's association. Is that correct?

Mr. Furr: Yes.

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Mr. Potter: OK. Mr. Furr, in preparation for tonight's hearing, tell the Council a little bit about what you did to prepare to talk about the harmony of the proposed use with the Oceana neighborhood that surrounds it.

Mr. Furr: Well, I've been to most every Council meeting, you know, about this, this issue. I, I might've missed the first one, but I went to the Board of Adjustment meeting, I've, I've been, I was present at the Zoning Commission meeting. I've gone back and reviewed and looked at the meetings online just to see and reaffirm what people had said under oath. I reviewed the 2005 CUP application from previous project that didn't materialize. I reviewed public records, Register of Deeds. I've done exhaustive research, deed research back to 1978. I've talked to neighbors in Oceana, Spinnaker. I've spent over probably 150 hours working on it, and my wife does not like me anymore.

Mr. Potter: Mr. Furr, I know you have a presentation, and I, and Mr. Hardison, do you have that? We'll get to that in a second. I just wanna make sure that you had it.

Mr. Hardison: Is this the correct presentation?

Mr. Furr: Yep, that's it.

Mr. Potter: That's right. And before we get into your presentation, Mr. Furr, did you hear me ask Mr. Cook about whether or not there was ever a conditional use permit for a commercial marina?

Mr. Furr: Yes.

Mr. Potter: OK, and you, I believe, just testified that you've researched the public record for permits and recordings and Council meetings and all those types of things. Is that right?

Mr. Furr: Building permits, the whole thing.

Mr. Potter: OK. Did you ever find a conditional-use permit authorizing a commercial marina for the property that is the subject of this hearing?

Mr. Furr: I did not.

Mr. Richardson: I'm gonna object on the basis of the Board of Adjustment hearing. An order has been entered. I believe they are stopped to make this argument again, and the use, just for the record, the improvements have been there since 1995.

Mr. Potter: The answer was no, they have not. Is that correct? OK. Mr. Furr, would you go to your first tab there, or your first slide there? Tell the Council what the images that they're seeing, and, and I would point out that it's a recorded document at the Register of Deeds.

Mr. Furr: OK, this, this was the first transaction in 1978 with Mr. Harrelson, his construction company, they purchased all three tracts. The first tract in the center was 21.31 acres. That's where Oceana and Spinnaker is now. The second tract is the, where the marina basin was dug

out and.

Mr. Potter: Mr. Furr, I'm sorry to cut you off, but would you, just so that you, you're pointing these areas out for Council.

Mr. Furr: That's the second tract, marina basin. Now this is the well, well site here. It was cut out for the well. First tract. Third tract is the marsh.

Mr. Richardson: Object. Madam Town Attorney, there's been absolutely no foundation laid as to whether this man can even qualify as a certified title paralegal, a title attorney. Have no idea whether this record that he's trying to testify as to what he says is the record title to this property, and there's been no foundation laid that he's competent to give that testimony, and it should not be allowed unless there's foundation that this man's qualified to do that.

Ms. Fox: Mr. Potter, I'm gonna instruct Council at the end of this hearing, as we discussed in our conference call yesterday, about what evidence they can consider, so if you, you've heard Mr. Richardson's objection. You might want to lay a foundation.

Mr. Potter: Mr. Furr, where did you find the document that's shown on the tab that's, or the slide that's on the screen currently?

Mr. Furr: Everything that I will be talking about tonight and all the copies I've produced, I've got about a 4-inch stack under my seat over there, they all come from the New Hanover County Register of Deeds. There's tons of information on there. That's where I found the truth to this whole situation. And just like Mr. Grady over here, he said when we had an objection, objection that he didn't want Council left with unanswered questions. Now I hope he gives us the same courtesy because I want to make sure that you people know what has gone on so you can make the proper decision. We're only trying to get you to the truth.

Mr. Richardson: Objection.

Mr. Potter: Mr., Mr. Furr, you've gotta just stick with the questions and the.

Mr. Furr: OK.

Mr. Potter: And the questions I ask you, please answer them.

Mr. Furr: OK.

Mr. Potter: And do the same when Mr. Richardson asks you questions. So, you talked about a bunch of other documents. Where did you find the document that's currently on the screen?

Mr. Furr: That came right off Register of Deeds.

Mr. Potter: OK. Is that a public website?

Mr. Furr: Public website.

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Mr. Potter: Public records? OK. And you pulled that off of a public website, and that is a public record. Is that correct?

Mr. Furr: Yes.

Mr. Potter: OK. And I believe you, you were testifying before Mr. Richardson objected that this illustrates the property according to the public record in 1978. Is that correct? OK. Would you please move to your next slide? And, and before you tell Council what the slide is, would you please tell them where you got it from and what you understand it represents?

Mr. Furr: OK, so this slide came from the Town of Carolina Beach. Jeremy's presentation. I stole it.

Mr. Potter: So, and, and the, the image that you have there is the conceptual plan, original plan for Spinnaker Point. Is that correct?

Mr. Furr: Right. This, this is a, that's number two, so this, this was the project after that first transaction took place. Of course, I'm not able to go through this. The way we're doing this, we're not gonna get it all filled in.

Mr. Potter: We're gonna do it the way that we need to do it, so go ahead.

Mr. Furr: OK. All right, so this, let me find my place here. OK, so on September the 14<sup>th</sup> of '83, Spinnaker Point Limited purchased this property that you saw before the screen. All right, this whole entire area was zoned RA-6, single- and two-family residence.

Mr. Potter: OK, Mr. Furr, how do you know that it was zoned RA-6?

Mr. Furr: I came to the Town, Carolina Beach, and I asked Jeremy to give me.

Mr. Richardson: Objection also on the reference to a deed that hasn't been identified.

Mr. Furr: We're gonna be here all night.

Mr. Richardson: It is what it is. I mean, at the end of the day, competent evidence. There's been no deed ref, he's referencing a deed he hasn't identified. He's referencing a hearsay communication with the Director.

Mr. Furr: OK. All right, let's back up. You want deed? You want book and page number? I've got it right here. Every one of 'em.

Mr. Richardson: Just for the record, we are, we're still litigating, re-litigating the existence of this development that's been here, in one form or another, since 1984.

Ms. Fox: I'm not certain what the witness is gonna testify to, but as we just discussed, there is a Board of Adjustment hearing with 34 findings of fact conclusions of law that has been served on the, the party that has the right to appeal, so we should not re-litigate that matter right here during this hearing, Councilors. I'm not saying you are. I'm just saying we shouldn't.

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Mr. Potter: I'm not trying to, but we're talking, one of the criteria is harmony with the community, and my understanding is that Mr. Richardson has argued that this is in harmony with the community because this is the way it's been for 25 years. We're not even talking about the parking lot. We're talking about the overall harmony of the surrounding area, and that's where Mr. Furr is going to talk about. He's competent to testify about those things, and he's trying to lay the foundation for it, but you won't let him.

Mr. Richardson: How? He's talking about a rendering, not recorded, not a public record from 1983 that hasn't been built. It's not present day. We're talking about present-day harmony with what's present day. Something from 1983 that he wasn't around for.

Mr. Potter: It's part of Mr. Hardison's presentation, Grady.

Mr. Richardson: He laid the history for it. He wasn't talking about the application, the present day in harmony. Talking about a 1983 artist rendering that hasn't even been built.

Mr. Potter: Mr. Furr, please.

Mr. Furr: It's, it's just to show history. Just to try to bring everybody up to speed.

Mr. Richardson: Without any foundation.

Mr. Furr: All, all, all we want is for everyone here to see and know the truth, especially these people. They have to make a decision.

Mr. Potter: Mr. Furr, did you obtain the document that's on the screen currently from the public records of Carolina Beach?

Mr. Furr: Right off of their website.

Mr. Potter: OK, thank you. And would you please continue to the next slide?

Mr. Furr: Well, we really didn't finish this slide. Here's another one from Carolina Beach. Jeremy's stuff.

Mr. Potter: OK. And, and what is the rendering that's on the screen currently show, according to the records of Carolina Beach?

Mr. Furr: Well, as I'm going through the information to try to share with everyone, this, this is approximately 1987 or after because when you go to the record and you pull up the book and page number, 1987 was when Spinnaker Point phase two was finished and they, there was 18 units there, so they added that to it, and you can see that we have one, two, three, four units built. Here's the marina basin. This is the parking lot that eventually gets rezoned Marina Business. There are no buildings on it. I know Jeremy, or, or in some of the information, they, they think there was a building on it, but you see this building here? This was the sales office that was handling all this in May of '94. They took the top off of this building, and they moved it over here and sat it on the ground and put stilts on it. That's.

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Mr. Potter: And Mr. Furr, how do you, how do you know? Hold on, Mr. Furr. How do you know that? What is the basis of your testimony that that building was moved so that the marina?

Mr. Furr: OK. Well, when you go to the New Hanover tax assessor's office and you pull up information on this property and you go and you look at the data on it and you pull up the deed references and the plat description, you, you, then you, you call down there and you tell 'em you've got this piece of property, you want to see all the building permits that happened on that piece of property, and New Hanover County sends you the information. So I got the information that a house was moved to the front of that property.

Mr. Potter: Hold on a second. You got that from your review of New Hanover County public records from the building department. Is that correct?

Mr. Furr: Yes, directly from New Hanover County.

Mr. Richardson: Where are his records? Objection. May I say inadmissible hearsay again.

Mr. Potter: Please continue, Mr. Furr.

Mr. Richardson: No. Where are the, where are the records he's talking about that he's under oath talking about that we're supposed to, I'm supposed to sit here and cross-examine him with no records on what he's talking about? How is that due process? How is that fair?

Mr. Furr: It's a public record.

Mr. Potter: Grady, you conveyed background information without going through all of this stuff. It happens every time. Every trial you and I have ever done, you get to ask basic backup questions. We're gonna set the stage, and then we're gonna talk about stuff that matters.

Mr. Richardson: But his backup questions, documents, he doesn't even have. He is referencing.

Mr. Potter: He does have them. They're not essential to his presentation.

Mr. Richardson: Mr. Potter, I know how to put on a case. I don't need your help on that.

Mr. Potter: Well then let me put on mine, and then you can object to it.

Mr. Richardson: He's referencing stuff that he doesn't have up on the screen, that I don't have an opportunity to review.

Mayor Pierce: Ms. Fox, could you add some clarity to when they, when they have objections, we, I don't know what we're supposed to say or not say.

Ms. Fox: Yes, yes. Well, the party.

Mayor Pierce: We can't rule on that.

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Ms. Fox: We had a conference call with these attorneys yesterday, and we discussed the fact that there would be objections made, that they would state their objections for the record and then the testimony would proceed. The objection is to hearsay. Hearsay is an out-of-court statement or document offered for the matter of the truth; the truth of the matter asserted. So it, what there's going to be this ongoing discussion about hearsay, but all the other objections have been preserved for the record during the applicant's presentation of their case.

Mr. Richardson: I'm gonna issue a standing objection. He should not be allowed to testify. He's not qualified to give testimony about title, reference. He doesn't have a paralegal degree, doesn't have a law license. That is stuff that is beyond a layperson testimony. I have a standing objection to all of this talking about title records and building permits. It's not fair. It is not permissible even under the, the lesser standards for a quasi-judicial setting, and I'll have that, and I'll let it be.

Ms. Fox: Council will be reminded again that they must base any decision tonight based on competent evidence, material evidence, substantial evidence that meets the four general and seven specific standards.

Mr. Furr: I agree. I have, if they want.

Ms. Fox: Sir, I'm not talking to you. I'm talking to Council.

Mr. Potter: Mr. Furr, what is it that you were just holding up in your left hand?

Mr. Furr: This, this is the deed record from 1978 to present that happened at these properties. This is.

Mr. Potter: OK, and you pulled those. Hold on a second. You pulled those from the New Hanover County Register of Deeds. Is that correct?

Mr. Furr: Yes.

Mr. Potter: OK, and that's a, those are all public records that are kept on the New Hanover County Register of Deeds in the ordinary course of the New Hanover County register. Is that correct?

Mr. Furr: Book and page. Yes.

Mr. Potter: Anybody can go on and they can enter a book and page number into the system and it will pull up a document. Is that right?

Mr. Furr: Right, and you can read, it's plain English. It's, it's easy to understand. You can be a layperson and do this.

Mr. Potter: OK, and your research is from 1978 to when?

Mr. Furr: Shinnville, I think is what it was called, and then they changed the name to CBYC.

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Mr. Potter: And, and is it of the entire marina property or all of Spinnaker and Oceana? Is it just the marina property or is it the whole thing?

Mr. Furr: No, it's, it's Spinnaker, Oceana, the marina. Yes.

Mr. Potter: OK.

Mr. Furr: The marsh.

Mr. Potter: OK. Would you proceed, please, with your next slide? So this is, you testified that's 1987. The property's being developed.

Mr. Furr: Right. So, only 72 units were built, and Jeremy can testify to that. The marina basin was in place. Now in March of '90, foreclosure was filed on this project, and in June of '90, the remaining land and marina were put up for auction. Now this wasn't a retail marina. It's just a place where people parked their boats. There wasn't a building. The bank ended up in the highest bid and took it into its possession. This did not include the four condo units 'cause all those units were sold and already in a unit owners association, which is in here. In December, in December 1990, a company called Coquina Harbor of Carolina Beach bought this clump of, or this development, from the bank, and not much happened until it was sold again on March 15<sup>th</sup> of '94. Now we're getting into what we're talking about here to.

Mr. Potter: And, and that's where I wanna stop you for a second, please.

Mr. Furr: OK.

Mr. Potter: So, in, in 1994, who acquired the property that was Spinnaker Point?

Mr. Furr: Well, Spinnaker Point remained Spinnaker Point. It was always excluded in these transactions because it stood on its own, but Oceana Limited Partnership had purchased all the remaining property around it.

Mr. Potter: OK, including the marina. Is that correct?

Mr. Furr: Including the marina.

Mr. Potter: And the surrounding land that was eventually developed into Oceana. Is that right?

Mr. Furr: Yes. Now that was a CUP that they had to have to develop that big monstrosity, but now Oceana was coming in with, it was an RA-6, and they're coming in as single dwelling residence, so the zoning was already set up for it. So they just issued their plans and recorded their plats. So they, so their, that original CUP expired for this project.

Mr. Potter: The original CUP being the one from the 1980s. Is that correct?

Mr. Furr: From the Spinnaker. Yes.

Mr. Potter: OK.

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Mr. Furr: So in this aerial photo we're showing you approximately '87, maybe thereafter. So I want you to notice on this, the, the left side where the marina is, that, that is bare, bare property. It's just parking. That's where people would park to go to get on their boat, so that is also the parking area that, that gets rezoned in the future. So Oceana Limited at this time immediately signed a joint use and easement agreement, it's in here, with Spinnaker Point unit owners association to make everything flow to the benefit of both of those developments. So they also created the Oceana owners association and Oceana marina's association. That's in here. Each lot in Oceana comes with a boat slip in the marina basin, but, like I said, it's only, it's, it's the right half of the marina basin and, and the left half was for the future marina retail. So, let's see here we go to, OK, so on March 29<sup>th</sup> of '94, Oceana recorded phase one and started construction, so this is the first of the neighborhood that started.

Mr. Potter: Mr. Furr, where is that document recorded?

Mr. Furr: This is right out of the New Hanover. It's part of their map. It's the.

Mr. Potter: With the Register of Deeds?

Mr. Furr: Yes. It's down on, it's book 33 page 346. So Spinnaker's in the center. You see those two squares. That's where Spinnaker is. And in August of '94, Oceana Limited Partnership, which owned all of this development and the marina, they filed a petition with the Town of Carolina Beach to rezone these two, oops, to rezone these two pieces of property for Marina Business because they were zoned RA-6. So, on September of '94, September 23<sup>rd</sup> of '94, Town Council approves Oceana phase two. And this is Oceana phase two. You can clearly see there are 17 lots. It also shows you, oh shoot, it also shows you what is the marina basin for Oceana. In, in, this, this is the meeting where Town Council approved this subdivision.

Mr. Potter: OK. Now, Mr. Furr, where does that document that you have on the screen come from?

Mr. Furr: This came from the Town of Carolina Beach. I requested the information from Jeremy.

Mr. Potter: OK. Is it your understanding that those are the minutes of a Town Council meeting from September 23<sup>rd</sup>, 1994?

Mr. Furr: Yes. This is the, the meeting where the Town Council at the time approved phase two of Oceana. So, now Jeremy, his, this is where he says that.

Mr. Richardson: Objection.

Mr. Furr: OK, planning board. The planning board uses this to say this is where that.

Mr. Richardson: Objection.

Mr. Potter: Just keep going. Just keep going with that.

Mr. Furr: Where it was proved by Town Council that this became the marina parking lot. Now,

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what I wanna do is go to this next one because you can see it better. This is, I hate this thing, that section right here, this is guts of it. This is all who was here, what they said, motions, but this right here is what matters. So, this is describing what's gonna happen at phase two of Oceana. Mr. Linsey explained that a bond in a construction, is a construction bond for the assurance that everything that is outlined on the plat is built in conformance with their engineering plans and conforms with all the codes. When everything has been built to those standards and approved by the appropriate authorities, the bond is then returned. So Mr. Oakes stated that phase two consists of 17 single-family residential lots in addition to what was in phase one. Roads are to be private, utilities dedicated to the Town with the proper easements and all private common area, all private common area will be maintained by the homeowner association. The bond is in the amount of \$50,000 to cover construction costs with a survey they will be put in accordance to state and, and local standards. So this is the decision. It says nothing about a marina or marina parking lot. What it does say is that this is a subdivision approved. This, this is overflow parking for this subdivision. It's zoned residential, and it has been zoned residential since its creation. Now this is closeup of the parking lot, and you can see it clearly. What I want you to notice about this is that it says reserved for parking and landscaping but Oceana Limited Partnership. Well, who owned this? Oceana Limited Partnership. Over here, this is, this is where the marina is. It's not included in this plat because it has nothing to do with this parking lot. Now this right here is an easement.

Mr. Richardson: Move to strike.

Ms. Fox: Mr. Potter, this is the subject of the Board of Adjustment hearing.

Mr. Potter: Can you move on to the next thing, please? Just move past the parking lot, if you could.

Mr. Furr: Yeah, it's a, well, the Council needs to know what happened. I mean, they're, they're blind to what they've been told and.

Mr. Richardson: Objection.

Mr. Furr: They need to know. I mean, ask me a question.

Mr. Potter: What's your next slide?

Mr. Furr: OK, so this is a slide of a transaction when the first retail marina actually came to Oceana. The owner of Oceana Limited Partnership, Buddy Gerald, he cut out, when he, when this, all this property and this, these phase one and phase two, it gets transferred to an association so association can run it. And what happens is, is Mr. Gerald, after he gets approval for this, a year later, he decides, well, I'm gonna create this marina for my son. So he does not, does not deed this parking lot to the association as approved by Town Council. He went against what Town Council said, it's a, a parking lot in a subdivision, and he cut it out for himself.

Mr. Richardson: Objection. Move to strike.

Mr. Furr: So, so, now, now he's got this marina property he rezoned, and he sells this little piece, that piece, these two pieces, and this little house piece out here to his son, and re, he created a

company called Waterway South. So now, Waterway South has to come to Carolina Beach and get a license. Well, that's when the Town, somebody at the Town, I don't know who. It's not Jeremy. He wasn't here. Somebody dropped the ball. He's getting a license for a marina, and it's got residential parking in here. Ask me a question.

Ms. Fox: Mr. Potter, again, I can't see your face, but I hope you can see mine.

Mr. Potter: Mr. Furr, I understand that you want to talk about the parking lot. I think the Town Attorney has made it abundantly clear that it's off limits.

Mr. Furr: OK. Can I talk about the zoning ordinance at this time in history?

Mr. Potter: As long as it has nothing to do with the parking lot.

Mr. Furr: Well, it's a zoning ordinance that controls parking. And it's important because in 1996, when this was transferred, the zoning ordinance from this Town, in section 604 states that if the owner would have come to the Town Council and asked for a CUP to have a retail, I mean, a residential parking lot, I mean, a viewed for commercial use, he could have gotten the CUP. The owner did not. There's never been a CUP issued, so that is an illegal use. Now, the zoning ordinance changed in 2000. Never a, never a CUP issued. When it changed in 2000, the zoning ordinance did not allow it, so now they say it's a nonconforming use, but when you.

Mr. Potter: Mr. Furr, I, I know. I understand.

Mr. Furr: They need to know it. They, because they're gonna make a decision based on this set of answers that they're getting over here, and they're not accurate. And I want them to know what's accurate. Is that not what we're here for? Ask me a question.

Mayor Pierce: Just a comment, Mr. Potter. It's 12:00, and I know we need to get to the information and I feel like we're really close to getting through this, but I really don't wanna have to recess for another night to another day, and I want our Council members to be thinking clearly and fresh when they vote on this issue.

Mr. Potter: I do too, Madam Mayor and.

Mr. Furr: OK, but, I'll just, there's the actual written zoning right there. There's the second page. It's written zoning right outta your ordinance. There's the definition of nonconforming use. It's a lovely picture. This is Oceana, Spinnaker parking lot. So what do you me to talk about?

Mr. Furr: Since I'm.

Mr. Potter: How is the proposed use?

Mr. Furr: I feel like I'm, I'm hogtied. So, let's go on to the character of, let's just say this. So, let's, let's, let's talk about the character of this deal. If you go to article 3 section 40-70 number 2, which is the intent of R-1B zoning.

Mr. Potter: Of what?

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Mr. Furr: In the Town of Carolina Beach zoning ordinance. The regulations of this district are intended to discourage any use, which because of its character, would not be in harmony with the residential community and which would be detrimental to the residential quality and value of the district. Is a bar parking lot inside a neighborhood in harmony? Is commercial parking inside a neighborhood harmony? No. Article 9 section 40-261 section L3a covers bars and taverns, which because of their nature may have serious adverse secondary impacts and are therefore required to meet minimum separation requirements.

Mr. Potter: Mr. Furr, let me just stop you there for a second. That section that you just read had nothing to do with parking lots. Is that right?

Mr. Furr: Well.

Mr. Potter: The, the section that talks about bar and taverns has nothing to do with parking lots. Is that right?

Mr. Furr: Up here, I'm thinking about our parking lot, yes.

Mr. Potter: OK.

Mr. Furr: But that's their zoning ordinance.

Mr. Potter: Would you please just, so we're, we're not combining all this parking lot stuff in with what a bar, what the Town's own ordinance says about bars and taverns, would you please state whether or not that bar and tavern section has anything to do with parking lots?

Mr. Furr: It's not allowed.

Mr. Potter: OK, go ahead.

Mr. Furr: So, what I was getting to, is that the bar is not the problem. It's the patrons, so, so they're all over the place. So we're at a very large residential area and we have a little speck of MB-1 surrounding our homes, so on the Zoning Commission that voted, it was 3 to 3, but the ones that, you've already seen that up here tonight, the ones that objected said that it was not gonna be in harmony, harmony with the neighborhood. I'm trying to think of whatever you. I don't know what you wanna hear from me, so let me just hurry through this. OK, so most everything I got has to do with the parking lot.

Mr. Potter: Just to be clear, Mr. Furr, the Town Attorney as well as Mr. Richardson have taken the position that that is not something that's before Council tonight. So I understand you wanna talk about that.

Mr. Furr: All right.

Mr. Potter: But that's the direction, OK?

Mr. Furr: OK. So we'll just have to settle that in the courtroom, I guess.

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Ms. Fox: To be clear, the Town Attorney thinks that matter's already been adjudicated by a Board of Adjustment and that you have rights of appeal. If you do not disagree, dis, if you disagree with the Board of Adjustment's determination.

Mr. Furr: Well, I guess I'll just have to close and talk a little bit about the Carolina Beach Land Use Plan from 2007. Just to bring up issues that I looked in there. I didn't wanna do all this reading. I did. Part 2.2, there was an issue in there discussed, the need to promote local businesses and businesses geared toward families, existing emerging conditions and driving forces related to the issue. The consensus was that chain businesses usually outcompete and drive out local businesses. However, there is a desire for chain restaurants, and there is a perception that the bar/nightlife scene is deteriorating quality of life and safety of the majority of the community. There is an overall desire for a family atmosphere in the community. Now these are community issues and concerns straight outta the Land Use Plan. So I guess the only thing I've got to say is I, I've been at town meetings for years and years, and I'm usually on the other side. I, I'm usually begging, you know, for exceptions and variances. I've never had to come to the Town and beg for them to follow the zoning ordinance, but I'll leave it at that because most of what I have written here is gonna be argued the whole way through so.

Mr. Potter: Thank you, Mr. Furr.

Mr. Furr: We'll just call it a night.

Mr. Potter: Thank you, Mr. Furr. Mr. Sanderford?

Mr. Richardson: Well.

Ms. Fox: I think Mr. Richardson.

Mr. Sanderford: The next item is you have 18-foot, let's see, it's here, your small depth is 18 foot, which that's correct, and then depending on whether you have a one, a one-way aisle or a two-way aisle you will need 20 or 24 foot. Either way, those dimensions cannot be achieved. The one space can only get 30 foot on one corner, so that's, that's why those spaces cannot be counted.

Mr. Potter: Mr. Sanderford, to be clear, it's your testimony that the five, or actually it looks like there's two, three, four, five lots shown on that first slide do not comply, that those five spots do not comply with the technical criteria of the zoning ordinance for parking. Is that correct?

Mr. Sanderford: That's it. Yes, that's correct because this next slide here shows, it says 5 foot or 10 foot. This case I think it's 5 foot, but you don't have 5-foot buffer.

Mr. Potter: 5-foot what? OK, there you go.

Mr. Sanderford: Buffer.

Mr. Potter: Buffer. Thank you.

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Mr. Sanderford: Yeah, this is where the buffer's required. You know, I have it, one of the, one of the steps but right up to Alan Perry's property line there, so that, that's why the, the spaces I showed you in yellow do not comply with the ordinance. OK, we're gonna do some simple math here. The existing off-street parking, they stated that it was 79. There's actually 77. The proposed off-street parking they stated was 16. That's actually 17. The total off-street parking they stated was 95 spaces. There's actually 94, which that still meets 94. However, you take the five spaces away, you've only got 89 spaces.

Mr. Potter: So, Mr. Sanderford, just to put a point on that, is it your testimony that the proposed plan does not contain adequate parking under the Town's own regulations?

Mr. Sanderford: Yes, and next slide. The famous parking lot. Gonna be these spaces here have to be extended, so you have, you have nine there and I think you got eight there, so there's a total of 17 currently that do not comply.

Mr. Potter: I'm sorry, Mr. Sanderford, can I cut you off and just say that is a blowup of the applicant's own plan. Is that correct?

Mr. Sanderford: Yes, it is.

Mr. Potter: OK, so if, if you look at the language just to the right of your colored line there, it says expand parking.

Mr. Sanderford: Extend parking space.

Mr. Potter: 18 feet outside of easement. Is that right?

Mr. Sanderford: Yes, sir.

Mr. Potter: And that's part of the applicant's own plan is they're gonna extend those parking spaces. Is that your understanding?

Mr. Sanderford: That is correct. What I highlighted there, to me it's yellow, is the area that they're expanding the parking spaces. This is a picture showing where the easement is. The, we hired a registered land survey to put these points out there, and we had 'em painted.

Mr. Potter: When you say we had 'em painted, you had them painted with your company. Is that right?

Mr. Sanderford: Yeah, yes.

Mr. Potter: You went out and you painted the lines on the ground?

Mr. Sanderford: We, we painted the lines based on the markings the registered land surveyor.

Mr. Potter: Understood.

Mr. Sanderford: And which does match the GIS. And this, this is the other parking lot right here.

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As you can see, me go back. Even before we had this issue, right, right in this location, when you, when you park a truck, it comes all the way out here, so that's, that's the reason why these parking spaces have to be moved back. You're, you're in the actual travel way. It is same thing for this parking space here, too.

Mr. Potter: OK, Mr. Sanderford, you're transitioning from the parking issues to a different issue now. Would you explain, as a general contractor, your experience with laying out and constructing nonparking, we'll call 'em nonparking lots? Things that are other than parking lots?

Mr. Sanderford: Well that, I'm, I'm sorry, Sam.

Mr. Potter: That's OK. Would you just sort of reiterate your experience doing commercial construction and laying out commercial properties and constructing them as a general contractor?

Mr. Sanderford: Like laying them out and whatnot?

Mr. Potter: I'm probably using the wrong term. Would you explain your experience as a general contractor doing commercial projects?

Mr. Sanderford: Well as a general contractor, we, we stripe all our parking lots that we pave.

Mr. Potter: No, we're not talking about parking lots. We're talking about, you're moving into a different issue. You're not gonna talk about parking lots now. Is that right?

Mr. Sanderford: I'm talking about the, no. What I'm saying is you ask about my stripings. We stripe parking lots, we stripe roadways.

Mr. Potter: Not the striping. I'm talking about your construction. Your construction experience building commercial properties.

Mr. Sanderford: Yeah.

Mr. Potter: Please talk about that, not parking or striping or any of that. Just like your soccer complex.

Mr. Sanderford: What, the capital projects we do?

Mr. Potter: What are, what are some things that general contractors do to understand that they're constructing their projects in accordance with applicable rules and regulations?

Mr. Sanderford: Well, as a general contractor, we have to follow the plans. A lot of times, unfortunately, the engineers these days, they're putting plans out very quickly and you have to go, we have to go back to the local ordinances and look at those and make sure it's in compliance 'cause overall it's the municipality that gives the CO, so we have to make sure these parking lots conform to that.

Mr. Potter: And is part of that making sure you comply with rules and regulations involved,

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studying and reviewing the fire code, for instance?

Mr. Sanderford: No, not necessarily the fire, but parking lots and stuff like that. We, we, yeah, I mean, there's, you look at the development side of things, yes. You gotta make sure that things meet the fire code. When you're, when I built homes, too, you gotta make sure that things meet the fire code.

Mr. Potter: So you have to review rules and regulations that apply to construction projects. Is that right?

Mr. Sanderford: Yes.

Mr. Potter: OK, continue. What, what does the slide show?

Mr. Sanderford: Slide 4. This is an aerial showing the above-ground fuel tank 54 foot from the, from the nearest residential property line. That's the property. That's Mr. Perry's property line. That's the fuel tank.

Mr. Potter: Mr. Sanderford, do you know how big the fuel tank is?

Mr. Sanderford: I, I measured it, I'd, approximate it is probably I think a 10,000 gallon's what I, what I measured.

Mr. Potter: OK.

Mr. Sanderford: This is slide 5, here is the Carolina Beach zoning code, and it, it says all storage tanks, all storage tanks, on summary read from this, all storage tanks and loading facilities shall be located at least 100 foot from any exterior property line bordering a residential district.

Mr. Potter: And that's talking about specifically flammable liquid storage of more than 1,000 gallons, which that tank is. Is that correct?

Mr. Sanderford: Yes. It also does not meet NFPA Table 4.3.2.4 and the North Carolina fire code. All right, the reason this is important, this tank is gonna have to be relocated, so where's it gonna be relocated? It's, you know, is it gonna be relocated? Is it gonna be buried, or is it gonna be taking over more parking spaces? That's the only reason I'm bringing this issue up. But as, as a side note, this is just information purposes, but those fuel lines are buried somewhere, and it's probably buried underneath that 100-foot radius area, so that is something that needs to be checked on. Slide 6, this is Google Earth area from 12/2002. As you can see, Alan Perry's home is shown, but not the fuel tank. I wanted to show this so there's no question the fuel tank was installed after Alan's Perry's home was built. The reason I bring this up is because the tank must be relocated, which could affect the parking lot layout. That's what I've already said, so. The next issue is dealing with fire code. Grady mentioned the Bridge Tender as a fueling dock. I did some measurements on Google Earth. I just wanted to make sure you guys are clear that the Bridge Tender fueling facility is approximately 200 foot from the restaurant bar building. That's the closest spot. This size, this line shows the locations of existing and proposed fuel tanks on the fueling dock highlighted in red. This is what they had on their plans. The yellow highlighted area is the barge bar. Jeremy stated in the planning board meeting that the Fire Chief said all

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that was needed is a fire suppressant system on the barge. If the dispensers catch on fire, what will be the egress route for patrons? There will be no egress other than to jump on the rocks covered with oyster shells or to jump into the water, and hopefully the current's flowing in the proper direction not to pull you under the barge or dock. Council, before I go any, before I go into the fire code thing, have you ever seen a bar or a restaurant attached to a fueling dock? No, because it's common sense. This is dangerous and not allowed. What do you do when a, when you fuel your car? You turn the, you turn the vehicle off, put your cigarette out, leave your cell phone in the car, and do not enter the car when fueling has started. You do all of these things so an explosion will not occur to an, due to an electrical spark or a hot object. This is pretty common sense that pretty much anybody, what everybody does. OK, this is the meat of everything. We don't have enough parking spaces. This is the North Carolina fire code. If you've not listened to anything else tonight, this is what we need to listen to right here. After the, I'm just gonna, I'm gonna read this starting at the top. North Carolina fire code section 22.1 general states that the construction of a marina.

Mr. Potter: Mr. Sanderford, slow down a little bit.

Mr. Sanderford: OK, I'm sorry. I'm tired, just like you guys are. I'm sorry. I'm wore out. The construction of a marina motor fuel dispensing facility shall be in accordance with international building code and NFA, NFPA 30A. Now you would go to the NFA, NFPA 30A codes, it says smoking materials, including matches, lighters, shall not be used within 20 feet of areas used for fueling. Servicing fuel systems for internal combustion engines or receiving dispensing Class I liquids. Before open tanks or a vessel be, or a vessel to be fueled, the following precautions must be taken: All engines, motors, fans, bilge pumps shall be shut down; all open flames and smoking materials shall be extinguished and exposed; heating elements shall be turned off. The North Carolina 2018 North Carolina State Building Code Fire Prevention Code states chapter 23, motor fuel dispensing facilities and repair garage, section 23-10, motor fuel dispensing facilities 23-10.3 dispensing facilities: Dispensing of fuels at marina motor fueling dispensing facilities shall comply with section 22-10.3.1 through 22-10.3.5. General wharves: This is the, this is the, this is the important one here, guys. 22-10.3.1: General wharves piers or floats at marina, marina fuel dispensing facilities shall be at use exclusively for the dispensing or transfer of petroleum products to or from marina craft, except that transfer of essential ship stores is allowed. You're not, when you have, when your, when you have a fueling pier, nothing else is supposed to be there. The only thing that's supposed to be there is vessels coming in and out fueling, and that's it. Nothing else because the potential of a fire. Sources of ignition: Construction, maintenance, repair, and recondition work involving the use open flames, arcs, or sparks-producing devices shall be performed at marina motor fuel dispensing facilities or within 50 foot of the dispensing facilities, including piers, wharves, or floats, except for emergency repair work approved in writing by the fire code official. Fueling shall not be conducted at the pier, wharf, or float during the construction, during the course of such emergency repairs. Smoking: Smoking, smoking or open flames shall be permitted within 50 foot of fueling operations. No smoking signs comply with section 33-10 shall be posted conspicuously, conspicuously about the premises. Such signs shall have letters not less than 4 inches in height. OK. The next thing: marina vessels and craft. OK, twice tonight they've stated marina is, the barge is stated made, it's gonna be made fast, and then Chad quoted it's permanently moored. They've stated that, that, it's, it's permanent. This is what, this is what the fire code says: Vessels or craft shall not be made fast to a fuel dock servicing other vessels or craft occupying a berth at a marina motor fueling dispensing facility. So this proposed design does not meet the North

Carolina fire code. Location of dispensing devices, 23-03.1, location of dispensing devices: Dispensing devices shall be located as follows: 10 feet or more from buildings having combustible exterior, exterior walls, services, or buildings having noncombustible exterior wall services that are not part of a one-hour fire-resistant-rated assembly or buildings having combustible overhangs, such that the nozzle, when the nozzle is fully extended, will not reach within 5 foot of a building opening. Now, this ain't a building. It's a building on a barge. We all know that. It's nothing, you have to take, when something's not permitted, you gotta say OK, and these fuel things, they will come all the way up into that building. So, you gotta, you gotta fudge this, but I think the fire code is very clear in every other aspect. There's no fudging. It's clear. It's not permitted. One other comment I wanna make. After the planning board meeting, I felt when I presented this information that this went over the, everyone's head. I don't know why because the Chair is a general contractor. He should have knowledge of this. But I reached out to the state Fire Marshal and the former, and a former fire investigator for the SBI to get more insight. I've had to include.

Mr. Richardson: Objection. Objection. Referencing hearsay. It's inadmissible.

Mr. Sanderford: What I'm saying here, Grady, is what the, what's coming ahead because when I presented this before, I felt like it was up so high above their head that they didn't grasp it. What I'm trying to show now, they've suggested some things and some other, and some other.

Mr. Richardson: Objection. Inadmissible hearsay. Move to strike.

Mr. Sanderford: All right.

Mr. Potter: It's not gonna offer to the proof of the matter, sir, but go ahead.

Mr. Sanderford: It doesn't matter. I'm gonna move ahead. Whether they said it or didn't say it.

Mayor Pierce: Mr. Potter, can you ask the questions?

Mr. Potter: I can. Mr. Sanderford, have you done some research on whether there have been fires and other similar catastrophes that have arisen out of a violation of similar type fire code regulations?

Mr. Sanderford: Yes, I did research on it. Yes.

Mr. Potter: And I think you were trying to explain why, how, and where you started the research, but you actually then did the research yourself. Is that right?

Mr. Sanderford: I did the research myself. Yes.

Mr. Potter: OK, and what did the research conclude about fire danger from similar type of risks?

Mr. Sanderford: Because this is not a permitted use, I had to, I had to get criteria from other things. Slide 9, I had to use data from a residential building for egress in escape data because a structure on a barge near a fueling dispenser is not allowed, so no data was available and found. So this, this is just showing where I got the data. This is civilian fire fatalities. The data shows

egress and escape problems result in 37 percent of fire fatalities. The reason I'm talking about egress and escape is because you, if you remember, if you go back to the original thing that I showed, I think it's really important to look here, these where the proposed things are. I don't know where they're gonna move, but if a fire happens here or here, how are these people going to escape? A fuel, and what I mean, a pump fuel fire. There five fires, there are five fires that shape the current fire codes. The high fatalities and the indirect relation to egress and escape problems. This is the, this is the first one: Iroquois Theater Fire resulting in 602 deaths. In this situation, 27 of the 30 total exit doors were blocked with curtains or locked with strange mechanisms. Now, this is just curtains and stuff like this. I mean, what we're talking about, if a fire takes place out there, you're talking about a huge ball of fire. The next one is the Coconut Grove Nightclub. This resulted in 492 deaths. Both of these fires had high fatalities due to egress and escape problems. I'm not supposed to say this, but this is the one that was suggested by the SBI fire investigator. This is the Topsail Island fire that recently happened. These houses, these houses here, all, one house caught on fire here, and the rest of these houses caught on fire. The reason they caught on fire was because it was only one way of egress in and out there. If they had another way of egress, this, this, these houses here would notta caught on fire. The reason I'm focus, like I said, the reason I'm focused on egress so much is because how are these people gonna get off that barge if a fire starts? This right here is the Town's property, which I think you guys were puttin' a, you guys are puttin' a fence up now, and it shows, this right here is hard to see, but this is a riprap area, and this is the walkway. I think it's gonna access you either get to the barge out here. This, this shows the riprap area. So really, excuse me. This picture is another view that shows the only access. It's the walkway because there's a riprap slope from the parking lot to the walkway. This is the only access for fire, medical, and egress if a fire occurs on the fueling dock. When, when taking the general contractor's review course, the instructor said the code was developed to prevent previous disasters and issues that's happened in the past. The fire code has already been developed, so there's no need to put people at risk by not adhering to the fire code. Considered with every decision in our time, there's always a liability concern. I spoke to the Fire Marshal.

Mr. Richardson: Objection.

Mr. Sanderford: I, I wanted some information regarding to get some more in, insight however they are reactive instead of proactive.

Mayor Pierce: Mr. Potter, do you have more questions for your witness?

Mr. Potter: Mr. Sanderford, what's the next slide? It didn't change.

Mr. Sanderford: Jeremy, I wanted to show everybody a, a fuel fire. It happened up near Boston.

Mr. Hardison: Is this the right slide?

Mr. Sanderford: Yes, that's, it's, it's on the other.

Mayor Pierce: Mr. Potter, are you asking questions, or, I'm sorry, but we need to wrap up. We need to get there.

Mr. Potter: Mr. Sanderford.

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Ms. Fox: He, as a party of standing he's entitled to conduct cross-examination, but he does, I mean, a direct examination of his own witness, but he does need to ask, ask questions.

Mr. Potter: Mr. Sanderford, the video that you have on the screen, where did you obtain that?

Mr. Sanderford: It was online.

Mr. Potter: It's a, is it from a news agency?

Mr. Sanderford: Yes, it's from a news agency. The most important thing of this video is what happens at the end, here. It's what the Fire Chief says.

Mr. Potter: How, how long is it?

Mr. Sanderford: I can sum it up for you, if you want me to. Basically, the Fire Chief talks about how, how it's difficult it is to put out a fuel fire and a boat fire. There was, this situation was a boat fire here. This is where he's talking about. We, we can move on. That's, I just, I wanted to hear the fire, what the Fire Chief said. I have one, I have, to sum this up. Also, Oceana has, Oceana was told two years ago our marina fire system would not work and needed to be replaced. Our system.

Mr. Richardson: Objection.

Mr. Potter: Mr. Sanderford, have you recently repaired or replaced the fire service?

Mr. Sanderford: Yes, we replaced the marina system.

Mr. Potter: OK.

Mr. Sanderford: And the system was put in the same time as the, as, our part of the marina was put in the same time as the other marina, so the, the system is outta date.

Mr. Potter: The system in the applicant's?

Mr. Richardson: Objection.

Mr. Sanderford: Yes, the system that, the applicant's system is outta date based on what we were told.

Mr. Richardson: Objection.

Ms. Fox: You'll have an opportunity to cross-examine him.

Mr. Richardson: But he, he's citing something that's supposed fact, that it's out of date. He's got nothing backing it up.

Mr. Sanderford: Well, we had to replace our system. We replaced our entire fire system. We did

it.

Mr. Potter: Thank you, Mr. Sanderford.

Mr. Sanderford: Here, here's.

Mayor Pierce: Are you done, Mr. Potter?

Mr. Potter: I, I'm done asking him questions.

Mayor Pierce: Does Council have any questions for Mr. Sanderford? I do. Mr. Sanderford, did you go to Jeremy or anybody in the Planning Department when you realized that you felt like the parking was not sufficient, or did you go to the Fire Chief with the issues with the fire?

Mr. Sanderford: I called the Fire Chief. I didn't get a returned phone call. Here, here's what happened. I had meningitis.

Mayor Pierce: Did you go to Planning?

Mr. Sanderford: I had meningitis, OK. Right before, right before the planning board. I wasn't functioning. I wasn't functioning very well when we had the planning meeting. About, I'm hittin' on about 50 percent.

Mayor Pierce: Right. And, I really am sorry to hear that, for sure, but the issue for us. Hang on just a minute. The issue for us is we can't have staff or the Fire Chief address it right now.

Mr. Sanderford: Well, you know, we, we, we, I found this stuff out really within the last month. Part of some of this stuff wouldn't have been addressed, but it, it just, you know, as I improved, I started finding stuff. But no, I, I had, to answer your question, I had no idea I needed to, to address it with them.

Mayor Pierce: You understand what I'm saying, though?

Mr. Sanderford: I understand what you're saying, but if I'da known I, sure, I would have addressed it.

Mayor Pierce: I mean, we hear what you're saying, but we don't have the experts to tell us if that's the case or not.

Mr. Sanderford: Well, fire code is pretty clear on what.

Mayor Pierce: And I'm not a fire code expert.

Mr. Sanderford: Well, it says you can't, you can't set, set fast the.

Mayor Pierce: I understand.

Mr. Sanderford: A barge, and it says it's fueling.

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Mayor Pierce: I understand. Anybody else? Mr. Richardson? I know you got something, so I'm gonna. Just go ahead. I'm gonna check this door to see if it's cool outside.

Mr. Richardson: Again, I believe that the vast majority, if not all, of Mr. Sanderford's testimony is speculative. It's based on conjecture. It's without experience. It's without qualifications. The information about the fuel and storage tanks, anything that's being applied for to be built is gonna have to meet fire code. It's gonna have to be, it's gonna have to meet food safety standards. It's gonna have to meet everything because everything gets reviewed. Everything you've heard from Mr. Sanderford I would move to strike. It is incompetent testimony. The question I have for Mr. Sanderford about the parking lot and the lines, where's your survey? Where's the survey that shows your lines and your markings and your, and your yellow lines? Where's the survey?

Mr. Sanderford: Survey where? It's on your plans, Grady.

Mr. Richardson: Where's your survey?

Mr. Sanderford: When you do a plan, you got to design it to something. You put the survey down when you're in the construction. You don't do it ahead of time.

Mr. Richardson: You said.

Mr. Sanderford: How am I gonna, how am I gonna survey something?

Mr. Richardson: You said you had a registered surveyor go out there and put the markings down on the ground. Where's the survey that you said?

Mr. Sanderford: Where's the survey? He put the points on the ground, and we put the lines down.

Mr. Richardson: Who's he?

Mr. Sanderford: When you survey.

Mr. Richardson: Who's he?

Mr. Sanderford: When you survey a building, he points the building, he put does the building corners, the corners. Why, why do you need the survey?

Mr. Richardson: Who's the surveyor?

Mr. Sanderford: I can't remember. I don't have his information right here.

Mr. Richardson: No further questions.

Mayor Pierce: Mr.? Did you have any questions? OK. Thank you. Mr. Potter, you have another witness?

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Mr. Potter: Just one follow-up question for Mr. Sanderford. Mr. Sanderford, the site plan that shows where the property lines are, is that the same as what you had striped on the ground? In other words, the, the plan that the applicant has submitted, is that the same spot as the lines that you put on the ground?

Mr. Sanderford: Yes, it's the same spot, and there is, there is survey, there's some survey property corners out there when we start by my house there is a marking there where that is.

Mr. Potter: But my point is, there's a plan that's attached to the applicant's site plan. Is that right?

Mr. Sanderford: There's a plan? Yeah. Yeah.

Mr. Potter: There is plan that the applicant has attached to their site plan?

Mr. Sanderford: Yeah, it shows, it shows where their property line is. Yeah.

Mr. Potter: And it shows the property lines in the same place that you striped them on the ground. Is that correct?

Mr. Sanderford: Yes, that's correct.

Mr. Richardson: You're not a registered surveyor, are you?

Mr. Sanderford: A licensed professional engineer. I took four surveying classes in college, Grady.

Mr. Richardson: But you're not a registered land surveyor, are you?

Mr. Sanderford: I hired somebody that was, Grady.

Mr. Richardson: No further questions.

Mayor Pierce: OK.

Mr. Sanderford: I gotta question for, I gotta question. This might be out of order right here.

Ms. Fox: Sir, you, you, you are not, you're not permitted to ask questions. You've got an attorney. He can ask you questions, but.

Mr. Sanderford: Oh, maybe I need to do this later, but I've got something I was gonna read from my daughter that was here, but she had to go. Is that, is that like in the open comment?

Ms. Fox: You cannot. No.

Mr. Sanderford: Huh?

Ms. Fox: No.

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Mr. Sanderford: No. So I can't read this at all?

Ms. Fox: No.

Mayor Pierce: Mr. Potter, do you have any other witnesses? Chief, I appreciate you standing there. We were a little hot in here.

Chief Spivey: I can understand. No problem.

Mr. Potter: Mayor, members of Council, I know it's late. I have a, I have to, to make a record. I don't want to keep y'all here any later. I know that you don't wanna be here. I get it. But I've gotta put on, I've gotta put on my, I've gotta get the evidence in. I'm, I'm sorry, so I'm gonna do this.

Mayor Pierce: Whatcha got, Mr. Potter?

Mr. Potter: I'm gonna call Mr. Baker, Jeff Baker.

Mayor Pierce: OK. Don't apologize. Let's just do it. You OK with that, Mr. Richardson?

Mr. Richardson: Yep, I'm fine.

Mayor Pierce: OK. OK. Well, thank you. All right, go

Mr. Potter: All right, Mr. Baker. You testified earlier in the standing part. We focused primarily on your real estate.

Mr. Baker: Brokerage.

Mr. Potter: Brokerage background.

Mr. Baker: Yes.

Mr. Potter: You're also a licensed attorney. Is that correct?

Mr. Baker: Correct.

Mr. Potter: How long have you been a licensed attorney?

Mr. Baker: Since 2000, so 20 years.

Mr. Potter: And during your real estate, I'm sorry, during your law practice career, did you have a primary practice area?

Mr. Baker: Primarily real estate.

Mr. Potter: All different types of real estate development, residential, commercial. Is that right?

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Mr. Baker: We did, we did everything, but we focused primarily on residential trans, transactions and title work.

Mr. Potter: OK, and also development work, subdivisions, and that type of thing?

Mr. Baker: Correct. Small subdivisions, condominium conversions, the like.

Mr. Potter: And how many title searches do you think you've done in your life?

Mr. Baker: I have performed or reviewed upwards of 10,000.

Mr. Potter: OK, and you do that as part of your current profession as well. Is that right?

Mr. Baker: Correct. If I have clients now that, either consulting clients or even just in a buyer or seller representation, I still pull title and everything that we're either selling, buying, looking at, or reviewing. I've, I've often been reviewing old subdivisions for deficiencies and oftentimes finding them.

Mr. Potter: OK, and as part of preparing for tonight, I asked you to do some research. Is that right?

Mr. Baker: Correct.

Mr. Potter: OK, and you looked into a number of things that I think we're just gonna bypass tonight. We're just gonna talk about one in particular, and my guess is you know what that is.

Mr. Baker: Easement.

Mr. Potter: Which easement?

Mr. Baker: The, for State of North Carolina.

Mr. Potter: OK, would you please explain for Council what an ease, what the easement from the State of North Carolina is that you're referring to?

Mr. Baker: OK, so a little just brief background. When you're dealing with any submerged lands under navigable waters, those lands are held by the State of North Carolina in trust for the public, so that land is actually owned by the public. And in doing so there are requirements that if you intend to construct commercial structures within that navigable water, you need to have an easement from the State of North Carolina. We did locate that, I don't know if you, if we have copies of these up here. Sam, if you want me to go through I can just kind of give the brief background on title from when these, when this was started and what, what we have as a deficiency.

Mr. Potter: Sure, Mr. Baker. Behind tab number 8 is the original easement from the State of North Carolina to the marina owner.

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Mr. Baker: So, if you look, see I'll pull these up, so that one, so when the fuel dock was being constructed. Nope, I don't have the binder. I got, but I got copies of these. This is the May of, May 19<sup>th</sup>, 2003. Is that what you're looking at? To Waterway South?

Mr. Potter: May 8<sup>th</sup>, 2003.

Mr. Baker: Oh yeah. Recorded May 19<sup>th</sup>.

Mr. Potter: Right.

Mr. Baker: Yeah. So that easement from the State of North Carolina to Waterway South, it specifically describes the exact size and location of the easement that is being granted. It also limits the purpose of that easement specifically to provide fuel, commercial fuel service, which is in number 7 on page 2 of the easement. And the other thing you can see in 10, it gives you a footprint, square footage, a footprint riparian, shoreline riparian credits. And 11 is important because it talks about not exercising any rights in any areas outside of the easement premises without first obtaining written modification of the easement in accordance with North Carolina General Statute 146.12K. The other issue that we've, we come across that we have to deal with is number 12, which states that this easement must be, it, it is, if upon the sale of the riparian property, the easement's transferred, but notice must be given to the State Property Office. And if you look at the statute, it was required to be done within 12 months of the date of transfer. And it says specifically in number 12, failure to comply with North Carolina General Statute 146.12L shall result in termination of the easement. So through the, through the chain of title looking through these, we've determined that this property, the easement was granted in 2003. This property was sold December 12<sup>th</sup>, 2004, to Oceana Marina LLC. They were granted an easement transfer recorded December 28<sup>th</sup>, 2005.

Mr. Potter: That's behind tab 7 in your materials there.

Mr. Baker: And if you.

Mr. Potter: Behind tab 7 is the easement transfer.

Mr. Baker: And if you look at the description of that easement and the use of the easement, it's, the transfer's identical to the description of the original easement. Then we have in October 11<sup>th</sup>, 2007, Joyner Marina purchased the property, and in March 13<sup>th</sup>, 2008, that easement was it then again transferred to Joyner Marina. Same description, same limitations. Then at, in April 2, 2018, Shinnville Ridge Partners purchased the property, and following that up August 2<sup>nd</sup>, 2019, the property was transferred again to CBYC LLC. Nowhere in the chain of title in North Carolina, or, I mean, New Hanover County registry is any transfer recorded of the easement, so it's again going back to the statute that states that that transfer must be done within 12 months, and the Deputy Director of the State Property Office shall issue it in a form sufficient for recording within 75 days. So if you take 12 months plus another 75 days from the last sales, we're well beyond that time frame, and, and of record, there is no such easement transfer at this point. Therefore, according to the language directly in the easement, that easement is terminated, so the easement to use the fuel dock doesn't exist from the State of North Carolina.

Mr. Potter: That was a lot of information packed into a quick, so I wanna ask a couple follow-up

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questions.

Mr. Baker: Sure.

Mr. Potter: So, these submerged lands, where the current fuel dock is located, are, were subject at one point to an easement from the State of North Carolina. Is that correct?

Mr. Baker: Correct.

Mr. Potter: OK, and that easement could transfer to subsequent owners under certain conditions. Is that right?

Mr. Baker: Correct. The, the easement would automatically transfer, but there must be a notice given to the State Property Office within 12 months of the transfer of the property.

Mr. Potter: Within 12. If that, and if that doesn't happen, the easement terminates.

Mr. Baker: It says the easement shall terminate.

Mr. Potter: And then, secondly to that, and, and again, the current applicant does not have an easement, is not, was not assigned an easement, wasn't transferred an easement, and the time period within which that could happen has passed. Is that right?

Mr. Baker: Not on record in New Hanover County.

Mr. Potter: OK, and then second to that, Mr. Baker, the easement itself is limited exclusively to use as a fuel dock. Is that correct?

Mr. Baker: It's, yeah it gives a specific descriptor as to the location, the size, and the use of the easement, so it tells you the exact footprint in square footage that's allowed by the state through the easement. It also limits the use of the easement.

Mr. Potter: And, and just.

Mr. Baker: And in this case it's to provide commercial fuel service.

Mr. Potter: And just to be clear where that is, that's behind Tab Number 8 in the original easement. On the second page, paragraph 7 states the limitation on what the owner of the marina property could use the easement for, and that says to provide commercial fuel service. Is that right?

Mr. Baker: Correct.

Mr. Potter: OK, so there's no easement for a bar or restaurant or anything other than commercial fuel service. Is that right?

Mr. Baker: Not of record in New Hanover County.

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Mr. Potter: Does the applicant own the land underlying the existing fuel dock?

Mr. Baker: No, the applicant would own the riparian land adjacent to the navigable waters.

Mr. Potter: So that's the dry land that's not covered by water.

Mr. Baker: The dry land. Correct.

Mr. Potter: But they don't own the water?

Mr. Baker: They do not.

Mr. Potter: No further questions.

Mayor Pierce: Does Council have any questions? I have a question.

Mr. Baker: Sure.

Mayor Pierce: So you're saying basically the easement, to your research, the easement wasn't transferred?

Mr. Baker: Correct.

Mayor Pierce: So. What? Are, are, are you saying that then the fuel dock is also not conforming?

Mr. Baker: It currently, un, unless there's, a, according, on record in Hanover County, then the fuel dock is not permitted by easement from the State of North Carolina at this time.

Mayor Pierce: Not just the barge you're referring to but also the fuel dock?

Mr. Baker: I, I, yeah, I'm referring to what's currently existing of record.

Mayor Pierce: OK, anybody else? Go ahead.

Mr. Richardson: Mr. Baker, the State of North Carolina is that party that you've referenced in all those instruments of title, correct?

Mr. Baker: Correct.

Mr. Richardson: Not the Town of Carolina Beach, correct?

Mr. Baker: Correct.

Mr. Richardson: Not New Hanover County, correct?

Mr. Baker: Correct.

Mr. Richardson: Is there anything that you've heard tonight in the seven hours we've been here

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and seen on the conditional-use application, which I believe you testified to that you reviewed earlier for your report on value, anything you've seen that says that my client is required to get anything from the State of North Carolina tonight relative to its conditional-use permit application? That's for a later day, isn't it?

Mr. Baker: Well.

Mr. Richardson: You're not the judge. I'm asking you.

Mr. Baker: No.

Mr. Richardson: I'm asking you does the Town code of ordinances require my client to bring the State of North Carolina in on its application?

Mr. Baker: In the Town ordinances, I'm not aware of anything that states that you must verify that you have an actual easement from the State.

Mr. Richardson: And would you at least agree that if the permit application is approved by Council, that's just the first step that Mr. Cook's gotta take to go about trying to build the improvements by getting ancillary approvals from State of North Carolina would be one, correct?

Mr. Baker: That, that would be necessary.

Mr. Richardson: Yep. Building inspections, Department of Insurance, all that?

Mr. Baker: Sure.

Mr. Richardson: Fire Marshal, fire code we've heard all about tonight?

Mr. Baker: Yes.

Mr. Richardson: OK. I have no further questions at this time.

Mayor Pierce: OK. Thank you, Mr. Baker.

Mr. Baker: Sure thing.

Mayor Pierce: Do you have any more witnesses, Mr. Potter?

Mr. Potter: I do not.

Mayor Pierce: OK. Mr., you don't have any witnesses either? OK.

Mr. Richardson: I know I would like to give a summation of the brief in front of you. I won't belabor it. When you're ready.

Mayor Pierce: Hang on just a second. Ms. Fox, do we open public comment before they do

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summations?

Ms. Fox: Yes.

Mayor Pierce: OK, so for the public out there, you do have to be sworn in. You'll get three minutes to speak. This is your opinions, your thoughts, anything you wanna say.

Ms. Fox: It is competent material evidence.

Mayor Pierce: OK, so you have three minutes. I'll have a timer. If anybody, if you haven't been sworn in you need to let us know so you can be sworn in so we, you'll get three minutes and I'll let you know.

Ms. Fox: Council cannot consider your opinions.

Council Member Garza: Thanks.

Mayor Pierce: Sorry, no opinions. Statements. So anybody, would anybody like to speak?

Mr. Sanderford: I would. I'd like to. Can I read my daughter's?

Ms. Fox: No.

Mayor Pierce: No. It, would, would anybody, because it's not yours.

Mr. Sanderford: It's not mine.

Mayor Pierce: Yeah.

Mr. Sanderford: But I would like to say something if you don't mind.

Mayor Pierce: OK. State your name and address.

Mr. Sanderford: James Sanderford. James Sanderford, 418 Marina Street. This, this deals with the harmony of the whole, the whole development. When you leave our neighborhood, you go over two speed bumps before you get to Canal. You get, and one stop sign. You see children gettin' on a stopped bus, a school bus. I'm sorry. On a school bus. All the surrounding area there is homes. You have this one dock with the marina and then and that's it. There's no bars, there's nothing nowhere close by. It's just one huge neighborhood. You know, you, you, you don't, we're, when you're down there like in the Central Business District of Carolina Beach where all the bars are, you don't see buses stopping there picking up kids, so, you know, it, it, it's a neighborhood. It's not, it's not a mixed use or anything like that. That's all I wanna say.

Mayor Pierce: OK. Anybody else? Y'all must be tired. OK.

Council Member Barbee: We wore 'em out.

Mayor Pierce: So would the applicant like to have his conclusions? Is that where we're at?

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Ms. Fox: Yeah.

Mayor Pierce: Sorry.

Mr. Richardson: Good morning, Mayor and members of Council. First of all, I do appreciate, and I think I speak on behalf of everybody, including my client's opponents, I appreciate the seriousness with which you've conducted tonight and the dedication of all staff here. I've given you a brief memorandum of law. I think it's about 10 pages, and I'ma hit the highlights just on the law for your standards tonight. Not rehashing the stuff you've heard in testimony. On page 3 of my brief is where my argument begins, and the first pillar of tonight is this. Government-imposed land-use restrictions such as zoning and conditional- or special-use permits must be strictly construed in favor of the free use of real property. It then goes through how you sit as an impartial body. Page 4: A Council member's personal and/or policy preferences, preferences are irrelevant and should not be considered. Conditional-use permits are issued for uses that an ordinance expressly permits in a designated zone. Let's take a step back for a minute. We're talking about the extension of a dock with a very heavy, concrete likely, barge, and we're talking about food-service items that include sandwiches, snacks, beer, and wine. You've heard his intent. You've seen the renderings. Most importantly, you have a zoning ordinance that's been in place that says that everything you've heard tonight is allowed under your own ordinance as a permitted use based upon a conditional-use permit. You have Town staff who you pay, and you rely upon to review things for their technical review to make sure that my client's application satisfies your ordinance. You heard from Mr. Hardison without any controversy from Mr. Potter that his staff did that. They found the seven specific criteria, the four general criteria to be in harmony and consistent with granting of the conditional use permit under the Town's ordinances. It's something that this town expressly contemplated could be done in this zoning district. It's not for you tonight to want to go back and legislate out that possibility that you might change your zoning ordinance later if you don't like the fact that this is a possible permitted use, but not for tonight. In deciding tonight, you have to ask yourself has the, has the applicant, my client, produced competent material and substantial evidence tending to establish the existence of the facts and conditions which the ordinance requires for the issuance of a, of the permit. I start with your own staff's recommendations and support for it. That, in and of itself, carries our burden. On top of that, you've heard from Mr. Cook. We've gone into the minutiae of everything, and you've heard from our expert, Mr. Hinnant, in his valuation and his report that it's not gonna have a negative impact on the value of the adjacent property. We, I'd submit, have carried our burden, so now the burden shifts to the opponents to produce substantial material and competent evidence. Moving from the standing issue, nothing you've heard has moved the needle on any of that. The information from Mr. Baker, that's for the State of North Carolina to deal with. The information about the fire code from Mr. Sanderford, that's for the Fire Marshal to deal with. The, the unsupported, speculative, conjectural, naked conclusions about what they think is going to happen is not competent evidence. You, I believe, at the, at the standing, you recall I was not happy about them claiming that the parking spaces were going to be, number one, enlarged inside the Oceana gate and that it was gonna be open for the free use of the public. You now know, without dispute, that the parking lot is not gonna have increased parking spaces, and you know as well that the members of the public are not gonna be going accessing that parking lot for their use. You know that. So there's nothing on which the opponents can cite to and rely upon to satisfy all three: substantial, material, and competent. You can have substantial, but you gotta satisfy all three. It's not substantial,

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material, or competent evidence. You heard a year's worth of inadmissible hearsay and incompetent testimony tonight. You've heard about your Land Use Plan, which I've highlighted in my brief, that the Town would like to encourage low-intensity water-oriented restaurant or other low-intensity water-oriented commercial services with public docking and water access. It's in Mr. Cook and the marina's best interest to build a nice product and to run a nice product because if it's not, they're gonna lose money. As business owners, you wanna run your business as best you can to make it thrive. He wants to be a good neighbor, and he wants to contribute, and he wants this Town to enforce its zoning ordinance and grant the conditional use permit application. Thank you for your time.

Mayor Pierce: Mr. Potter?

Mr. Potter: OK. Mayor, members of Council. I obviously reiterate everything Grady had to say about your patience and how late and your attention to detail and listening to me and my clients come up here. Obviously this, the, these folks are the ones that are gonna have to live with this for the foreseeable future, and I, I think that bears repeating and it really comes from Mr. Cook's own words when we asked him whether or not so many of his promises would ultimately be binding either on him or on future owners, and you've heard from both Town Attorney about hours but also just a basic review of the permit application before you contains almost none of the promises that were made. And so to the extent that the board is going to, that Council is going to grant the conditional-use permit, I would ask that you give serious thought to including all of these promises that have been made tonight. But I, it's my hope that you don't grant it, and it's my position that legally and factually you should not grant it. There are seven specific criteria and four general criteria, which you are all very well aware of. I'm gonna focus very succinctly on the specific criteria, specifically under your code of ordinances. Criteria, specific criteria 1, 2, and 6, the ingress and egress issue has to do with the things that Mr. Sanderford talked about but also Mr. Baker's testimony as it relates to the lack of an easement to even get to the marina docks. There is not an established ingress and egress. The required off-street parking, Mr. Richardson has talked about how there was not substantial, competent, and material evidence on the parking issue. However, it is indisputable that the parking spots on the applicant's own plan do not meet the ordinance. Mr. Sanderford presented specific scientific criteria. He told you what your ordinance says, and he told you what the actual measurements were and that on the new piece of the parking area five of those spots do not comply with your existing ordinance. You cannot back out of two of the spots closest to the well site. Two of the other spots are within the mandatory buffer zones for adjoining properties, and then the fifth spot was too narrow, according to your own ordinance. That, in and of itself, brings them below their required number of parking spaces, and that's before you get to the 15 parking spots that are within Oceana that we talked about previously that are not properly sized as they exist, and part of the applicant's proposal is that they are going to expand those parking spots into the raw land that adjoins it in order to make those spots compliant. Mr. Hardison testified initially that that was a requirement that staff had placed on the applicant because those parking spaces did not conform, and he needed to make them conforming in order to get staff's approval. Well, the problem with that is that your ordinance says that if you expand a nonconforming use to cover more land than it did previously that that is impermissible in a nonconforming situation. You heard Mr. Hardison testify that the parking lot is nonconforming. Your Board of Adjustment has determined that it is a legal nonconforming use, but nevertheless, they proposed to expand to cover more land and without the ability to do that, they don't have enough parking. That's another 14 spots down that they, that they wouldn't have if they didn't

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expand into the existing one. You know, I, you prepare these things not knowing what the applicant's gonna testify to, so the, the six criteria had to do with lighting and a lack of detail. Mr. Cook has testified and stated that there will be no exterior lighting, so I'm gonna say that that one doesn't apply here. I just didn't know what he was gonna say 'cause that wasn't part of the application. The general conditions: The applicant bears the burden of establishing each of the four general conditions by competent, material, and substantial evidence. Mr. Richardson focused on our opposition having to meet that standard, but before it even gets to us, they have to meet that standard. The material evidence is evidence having a logical connection with consequential facts and issues. Substantial elements, evidence is relevant evidence as a reasonable mind might accept as adequate to support a conclusion. These are the definitions that North Carolina law has put out there about what substantial, material, and competent evidence means. The first general criteria is that the use must not materially endanger public health or safety. The applicant hasn't even attempted to show how they are complying with public health and safety requirements. They don't talk about fire code. They don't talk about ingress and egress. They don't talk about any of those things at all. On the other hand, Mr. Sanderford provided chapter and verse the fire code that states you cannot have a vehicle, I'm sorry, a vessel tied fast to a fuel dock. He went through that in excruciating detail, and he's an expert on this stuff. I'm not gonna re, regurgitate it. Suffice it to say that our evidence shows the health and safety will be endangered, not may be endangered. The use must meet all required conditions. That's the second general criteria. The use proposed by the applicant does not meet the minimum parking. We talked about that. It increases a recognized nonconformity, which is, we've talked about that's the parking spaces being bigger, and the buffers. Now, Mr. Hardison said basically that it's sort of gray area as to whether these buffers or these landscape buffers are needed for parking. His original report to Planning and Zoning said that they were required. He says that that was a typo, and that he didn't mean to say that, but we would submit that the codes does say that, in fact, buffers are required for these new parking spaces, and they're not. The third general criteria is that the, and, and again, this starts with the applicant's burden, is that the use will not substantially injure adjoining or abutting property. The applicant has attempted to meet that threshold by putting forth the evidence in the testimony from Mr. John Hinnant. Mr. Hinnant is certainly well-respected in the real estate community in Southeastern North Carolina, and I have no bone to pick with him personally. However, his comp, comparable sales were not comparable at all. They were condominiums. They were townhouses. They were not in residentially zoned areas, and those are key differences, and our courts have previously said that those are, in fact, key issues. In the case of SBA vs. the City of Asheville, the court found that the, the property value impact study did not address properties in the vicinity of the subject property but rather focused on properties in other parts of the city. The petitioner's evidence was about other neighborhoods and other properties. Their study did not even include information with respect to an existing property a short distance from the proposed site. Petitioners simply did not meet their burden of demonstrating the absence of harm to property adjoining or abutting proposed tower. The court goes on to say that you have to actually do analysis of the property that's at issue, not just the other properties, so we would contend that while we respect Mr. Hinnant personally, his opinion is not applicable and is not substantial competent evidence that this project will not adjoin, will not injure the adjoining property. And then harmony with the area and the Town Land Use Plan. The applicant wants to focus on the Marina Business zoned piece, which is the, the parking immediately adjoining the parking, the boat basin. They wanna focus on that. They don't wanna focus on the fact that without the parking in the residentially zoned area, they can't get what they're asking for, and the continued growing, they're, they're adding a use now. This isn't just a marina anymore. Now it's gonna be

a marina with a bar, and they can swear up and down that they're not gonna let their bar patrons park in the, in the Oceana parking lot, but there is nothing in their application that says that. There's no proposed condition in their application, and again, it's my hope that you'll deny their permit, but to the extent that you do and to the extent that Town Attorney thinks that it's enforceable, that you impose some type of regulation that prevents that from ever happening. In other words, people that aren't using the boat basin for their own boats from accessing that internal parking lot. And I thank you for listening to me. I know it's late and thank you.

Mayor Pierce: Mr. McShelvic, would you like to make any closing comments? OK. Does Council have any questions for any of the parties or any of the witnesses?

Council Member Garza: Yes.

Mayor Pierce: Go ahead, Councilman Garza.

Council Member Garza: Mr. Richardson, it appears that to me parking's not an issue because a) there's no day slips and all those slips are 100 percent taken, so it doesn't even appear that catering to local residents who don't own boats is not an issue, correct? He's not looking at patrons come walk up or drive up to that spot. He's ultimately saying he preferred just boats.

Mr. Richardson: He's primarily serving the slip owners and the renters of those slips and then the boaters that are gonna be going down the, the waterway using a dock facility.

Council Member Garza: So that's why parking isn't an issue to the applicant because the fact that he prefers no, no resident to drive up or walk up?

Mr. Richardson: Well, I think the residents can walk up that are around the Oceana and the Spinnaker Point, but there's no parking necessary for that. I'm not sure if I'm following your question. I apologize.

Council Member Garza: Nah, you did just perfectly fine.

Mayor Pierce: Anything else, JoDan?

Council Member Garza: That's it.

Council Member Barbee: I, I think what JoDan was, I don't wanna put words in your mouth, but in this specific and unusual incident, in the case, I believe it was stated that the capacity was 16 people, 16 patrons on the barge. Is that what?

Council Member Garza: Eighteen.

Mayor Pierce: Eighteen.

Mr. Richardson: Eighteen.

Council Member Barbee: So if every single one of them came in a car, that's 18 spots.

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Council Member Garza: Well, the parking spots are only for boat owners and boat renters.

Council Member Barbee: Yeah, hang on. But that's not even who he's trying to.

Council Member Garza: Cater to.

Council Member Barbee: Cater to. It's not even the customers he wants.

Mayor Pierce: Well, we can have this discussion when we get to that point. We're just asking questions of any witnesses right now. Anybody else? I do have a question. I believe Mr. Hardison was questioned as a witness by Mr. Potter early on, so I have a question for you, Jeremy. With the testimony that Mr.

Council Member Garza: Sanderford.

Mayor Pierce: Sanderford gave, do you have any concerns that it would not, that those parking places would not qualify?

Mr. Hardison: I don't, but I'd be happy to meet with Mr. Sanderford and get the ruler out and see what we measure, but, you know, the applicant would need to meet.

Mayor Pierce: But you feel like, do you, you've, you believe they meet the parking requirement?

Mr. Hardison: Correct. Yes.

Mayor Pierce: OK.

Council Member Garza: What about the buffer zone?

Mr. Hardison: As I stated before, that landscaping buffer would not be required in this instance.

Mayor Pierce: Anybody else? OK, so we'll move into our deliberations, and I'll have Noel Fox give us an overview of what we're doing here.

Ms. Fox: And I would suggest y'all leave the evidentiary hearing open in case you have any questions so it's part of the evidentiary hearing.

Mayor Pierce: OK. Oh, I'm sorry.

Ms. Fox: Mayor, Council, very patient members of the public, attorneys that I have much respect for, we've had quite a quasi-judicial hearing tonight. You have heard evidence presented by the applicants, you've had evidence presented by parties that were determined to have standing, and now you have the formidable task of making a decision based on that evidence as to whether or not the applicant has met the burden of, that they have met the standards under the Town's ordinance. You cannot base your decision on your personal preference. I know you've heard that about five times tonight, but I'm gonna state it again. You have to weigh the evidence presented tonight and base your decision on competent, material, and substantial evidence. You have heard objections from Mr. Richardson throughout the hearing tonight about

hearsay and about witnesses testifying about matters which they are not qualified to testify about. Competent evidence is trustworthy and reliable. It is not unsubstantiated, unqualified, or speculative. It does not include the testimony of lay witnesses on any of the following: the use of the property in a particular way will affect the value of other property, the increase in vehicular traffic resulting from a proposed use will doze, pose a danger to public safety, or any matters about which only an expert testimony would generally be admissible under the rules of evidence. That is not competent evidence. Material evidence is evidence that addresses the general and specific standards that are in the Town's ordinance. You should reference those standards when you are discussing your, when you're deliberating tonight and before you make a motion. Any questions about that?

Mayor Pierce: No. No, ma'am. Gentlemen? Discussion?

Council Member Garza: Man, that was a lot.

Mayor Pierce: And thank you all. That, that was a lotta information and it was a nice show, turnout from the community. Anybody wanna go first?

Mayor Pro Tem Healy: I'll start. I think the biggest thing for me personally was the, the harmony with the neighborhood, and, you know, no matter what project we do in this Town, there's always issues with harmony in the neighborhood somewhere. If you take a look at the overall picture, the application satisfies the Town. It meets the seven specific criteria. It meets the four general conditions. It meets the CAMA use plan. It, I think personally I think, I think it would be good for our Town. I don't think it's gonna be loud or obnoxious. I think what, what's going on with the North End right now that, that whole section's starting to become more of a boating community up there, and I think that would be a nice little getaway for them to bring business to, to Carolina Beach versus going to Wrightsville. I do like the fact that if we can hold to them at 18 people as the max, that the hours of operations do shut down at dusk. I think that's extremely important. So I would, I would approve of it.

Mayor Pierce: Anybody else? Any more discussion?

Council Member Barbee: I'll follow up with, with Jay. I, I bounced back and forth on a lot of these. I had, I came up with a lot of questions around, most of mine were around in my head when I came in was around after reading the application was around safety issues. I think it's very critical for all of us. I don't think anybody takes, takes that lightly, but I felt like those were answered. I, I, I felt like I, I, I, the applicant made me comfortable with what they were trying to do there. I would like a discussion before we vote over putting conditions. I, I'm not buying the we can't limit the hours at this point until someone convinces me differently, so I would like to talk about those additional conditions that we can put on the application.

Ms. Fox: I can give you some insight on that. I think what Mr. Hardison would say, I know that Mr. Richardson indicated the applicant would be happy to consent to specific hours. What, what Mr. Hardison was telling which I, telling you which I agree with is that because the State of North Carolina has exclusive control of regulating the alcohol that if we tried to regulate when they can sell alcohol and another party, a successor or title, business comes forward, then that's not a conditional that is gonna be enforceable. There are at least two cases where the court has found that you can't regulate alcohol sales by or hours of sale by zoning.

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Council Member Barbee: But don't, so I wasn't specifically thinking about regulating alcohol, but don't, doesn't the Town, I'm outta my league here a little bit, but doesn't the Town issue privilege license to operate a business in Town? Isn't that within our jurisdiction?

Ms. Fox: There are, privilege licenses were largely eliminated by the legislature several years ago, but you cannot address the alcohol issue by hours.

Mayor Pierce: Anymore questions?

Mayor Pro Tem Healy: Can, can we?

Council Member Barbee: Hang on. I'm trying to figure out what you just said, so.

Council Member Garza: Can't regulate it.

Mayor Pierce: You can't do it.

Council Member Barbee: So we can put, forget alcohol. Even if you didn't have alcohol, we can put no limits on business hours for anybody?

Council Member Garza: Nope.

Council Member Barbee: Is that what I just heard? So businesses?

Ms. Fox: You can on sexually oriented businesses. That's what the legislature says.

Council Member Barbee: OK.

Mayor Pierce: So.

Mayor Pro Tem Healy: Can, can we ask for landscaping?

Ms. Fox: You have the ability to impose conditions that help address one of the four general or seven specific standards.

Council Member Garza: Where would you put it?

Mayor Pro Tem Healy: In the parking lot so.

Council Member Garza: That parking lot, you talk about where it hits, it turns on his street and parks right there, so there's nothing that would block.

Mayor Pro Tem Healy: But they actually showed a piece of land where they can put that corner piece.

Council Member Garza: Like you said, 13 strips at right beyond that.

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Mayor Pierce: So I believe that the applicant did meet the seven specific standards, but I do think he's failed on two general conditions and that is number three. I don't, do not believe that the, that the appraiser gave us comparable comps that were relevant to the neighborhood, so I had a hard time looking at those. I, I, I do, do not think that it was shown that the value would not be, would not be affected. I'm also, I believe that the harmony, and it's not in harmony with the area from what I heard with testimony from the community, so that's where I'm at with it. I, I believe they failed on three and four of the general conditions.

Council Member Garza: And those are the two keys things I hit on. There's a few things. I like the idea, and I think it's cool. It concerns me that's, that things aren't brought up fire-wise, parking-wise, easement-wise, that if we still approve it and it's something that the business owner has to deal with moving forward and then they come back another year to re-extend that CUP. Some of this stuff just seems a bit odd because, you know, it's not obligated to design or the hours. Technically if he sold the business, anything that were some that, I'm not saying that anybody's shy, but he did say legally he's not required to any of these. And if some of those things were things that were held against me as a business owner, I would say hey, I'ma sell to my LLC, and now they have free reign to do what they want. Not saying that's what's gonna happen, but shit happens. Sorry, it's just what it is. It kind of bothers me that pretty much service the boats only. Pretty much blatantly said the parking's not for residents to pull up to. If you live within three or four blocks, you're gonna get up and walk towards there? Possibly, but probably not. The property thing kinda bothers me because you have a handful of residents that are telling you it's, it's bothering them. Specifically, Mr. Berry. I was 100 percent with the property. I think that's, don't know the guy, sound very smart, but I'm concerned at why he didn't specifically look into that region. I understand if you're gonna do, compare with other coastal communities. I understood you did Wrightsville. That's a CBD area. Completely different than what's right there. So at this moment because of those two things, I wouldn't vote for it.

Mayor Pierce: So we've had some interesting discussions up here, and, and I just wanna say to Mr. Cook before we vote, I'm a business owner. I get it. I understand, and I appreciate the creativeness of what you've done to make this happen, to make this CUP. I mean, lots of great, great thoughts on that, but with that said, does anyone wanna make a motion?

Council Member Garza: I'd make a motion to deny the CUP for.

Mayor Pierce: You'll have to be more specific.

Council Member Garza: One technical. Make a motion to deny a conditional use permit at 401 Marina Street Carolina Beach Marina and Yacht Club to operate an eating and drinking establishment that will consist of a floating barge located at 401 Marina Street, applicant CBYC LLC.

Mayor Pierce: Does he need to state under what conditions he's making that motion?

Ms. Fox: I would like for you to specifically state which general conditions and specific standards you think.

Council Member Garza: Under general conditions three and four.

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Mayor Pierce: OK, there's a motion on the floor. All in favor? Aye.

Council Member Garza: Aye.

Mayor Pierce: All opposed?

Council Member Barbee: Nay.

Mayor Pro Tem Healy: Nay.

Mayor Pierce: So that's 2-2. Attorney Fox?

Ms. Fox: There's not a majority.

Mayor Pierce: So would you, would you care to explain to us what that means? Does that mean that the motion fails?

Ms. Fox: If you need to deliberate.

Council Member Barbee: So, so what did I just hear you say we have to keep going till we get a majority?

Ms. Fox: You can open it up, and the other side can make a motion and see if that passes.

Council Member Barbee: So I, I'd like to hear from JoDan and, and, and.

Mayor Pierce: Can we continue discussions then, Ms. Fox?

Council Member Barbee: I, I think that's what she's asking.

Mayor Pierce: Ms. Fox, can we continue, can we continue discussions then? A 2-2 vote does not fail the CUP?

Ms. Fox: I'm trying to answer your question.

Council Member Garza: Continue then.

Ms. Fox: Council Member Garza made a motion to deny. That motion failed.

Mayor Pierce: OK.

Council Member Garza: She's saying they can.

Mayor Pierce: So can we have more discussions? OK, go ahead, Councilman Barbee.

Council Member Barbee: So where I was going is, so, I'd like to understand from you guys why you think, what you think that's been proposed that is not in harmony that was presented here. We all have opinions, but with the neighborhood because everything that we heard from them

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about drunkenness, theft, all of those was clearly pointed out that that's all happening right now, so it's not something. I saw no indication that that would increase. I don't deny that it's happening. I have the same stuff in my neighborhood. It's very aggravating. We deal with it. It's part of living in a tourist town. I don't like it. What did you hear that convinced you of all that?

Mayor Pierce: I guess for me, I guess for me you're changin' when those property owners bought in Oceana and that residential neighborhood they were, they knew they were next to a marina, not necessarily next to a bar, so I believe that changes the dynamics of the neighborhood. And, and, but my bigger issue would've been number three with the property value. As a, as a licensed real estate broker, I believe that those comps were not adequate, and I do believe that it would make it very difficult to sell some of the properties.

Mayor Pro Tem Healy: I've got two things. I think the comp thing is extremely difficult to get because, I mean, what do you comp it against, number one? Number two, I think Mr. Cook definitely did his due diligence and whenever there was an issue that came up, he reacted to it. You know, when had to move the boats or the trailers, he got rid of it. Whenever he went out and got parking passes. I, I think he's.

Mayor Pierce: But the burden is to prove, and correct me if I'm wrong, Ms. Fox, the burden is to prove that it will not affect those property values.

Ms. Fox: The applicant has the burden of persuasion, and then the parties with standing have the burden of producing competent, material, substantial evidence on the factors that they do not think that the applicant meets.

Council Member Barbee: So I wanna make sure I understand that. So we, the applicant had an expert witness. Some have questions about what that, you know, their testimony, but that it would not harm their values. They had a witness that said.

Council Member Garza: He didn't say it would not harm. He said it may not and that it may improve, so you can't there's nothing you can ultimately judge that or prove off that it's gonna do anything or it wouldn't.

Council Member Barbee: Correct. Correct. You can't prove anything.

Ms. Fox: You met, you must weigh the testimony that you heard, and you as a Council must determine whether or not somebody was competent or, or incompetent. You must base your decision on your weight of the evidence. You are the triers of fact.

Council Member Barbee: I got it.

Mayor Pierce: I, I think Mr. Hinnant is certainly a competent appraiser. I just think it's a very hard burden to find those comps for that property.

Council Member Garza: Exactly. On the other side of the street 'cause you have two different styles of living.

Mayor Pierce: Right. Residential next to Marina Business. A lot of the Marina Business that we

see in Carolina Beach, the residents have built in Marina Business District.

Mayor Pro Tem Healy: So you're saying, you're saying it is tough to find the comps? So why penalize the applicant because of that?

Mayor Pierce: I think that, I just don't think that they proved that it would not harm the value.

Council Member Barbee: But likewise, the other side did not prove that it would, so it's a moot point to me on that particular one, from what I heard here. In terms of proving, right. I don't expect them to prove it. Like she said, we have to weigh that. So anyway, that's where I'm at. I.

Mayor Pierce: Well, you can make a motion.

Council Member Barbee: I personally don't see it harming property values out here that so much witnesses are not. It doesn't seem that. I'm, I'm hesitant to make a motion. We vote 2-2 again.

Mayor Pierce: Well, don't be hesitant to make a motion. I mean, I think that's our duty to make a motion. There's, JoDan's motion to disapprove. That failed. So if you want to make a motion, you go ahead.

Council Member Barbee: If, if someone will give me the text to the motion 'cause I don't have it right in front of me.

Ms. Fox: It should be on your screen.

Council Member Barbee: Or I probably do. Oh, thank you. It's right in front of me. I am trying to read this.

Mayor Pro Tem Healy: Just read off the paper.

Council Member Barbee: So I am going to make a motion to approve the conditional-use permit in that it meets the four, the seven specific standards and the four general.

Mayor Pierce: Conditions and is consistent with the Land Use Plan.

Council Member Barbee: Conditions and is consistent with the Land Use Plan.

Mayor Pierce: OK, there's a motion on the table to approve the CUP by 401 Marina Street CBY, I think I said that right. All in favor?

Mayor Pro Tem Healy: Aye.

Council Member Barbee: Aye.

Mayor Pierce: Opposed? No.

Council Member Garza: Nay. So one of the, one of the general conditions talks about public health and safety. I think for that fire code thing is that now adds, now that I'm reading this one

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over, adds to it. Again, it's something down the line, but it's here in my, I'm listening to it. I see it. I can say that a huge issue, public safety.

Mayor Pierce: You're talking about general condition number one?

Council Member Garza: Yep.

Council Member Barbee: So we had, we still can ask questions, correct? So we have a professional in the room.

Mayor Pro Tem Healy: We do.

Council Member Barbee: Can we ask the Fire Chief his opinion on this?

Council Member Garza: I don't think so.

Mayor Pierce: Just hang on a second.

Council Member Barbee: I'm just asking.

Ms. Fox: Any, any conditional-use permit, not this conditional-use permit, any conditional-use permit is the starting place, and the applicant who gets a conditional-use permit has to meet certain requirements. They have to meet the Town's requirements. They have to meet the State's standards. They have to meet, if it's a restaurant, they have to get all the permits necessary to serve food in New Hanover County. Your focus is whether or not the applicant, based on the testimony that has been presented tonight, which you get to weigh, has met the burden of meeting the specific standards and general conditions. Those requirements that may come later through the variety of agencies, the State of North Carolina, ABC, whoever, those, those will be part of the grant order if you were to approve it. They will have to meet that in order to move forward.

Council Member Barbee: So what you, what you just said to me is then that's a moot point.

Mayor Pierce: I mean, we.

Council Member Barbee: The fact about meeting the fire codes and concern that they might.

Mayor Pierce: It's not a moot point. She's, she's saying.

Ms. Fox: It's not a moot, it's not a moot point because it's part of, it's part of your, it's part of the four general and seven specific standards, but you have had evidence presented here tonight. You've had arguments of Council representing parties with standing and the applicant, and you need to base your decision on that evidence that was presented. Does either party who has an attorney here have an objection to that instruction?

Mayor Pierce: And just, while they're thinking.

Mr. Richardson: I don't, just based on the ordinance, not the things that come after the rule.

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Mayor Pierce: Mr., Mr. Sanderford may, as a witness tonight, have a lot to say about the safety. I know that Mr. Richardson objected to most of it, so that's the only evidence I heard about safety.

Mayor Pro Tem Healy: I've got full confidence that our Fire Chief is gonna do his job.

Council Member Barbee: I, I would agree that Mr. Sanford, Sanderford's testimony was very compelling. I, I, but that will be, there is a process in place that will validate that those fire codes are, are met, so while I understand what he was saying, I also know, exactly as Mr. Richardson said, whether the food's handled properly, whether the drains work, whether any of those things, there are checks that are, that there are hurdles that they will have to meet and get approvals on. And it's not, so while I understand what he was saying, I think the process is in place to validate that.

Council Member Garza: I think we're going to agree to disagree on that.

Mayor Pierce: What's that?

Council Member Garza: I think we will agree to disagree on that.

Mayor Pierce: Well, I mean, there's a reason that, there's a reason that it's a general standard, the public safety. I mean, there's a reason that it's there for you to consider. Sure, they all have Health Department issues and they all have fire codes and building codes that they have to meet. I mean, that's standard in planning, in planning codes and zoning, that they have to meet all those things, but there's a reason that these specific standards and these general conditions are here.

Council Member Garza: Yeah, but in that general condition they never proved that that was being met. Nowhere in their application does it even talk about that. So yeah, our Fire Chief and the Fire Marshal are probably gonna work their way to getting that in line, but at this moment what, that wasn't even presented to us by these guys.

Council Member Barbee: Well, it.

Council Member Garza: That's one of the general conditions that need, we need to be meeting tonight before we push it forward.

Mayor Pro Tem Healy: It's because we, because they haven't gotten to that point yet. The first thing that needs to be done for them to go forward is for the CUP to be approved, and then they go down the path of getting, getting everything else approved.

Council Member Barbee: So JoDan, using your logic, using your logic there.

Council Member Garza: They know they need a new fire suppression system. They said that somewhere along the line, so don't you think during that time frame you would've thought of every piece of the puzzle that would attach that and put into the application process? I don't even know why we missed that as a Town. Like, our staff missed that, supposedly missed they

missed parking, so it's like are we truly going through the line items that we need to from TRC and the staff? Like Jeremy, why we didn't catch that?

Mr. Hardison: This is a site plan that is in front of you. During the building permit process, we get a full set of plans that are very detailed. They have to follow a spec sheet, and that is when we'll go through and things like the fire code. They have to apply for a CAMA permit because this is on coastal waters. They have to go through the State Property Office to get that lease, so there are things that are associated with this project that is going to happen, that has to happen before moving forward, but what you're asked to do tonight is simply to approve a site plan and determine if it does meet the specific standards and general conditions.

Council Member Garza: And that is one of the general conditions that we need for it to meet.

Mayor Pro Tem Healy: What's that?

Council Member Garza: Right here. It's public health or safety.

Council Member Barbee: But I have not, I, in every CUP that I have sat through, in my personal experience, we do not have that level of burden on every one of those detailed issues. I can't think of a single one I've sat through where someone asked about the fire suppression system. I, I can't think of one I've sat through where, where someone's asked about any of those at that level of detail because of that.

Council Member Garza: This is a unique situation. It really is.

Council Member Barbee: I agree because of the.

Council Member Garza: And the downside is that because it needs to meet every one of these conditions before we move forward, we can't say hey, tomorrow they may meet that, because as of right now, we have nothing that's been presented to us that they are, and we can't say yeah we've got great team, great staff. And I think it's an awesome idea. I really do. Shit, if I had the money I would like, man, there's gotta be a new, creative way to do that, but that's one of the things, and now the four, there's three that don't jive with me. So I, me, personally, I can't move forward with that.

Mayor Pro Tem Healy: Getting back to what Jeremy said, I mean, the purpose of this meeting is, is, is to grant them or deny them the CUP. Once they receive the CUP, then they've gotta go through the rest of the rigmarole. I mean we can't, we can't prejudge and say they're not gonna meet their fire code. I mean.

Mayor Pierce: Well, and that's not what we're saying, that they're not gonna meet the fire code. What, what the general condition is saying is that it may endanger the public health. Not that, they may meet the fire code, but they still may endanger the public health. We have to be able to, with, with a confident heart and mind say that they've met these seven specific standards and these four general conditions, and it's not that we, that they would not meet any codes. It's that will it endanger the public health. I can't get past three and four. For me, I do have some concerns about number one. I really, the specific standards, I, I see where they have met those. I just can't get past three, four, and, and one.

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Council Member Garza: Have either, have any of you just read number one as we're talking about this?

Mayor Pierce: Yeah. Me, too.

Council Member Barbee: Read it.

Council Member Garza: That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. Where was it proposed and submitted? It wasn't. And what does it, right here it says your decision must be supported by competent, material, substantial evidence, and if that's not one of the things that we have to meet, how are you OK to bypass that and vote for it? That's specifically what our duties are here right now. It says that in black and white. Does it not, Noel?

Ms. Fox: I'm, I'm sorry. Yes, it has to be competent, material evidence.

Council Member Garza: As were proposed and developed according to the plan. Did any of you hear that brought up? And you still wanna go ahead and vote on that?

Council Member Barbee: The specific issues that I've had, because as I stated earlier, that, I mean, I had a whole page of questions all related around public safety. So I came in not with a fixed opinion but certainly having concerns around that. So what I heard is the barge is not attached to the pier. That's what I heard. The bar is, the barge would be attached to, what was your word?

Mr. Cook: Spuds.

Council Member Barbee: Spuds, a new word for me. So that gives me physical separation in terms of fire safety, right? In terms of the barge taking out the pier or anything you can kind of think of there, so they did address that. I specifically wanted to know about food safety and how they were, where the water's coming from, where's the water going to, that, that, he talked about a holding tank for that. Every single question that I asked about safety, he had a competent answer for. So it wasn't like I ignored it. I listened to what he had to say. I had questions; he answered 'em.

Mayor Pierce: So, so tell me how you can get past number three, that the use will not substantially injure the value of the adjoining or abutting property or that the use is public necessity. We know it's not. So how, how can, how can the, how can we assure that the use will not substantially injure the value of adjoining or abutting property?

Council Member Barbee: I think we said that no way.

Mayor Pierce: You think that was proved?

Council Member Barbee: I think there's, what we said is there's no way to prove that in this particular case because of its uniqueness.

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Mayor Pierce: But then you can't accept number three.

Mayor Pro Tem Healy: Is there any way to move the fuel tanks away from the barge? I'm just throwing that out there.

Mr. Cook: The dispensers?

Mayor Pierce: I don't, we, we can't speak to the audience.

Council Member Garza: They're adding extra fuel pumps. They're adding extra fuel pumps to it.

Mayor Pro Tem Healy: I know they are, but there's only.

Council Member Garza: Take a minute. Please read over those four conditions. Read over where it says we have to.

Mayor Pro Tem Healy: I've got 'em

Council Member Garza: Make that decision. But you're still wanting to vote for it. Again, nothing wrong with these guys.

Mayor Pierce: So how can you support number three, I guess would be my?

Council Member Garza: One, three, and four of the conditions I can't support off of what our criteria is.

Mayor Pierce: Ms. Fox, if, if Council cannot come to a majority.

Ms. Fox: I, I think you've already concluded this hearing. I got up go talk to Mr. Richardson and Mr. Potter and y'all continued on and neither party here has objected, but Mr. Garza made a motion to deny. It failed. A motion was made to grant, and it did not receive a majority of Council's vote. It did not pass.

Mayor Pro Tem Healy: So the hearing should end at that point?

Ms. Fox: It, it, it should have ended. I've been trying to wave to Mr. Richardson and Mr. Potter not to interrupt.

Mayor Pierce: So, so I'll make a, I'll make a motion that we close the evidentiary hearing. The, the CUP did not pass with a 2-2 vote. All in favor?

Council: Aye (motion passed unanimously).

## **7. ITEMS OF BUSINESS**

a. Text Amendment to amend ARTICLE II. - TRAFFIC REGULATIONS, Sec. 16-56. - Driving on concrete portion of the boardwalk.

The Town's current ordinance does not address who should be able to drive on the Boardwalk

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and when they can be there, so staff has revised proposed amendments based on comments at the last meeting to accommodate deliveries for equipment associated with construction and entertainment on a limited basis. Currently, only pedestrians have access to a right-of-way in the Boardwalk area, and business and property owners often need vehicular access.

Mr. Hardison said the proposed changes include the requirement of an annual permit for deliveries of merchandise and entertainment items as well as the need for a permit to cover a property during the time it is an active construction site. Deliveries would be limited to 30 minutes for each drop-off and pickup, and proposed hours are 2-9 a.m. May 1-September 30 and midnight-11 a.m. October 1-April 30. The annual fee for the permit would be \$100.

Council Member Barbee asked if there is a cost now for this access or if this is a brand-new fee. Mr. Parvin said the current requirements include providing a document showing liability insurance and putting down a cash bond, but the Town was hoping to get away from those stipulations and address access through issuing permits instead.

Council Member Shuttleworth said he was not in favor of charging an additional fee for those undertaking construction projects because they have already paid for a building permit. He also said \$100 is excessive for business owners and would prefer to see something nominal like \$10-\$20. In addition, Council Member Shuttleworth said 9 a.m. is too early to end delivery times during the season and wanted to see that time extended to 10-10:30 a.m.

Council Member Barbee said he did not like the idea of a fee at all.

**ACTION:** Motion to amend the proposed ordinance with those three points to include the access permit fee within a construction permit, reduce the business owner fee to \$20, and extend in-season hours to 2-10:30 a.m.

Motion: Council Member Shuttleworth

Vote: UNANIMOUS

b. Adopt a Resolution to Change the Speed Limit from 35 mph to 25 mph on S. Lake Park Blvd. from Sumter Ave to Alabama Ave

During the November meeting, Council directed staff to lower the speed limit on the portion of South Lake Park Boulevard from Sumter Avenue to Alabama Avenue from 35 mph to 25 mph. The N.C. Department of Transportation supports the change, and the speed limit is already 25 mph on the section of South Lake Park Boulevard from Wilson Avenue to Sumter Avenue, so this would increase the 25-mph zone to the Kure Beach city line. Mr. Hardison said Council does not need to change anything in the Town ordinance but would need to pass a resolution so the DOT can change the signs.

**ACTION:** Motion to adopt a resolution to change the speed limit from 35 mph to 25 mph on South Lake Park Boulevard from Sumter Avenue to Alabama Avenue

Motion: Council Member Garza

Vote: 4-1 (Council Member Shuttleworth opposed)

c. Committee Appointments

Council voted on the following committee appointments:

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Ad Hoc Business and Economic Development Committee: Scott Seifer  
 Ad Hoc Canal Drive Flooding Committee: Joe Benson and James Conner  
 Marketing Advisory Committee: Matt Hamlet and Jim Kitts  
 Operations Advisory Committee: David Cole, Paul Levy, and James Watkins  
 Planning and Zoning Commission: Jeff Hogan  
 Police Advisory Committee: Lynn Conto and Frances Reyes (alternate)

#### **8. NON-AGENDA ITEMS**

Council Member Shuttleworth said he and Mayor Pierce would be attending the American Shore & Beach Preservation Association (ASPBA) 2020 Coastal Summit in Washington, D.C., March 24-26. He encouraged Ms. Fox to go and said Council Member Garza had also expressed interest in being there.

Mayor Pro Tem Healy said he wanted to get input on starting a beautification committee for the Town. He said he posted about the idea on Facebook and received a lot of positive response. Council Member Shuttleworth said he liked this idea and thought this committee would be more appropriate for some of the projects that the Ad Hoc Business and Economic Development Committee is currently doing, including painting and creating murals. Mayor Pierce also expressed support.

**ACTION:** Motion to create an ad hoc committee with Mayor Pro Tem Healy in charge of beautification of the Town

Motion: Council Member Shuttleworth

Vote: UNANIMOUS

#### **9. ADJOURNMENT**

Mayor Pierce made a motion to adjourn at 2:15 a.m. Motion passed unanimously.

# CAROLINA BEACH

Town Council Workshop Meeting Minutes  
 Tuesday, January 28, 2020 @ 9:00 AM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## **ASSEMBLY**

A workshop of the Town of Carolina Beach Town Council was held on Tuesday, January 28, 2020, at 9:00 AM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, MPT Jay Healy, Council Member Steve Shuttleworth, Council Member JoDan Garza, and Council Member Lynn Barbee

ALSO PRESENT: Interim Town Manager Ed Parvin, Future Town Manager Bruce Oakley, Finance Director Debbie Hall, Town Clerk Kim Ward, Town Attorney Noel Fox and all department heads.

## **PRESENTATION BY KEN RICHARDSON WITH THE DIVISION OF COASTAL MANAGEMENT**

Ken Richardson with the North Carolina Division of Coastal Management gave an update on the proposed Inlet Hazard Area Boundary and Rule Amendments. The comment period has been extended to March 2, 2020 so if anyone has any comments, they need to get them to the Commission before this date.

## **CLOSED SESSION TO DISCUSS A PERSONNEL MATTER IN ACCORDANCE TO NCGS 143-318.11(a)(6)**

Mayor Pierce made a motion to go into closed session to discuss a personnel matter in accordance to NCGS 143-318.11(a)(6). Motion carried unanimously.

Mayor Pierce made a motion to return to open session stating that no action was taken during closed session. Motion carried unanimously.

Mayor Pierce announced that the budget portion of the meeting will be held at the Fire Department and asked everyone to meet at that location in 15 minutes.

## **BUDGET RETREAT**

Assistant Town Manager Ed Parvin facilitated the budget retreat. The five key topics he covered include:

1. Capital Improvement Projects
2. Priorities for Services and Programs
3. Revenue Sources for Growth Opportunities
4. Identify Key Issues Facing the Community
5. Specific Goals for 2020/2021

Mr. Parvin reviewed survey results from Town staff and asked the Council to score the same projects as well. Overall, staff ranked the Town Hall HVAC replacement, WWTP Headworks, and the Lake Dredge as the top 3 priorities.

Department heads explained each project that was listed on the survey.

Mr. Parvin explained to Council that staff is not moving forward on any of the projects listed until Council gives direction on where they want staff to focus their energy. Today's meeting is just introducing and prioritizing the projects.

Mayor Pierce would like Parks and Rec to look at implementing a 501(c)3 so residents can donate funds for park projects.

Council Member Garza was concerned about the vehicle budget request being one lump sum number versus breaking it out.

Council Member Shuttleworth suggested having vehicles listed as a line item each year because you know that you will be replacing vehicles every year. He would like to identify a set amount to place in the budget each year for the replacement of vehicles. He also would like to see the vehicles put on a rotation of life expectancy.

Mr. Oakley said that Southport is working with Enterprise Car Rental and renting their Town vehicles. They noticed a significant savings in their budget, but they just started the program, so he is unsure of the long-term results.

Council Member Barbee said he would like to see an inventory of the vehicles with their life expectancy.

Mark Meyer explained that it is difficult to put a life expectancy on all vehicles because some are on the beach and deteriorate faster and others are not. It all depends on the use of the vehicle.

Council Member Barbee felt that it would make the budget process much easier each year if there was a long-term plan in place.

Council and staff took a break for lunch that was prepared by the Fire Department.

Mr. Parvin continued the budget presentation and gave an update on the marina. FEMA is saying that the damage to marina was due to deferred maintenance. He does not feel the Town will get much from FEMA for the damage to the marina caused by Hurricane Florence. The Town is applying for grant money in the meantime. Staff is moving forward with filling the slips for this upcoming season. The license agreement will be until 2022 that is revocable at any time. The Town Attorney has drafted that language in the license agreement.

MPT Healy asked if the Town had a dedicated grant writer.

Mr. Parvin explained that Jerry Haire is the grant writer but also becomes the project manager of the grant which is very time consuming.

MPT Healy and Mayor Pierce expressed an interest in hiring an additional person to be aggressive in applying for grants and that be their only focus.

Mr. Oakley shared his experience with grant writers and that is to put them on a retainer. There are some laws that prevent towns from paying a percentage of the grant award to the grant writer.

Council Member Shuttleworth explained how sometimes grants can cost more than they save because of the requirements of the grant. The Cape Fear Bike Trail took 2 ½ extra years and cost 60% more because of the requirements. The Town had to pay a DOT engineer \$40-50,000 to supervise the construction of 6 blocks.

Mr. Parvin said the money is still funded for the lake dredge; they are just waiting for approval from MOTSU.

MPT Healy asked staff to keep in mind that the bulkhead will need some fill dirt and that could be a possibility for the lake dredge spoils.

Public Utilities Director Mark Meyer explained the WWTP Headworks project. This is where all the wastewater comes into the plant. This is a critical need and was ranked 2<sup>nd</sup> by staff.

Council Member Shuttleworth asked if new spoils could be used for this project. Mr. Meyer explained that spoils must be dried out and tested before they can be used.

Mr. Meyer reviewed the importance of converting the 1 million gallon water storage tank at Cape Fear and Raleigh to a 3 million gallon tank. Council Member Shuttleworth mentioned that the Town had permission from Sunny Point to put a storage tank on their property at one time. He wants to have that conversation during the budget process.

Public Works Director Brian Stanberry discussed why replacing the Town Hall HVAC was critical. He mentioned that he has put it in the budget the past two years, and it was cut. It is only operating on 3 compressors and it cannot operate on two.

Council Member Shuttleworth summarized that the list they reviewed totaled \$65 million. He wants to find a balance between quality of life and critical projects and infrastructure. They also need to think about where the Town will be in 8 years and start planning for it now. Council discussed the pros and cons of selling the water system to Aqua or Cape Fear Public Utility Authority. Mr. Meyer added that you will still see increases in cost, but you will no longer have control over it. Mayor Pierce would like to have the conversation and weigh out the options.

Mr. Parvin summarized that staff's top priorities are the Town Hall HVAC, the WWTP Headworks, lake dredge, and the marina. They can take these priorities and move forward with the budget. Mr. Parvin asked Council if they wanted to go through and score the items. Council Member Garza said that he relies on staff's recommendations for a 2-4 year plan. He asked that staff bring back what was actually spent on vehicle purchases during the past couple of budget years. Council agreed not to score these items individually and defer to staff.

Council Member Shuttleworth would like to see priority put on street repairs on Carolina Beach Avenue North and Canal Drive. He said there is standing water from 300 Carolina Beach Avenue North to the 700 block because of all the uneven pavement. There is a sidewalk that you can't walk on. Mr. Parvin said that he would look into Powell Bill Funds and other options.

Mayor Pierce asked for an update on the road survey. Council Member Shuttleworth recapped the study and said that they scored the roads on their condition and not necessarily priority based on the amount of traffic. Mayor Pierce said that she would like to revisit those findings. This is a priority for the community. Residents are upset that St. Joseph Street was paved before Canal Drive and Carolina Beach Avenue North. Mayor Pierce wants to be informed on what streets are next so they can respond to the public. Mr. Parvin said that he would put a plan together.

Mr. Parvin moved on to discuss the services and programs the Town provides. He highlighted the top ten items that each department focuses on. Council scored the departments on how they were performing in each area.

Mr. Parvin discussed the increase in solid waste costs from Waste Industries. Council agreed that the Town must pass along the increase to the customer and not try to absorb it.

Council reviewed and voted by app on a list of projects and how they would like to handle them. Some of the comments mentioned during this exercise include:

Council Member Shuttleworth mentioned that the purchase of Freeman Park stickers is cumbersome for staff. Council Member Barbee added that he has heard a lot of complaints about the stickers being flimsy.

Council Members agreed that they would be interested in considering having some of the parking lots not accept the Town decal.

There was a lengthy discussion on short-term rentals and what fees can be charged. Ms. Fox stressed that you cannot charge more than it costs the staff to administer the program.

Council was in agreement that the fees associated with a license agreement at the marina were very low compared to other marinas. They only pay the fee and the electricity. The Town covers water, sewer, trash, restrooms, and repairs.

Council would like to have an analysis on the enterprise fund and the revenue bonds.

Council discussed putting parking meters in front of the American Legion on Bridge Barrier Road. Mayor Pierce wants staff to talk to the members of the Legion before putting meters up.

Lanier Parking mentioned some new options for pay by phone apps for paying parking fees. They have recently come out with a virtual meter that you can pay with Apple pay and enter your tag number. Mayor Pierce asked for some predictions on revenue for parking since they will be losing some of the lots. MPT Healy asked staff to look at removing the fence around the Shell Lot. That space could be used to park approximately 15 golf carts. Council also discussed having an ordinance about parking in the right-of-way in the residential area.

Mayor Pierce asked for an update on the Town absorbing the CBP3 loan. CBP3 is currently paying property tax on these properties. She asked if it would be beneficial for the Town to take on that debt to avoid paying property tax. Ms. Fox explained that the purpose for having this with CBP3 is so they can secure that debt. The Town does not have to adopt a budget that includes the debt service. The Local Government Commission does not recognize this as Town debt. Once the debt is paid, the deed will be in the Town's name and would not be taxed. There are 9 more payments due.

Mayor Pierce said that Council's number one goal for the manager is to develop a long range plan without losing services.

Council discussed water supply and treatment. Mayor Pierce said that she hears residents complain about paying for water that they cannot drink.

Mr. Parvin reviewed the key issues that department heads feel are facing the community. The top three were MOTSU relationships, dredging the lake, and parking needs.

Council Member Barbee asked about the IT issues that are on the list. Mr. Parvin explained some of the many issues that staff is having with the current IT company, VC3. Council Member Barbee said he would like to have further conversations about that offline.

MPT Healy asked about the status of the Clarendon Avenue grant. Mayor Pierce said the project was sent back to the MPO, but the Town has not lost the money. The Bike/Ped Committee is coming up with modifications to the project. The MPO is short on projects so the money is not going anywhere. Mayor Pierce said she would like to do more due diligence before they bring the project back.

Mr. Parvin gave an update on the status of the pay study. He explained that the pay study was implemented initially to the patrol officers in the police department first. Later, the remainder of the police staff received a 2% increase. General Town staff has not yet implemented the recommendations from the study.

Council Member Garza and Shuttleworth recalled putting money into this current budget year to cover the remainder of the study.

Mr. Parvin said that he could make it work this budget year.

Council Member Shuttleworth said he understood it that the police would be implemented first to address the recruitment and retention issue and then the remainder of staff would be included right after.

Council Member Garza requested a number for what that would cost if the remainder of the pay study was implemented now.

Mayor Pierce would like to know what is going to be left over at the end of the fiscal year.

Council Member Shuttleworth recommended that if Mr. Parvin felt that he had the funds to implement the remainder of the pay study now, that he do it since Council committed to staff to fund it.

Mr. Parvin asked Council to rank the 20 projects that are listed on the form in their packet.

**ADJOURNMENT**

Mayor Pierce adjourned the meeting at 5:00 PM.

Submitted by Kimberlee Ward, Town Clerk  
Meeting minutes approved on March 10, 2020.

# CAROLINA BEACH

Regular Town Council Minutes  
Tuesday, February 11, 2020 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## **ASSEMBLY**

The Town of Carolina Beach Regular Town Council meeting was held on Tuesday, February 11, 2020, at 6:30 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member JoDan Garza

ABSENT: Council Member Steve Shuttleworth

ALSO PRESENT: Interim Town Manager Ed Parvin, Town Clerk Kim Ward, and Town Attorney Noel Fox

### **1. MAYOR PIERCE CALLED THE MEETING TO ORDER WITH INVOCATION BY PASTOR JONATHAN BOWLING OF CAROLINA BEACH PRESBYTERIAN CHURCH FOLLOWED BY THE PLEDGE OF ALLEGIANCE**

### **2. ADOPT THE AGENDA**

**ACTION:** Motion to adopt the agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

### **3. CONSENT AGENDA**

The following items were included on the consent agenda:

- a. Consider Setting a Public Hearing for March 10, 2020 to Hear Funding Requests from Non-Profits - General Fund
- b. Consider Setting a Public Hearing for March 10, 2020 to Hear a CUP: 1230 LPBN - Business PUD - Bryant Real Estate
- c. Consider Setting a Public Hearing for March 10, 2020 to Hear a CUP: 1012 LPBS - Business PUD - Ralph Roof
- d. Approve NCDOT Ordinances 20-1132, 20-1133, and 20-1134 to reduce the speed limit on South Lake Park Blvd.
- e. Approve contract for Auditing Service with Bernard Robinson and company for the fiscal year period ending June 30, 2020.

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f. Approve Meeting Minutes January 9, 2020 Special Meeting, January 9, 2020 Regular Meeting, and January 14, 2020 Special Meeting.

g. Budget amendments and transfers as presented by the Finance Director.

**ACTION:** Motion to adopt the consent agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

#### **4. SPECIAL PRESENTATIONS**

a. 2020 Census Update from Town Representative Joe Benson

Mr. Benson gave details on the upcoming decennial count. The process will begin with a notification card that arrives in the mail by mid-March. The official 2020 Census website will go live on March 23. Residents may be counted in one of four ways: mail back the card, phone, online, or via Census workers going door-to-door beginning in May to canvass non-respondents. He also went over key points and common questions, including the importance of an accurate count because the official population number determines federal legislative representation and funding, efforts to include the homeless population in the count, and community outreach efforts.

Mayor Pierce thanked Mr. Benson for staying on the Census committee after his term as Mayor ended.

Council Member Garza stressed the need for everyone to be counted so the Town gets as much federal funding as possible for projects in a growing population.

Mayor Pro Tem Healy asked how many federal workers would be canvassing. Mr. Benson said he did not know but would find out.

Council Member Barbee asked how the Census workers would be identified. Mr. Benson said they would be clearly marked.

Mayor Pierce asked Mr. Parvin to get Census messaging ready for the Town billboard. She also said outreach events to assist people would be beneficial.

Council Member Garza asked that any information going on the billboard also go on the Town website and Facebook page.

Mr. Benson said he could be available for events and come back with more information at the next Council meeting if necessary.

b. Events Update

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator, reported that upcoming events include a Valentine's Day dance at the Recreation Center on February 15 and the Steve Haydu St. Patrick's Lo Tide Run on March 14.

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John Rivenbark from Set Up Events asked the Council to approve the Carolina Beach Double Sprint Triathlon on June 13. The Events Committee had concerns over the closing of roads and traffic impact and recommended denying the event on that date. Alternate dates in May were suggested, but Mr. Rivenbark said this was not ideal because the ocean water temperatures are still cool, lifeguards do not officially start working for the Town until Memorial Day weekend, and school is still in session, which might keep out-of-town families from staying and spending money in the Town all weekend.

Mayor Pierce asked for details of the road closures. Mr. Rivenbark said a large portion of Dow Road would be closed from 6:30-8:30 a.m., and intermittent traffic stops would take place during those hours on Lake Park Boulevard near Carolina Beach Lake Park as participants cross the road.

Police Chief Chris Spivey said he has concerns about the June date because the peak season seems to come earlier every year and the Town has outgrown what it can shut down for any given amount of time.

Mayor Pro Tem Healy said he understood the reasoning for not wanting to do the race in May. He agreed that it is good for the economy and said he supported the proposed June date.

Council Member Garza said the Town has had a good relationship with the event's organizers for the past 18 years, so he is willing to work with them on the proposed June date.

Council Member Barbee said he was also open to allowing the event to take place on June 13 due to its good track record over the years.

Mayor Pierce said she is fine with allowing the race to take place on June 13 if Mr. Parvin and Chief Spivey can work out the details. She also announced that Mr. Murphy is the new Town staff member handling events.

#### c. Manager's Update

Mr. Parvin's report included updates on the following:

- A checklist of changes to local ordinances discussed at the last budget retreat
- An update on efforts with Military Ocean Terminal Sunny Point (MOTSU), including a tour for new Council members on February 21, news of installation support having a new headquarters this fall, and the announcement that MOTSU has approved the Town's route forward with finalizing environmental cleanup for the leased areas
- Parking improvements, including the completion of new signs on Town lots, striping, and additional spaces on street ends near the ocean for golf carts and bicycle racks

Council Member Barbee asked for an update on the Hamlet project. Mr. Parvin said the old bathroom building has been demolished, but construction of the new facility would be delayed until the fall so the parking lot can remain open during the summer. The Town will set up a temporary bathroom facility and showers.

Council Member Garza praised Mr. Parvin for his behind-the-scenes leadership and ability to step in for the Town when needed.

**5. PUBLIC COMMENT**

Kevin Fritzing of 1319 Canal Drive said he wanted to give his monthly talk about what appears to be mostly abandoned sailboats and other watercraft in the harbor. He said the problem continues with boats blowing around during a recent windstorm and coming close to private docks. Mr. Fritzing said he has not seen any progress on the issue. Mayor Pierce asked Mr. Parvin for an update. Mr. Parvin said the Town is working with the State on an ordinance to ensure the Town has enabling authority to take action on abandoned boats in the harbor. He stressed the importance of a strong ordinance that would allow for enforcement by the Town and said while the Town is moving forward, work remains. Mr. Fritzing also asked when the kayak ramp would be open. Mr. Parvin said the floating dock at Sandpiper Lane was damaged during Hurricane Dorian but that repairs had recently been finalized and it has reopened.

**6. PUBLIC HEARINGS**

a. Public Hearing to Consider Funding Requests from Non-Profit Organizations out of the Room Occupancy Tax Fund

**ACTION:** Motion to open the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

Dan Wilcox of Pleasure Island Revitalization Association and Carolina Beach Downtown Initiative gave details on those organizations' request for \$33,000 in room occupancy tax funds. This money would go toward events such as the summer music and fireworks series and bingo nights. This will be the 13<sup>th</sup> year these groups have been putting on these activities. Mayor Pierce encouraged both new and longtime residents to volunteer with these efforts.

Greg Reynolds of the Pleasure Island Chamber of Commerce outlined his organization's request for \$108,400 in room occupancy tax funds. This would go toward summer fireworks displays, including the expanded one on July 3, outdoor movies, event support, and the Wilmington Sharks Pleasure Island Day. He announced that the Chamber would be adding two new events to its lineup this year: Taste of Pleasure Island and Bark in the Park. Mr. Reynolds asked Council for a verbal commitment because of contracts that need to be signed. Mayor Pierce explained to the public that these requests are formally voted on during budget time, but she gave Mr. Reynolds the green light to move forward and thanked him for the Chamber's work.

**ACTION:** Motion to close the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

**7. ITEMS OF BUSINESS**

a. Watershed Plan

Tracy Skrabal of the North Carolina Coastal Federation gave a presentation about Carolina Beach watershed restoration planning. She outlined the benefits of and process for developing a watershed restoration plan. Ms. Skrabal said planning started a year ago, and the plan is now in the final stages. She added that the grant ends in March and that the next step is for the Town to approve the plan and send it to the state for them to also approve. Ms. Skrabal said the main

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focus of this effort is water quality in shellfish, swimming, and boating waters. She said the solution is to reduce the overall volume of stormwater runoff by focusing on the watershed as a whole. Ms. Skrabal also explained challenges, goals, objectives, actions, and action strategies. The goal is to send the plan to the state in two weeks for review. Mayor Pierce asked if Council needed to vote on it. Planning Director Jeremy Hardison said Council should adopt the plan if members are comfortable with it so the Town can move toward the main goal of formalizing everything so the funding can be granted. Council Member Garza said this effort was a good stepping stone and he wanted to push forward.

**ACTION:** Motion to approve the plan as presented

Motion: Council Member Garza

Vote: UNANIMOUS

b. Discussion on a Feasibility Study for a 50-Year Periodic Nourishment Extension

Mr. Parvin said Town staff and Council members recently met with the Army Corps of Engineers to discuss a possible extension to the 50-year agreement to renourish the beach, which has ended. The Town has been working on a 15-year extension to keep federal funding, but \$3 million is available to create another 50-year plan. The Town will need to start from scratch to define the scope and other necessary elements. Mayor Pierce said this was an important effort because the Town is the first of the beach towns to reach the end of 50-year period, and the outcome will become an example for others.

**ACTION:** Motion to move forward with the study with the Army Corps of Engineers and oversee the following meetings as needed

Motion: Mayor Pierce

Vote: UNANIMOUS

**8. NON-AGENDA ITEMS**

Council Member Barbee asked if the Town had ever used an outside consultant to make a projection of the fund balance. Mr. Parvin said there had been a financial consultant that built a model for the Town to plan how they will move forward, and that model can show how to build the fund balance. Council Member Barbee said he thought an outside, unbiased perspective would be beneficial.

**9. CLOSED SESSION**

a. Closed Session to Discuss a Real Estate Matter

**ACTION:** Motion to go into a closed session to discuss a real estate matter in accordance to NCGS 143-318.11(a)(5). The property being discussed is located at 316 Cape Fear Boulevard, Carolina Beach, for the purpose of parking.

Motion: Mayor Pierce

Vote: UNANIMOUS

**10. ADJOURNMENT**

Mayor Pierce made a motion to return to open session, stating that no action was taken during closed session. Motion passed unanimously.

Mayor Pierce made a motion to adjourn at 9:00 p.m. Motion passed unanimously.

Submitted by Kimberlee Ward, Town Clerk



## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Tim Murphy

Department: Parks and Recreation

## **Events Update**

**BACKGROUND:**

Tim Murphy will present event update for March/April.

**ATTACHMENTS:**

[council events powerpoint 3.10.20](#)



# Special Events

**MARCH/APRIL**



# STEVE HAYDU LO TIDE RUN

March 14<sup>TH</sup> 2020





# CAROLINA BEACH WALK OF FAME CEREMONY

March 21<sup>st</sup> 1:00 pm

Lake Park





**Friday, April 3rd at 7:30 pm**  
**Mike Chappell Park**

Enjoy a free viewing of "The Sandlot" at historic Mike Chappell Park on a 22 Foot Screen.

Bring money to purchase classic baseball concessions.

For more information, please contact the Carolina Beach Parks and Recreation Department at (910) 458 - 2977.



# MOVIE AT MIKE CHAPPELL Featuring The Sandlot

Friday April 3<sup>rd</sup>  
7:30 pm

# O'NEILL EAST COAST GROM TOUR

Alabama Ave. April 18<sup>th</sup> & 19<sup>th</sup>







# TINTED TURTLE TROT 5K & 1 MILE RUN

April 19<sup>th</sup> 2020  
Mike Chappell  
Park



Carolina Beach Police Department presents

## Community Safety & Wellness Workshop

**April 21, 2020**  
**6:30 PM - 8:00 PM**

### TOPICS OF DISCUSSION INCLUDE:



- \*Adolescent Internet Safety and Security
- \*Young Drivers



- \*Drug and Substance Awareness for Parents and Youth

Community youth, parents, and all community members are encouraged to attend.

For more information, contact CBPD at 910-458-2540

St. Paul's United Methodist Church

300 Harper Avenue, Carolina Beach, NC 28428



Made with PosterMyWall.com

## COMMUNITY SAFETY & WELLNESS WORKSHOP

**April 21, 2020 6:30-8:00 pm**

**St. Paul's United Methodist Church**



# FILMING IN CAROLINA BEACH

Warner Brothers Television

*The Lost Boys*

BOARDWALK AREA - MARCH 19/20 & MARCH 25/26

PREP BEGINS MARCH 16<sup>TH</sup>

HIGH TIDE LOUNGE/ NORTH END AREA  
MARCH 23/24/ 25

# QUESTIONS?

Tim Murphy

Recreation Programs Superintendent/Community Events Coordinator

[tim.murphy@carolinabeach.org](mailto:tim.murphy@carolinabeach.org)

910.707.2064



**AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020  
Prepared By: Bruce Oakley  
Department: Executive

**Manager's Update**

**BACKGROUND:** The Manager will give an update on current and upcoming projects.





## AGENDA ITEM

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Ed Parvin

Department: Executive

## Public Hearing to Consider Requests for Funding from Non-Profit Organizations out of the General Fund

### BACKGROUND:

Council will hear from non-profit organizations regarding their FY20/21 funding requests. The following non-profit organizations have requested funds from the FY20/21 General Fund:

Carolina Beach Inlet Association \$7,500  
Federal Point Historic Preservation Society \$9,000  
Friends of Felines \$2,000  
Friends of Fort Fisher \$5,000  
Island of Lights \$5,000  
Pleasure Island Paws \$2,000  
Pleasure Island Sea Turtle Project \$7,700  
Senior Center \$12,000

### ACTION REQUESTED:

Mayor Pierce will open the public hearing and ask for public comment and if any of the 8 applicants would like to speak.

### ATTACHMENTS:

[CBIA 2020 Budget](#)  
[CBIA 2020 Request for Funds](#)  
[CBIA2019 P&L](#)  
[Island of Lights 2020](#)  
[Pleasure Island Paws 2020](#)  
[Pleasure Island Sea Turtle 2020](#)  
[Senior Center 2020](#)  
[Friends of Felines 2020](#)  
[Friends of Feline Expense Report 2020](#)  
[Friends of Fort Fisher 2020](#)  
[Federal Point History Center](#)

**Carolina Beach Inlet Association**

**2020 Annual Budget**

**INCOME**

Direct Public Support	7500
Membership Dues	13000
Fundraising Income	<u>3000</u>

**TOTAL INCOME** 23500

**EXPENSES**

Meeting Costs	1300
Operational Costs	15000
Admin/Office Expenses	<u>5500</u>

**TOTAL EXPENSES** 21800

**SURPLUS** 1700



**Carolina Beach Inlet Association**  
**P.O. Box 1099**  
**Carolina Beach, NC 28428**

***Request for funds for Carolina Beach Inlet Association***

Feb 16, 2020

To: Mayor Pierce and Town Council of Carolina Beach,

The Carolina Beach Inlet Association requests funds in the amount of \$7,500.00 (Seven Thousand Five Hundred Dollars) to continue to implement our educational goals. The CBIA continues to demonstrate the benefits of Carolina Beach Inlet to New Hanover County and surrounding area.

We do this through a number of ways:

- CBIA holds regular monthly meetings at 1500 Bridge Barrier Rd, The American Legion meeting hall in Carolina Beach, N.C.
- CBIA Works closely with the US Army Corps of Engineers to support keeping the CB Inlet open and safe for all boaters.
- CBIA Informs New Hanover County Commissioners of the need for inlet safety.
- CBIA Meets with the New Hanover Erosion Control Engineer to insure Inlet safety and other Economic Resources.
- CBIA Attends quarterly MOA meetings with the State and affiliated groups.
- CBIA Supports the US Coast Guard with their Inlet oversight.
- CBIA Promotes Educating Public and Local Officials on condition and needs of the Inlet.
- CBIA has held several fund raising events for many functions such as the Seafood, Blues, and Jazz Festival, Step up for Soldiers chili cook-off, Got-Em-On Carolina/Kure Beach Fire Department king mackerel tournament, the Carolina Beach Pier Chowder Cook Off requiring a tent, brochures, banners, and posters.

The Carolina Beach Inlet Association is a non-profit (501-C3) Educational Organization. Our Goal is to educate the public and politicians on the importance of keeping North Carolina's Shallow Draft Inlets dredged for safe navigation.

Thanks to the Town of Carolina Beach for your cooperation in this vitally important matter.

**Jarvis Wise, President**

1.

Cc: Town Manager; Finance Director; Town Clerk

8:58 PM

**Carolina Beach Inlet Association**  
**Profit & Loss**  
 January through December 2019

01/16/20

Accrual Basis

	Jan - Dec 19
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
<b>Direct Public Support</b>	
Individ, Business Contributions	
Donations received	1,100.00
<b>Total Individ, Business Contributions</b>	1,100.00
Town of Carolina Beach	7,500.00
<b>Total Direct Public Support</b>	8,600.00
<b>Investments</b>	
Interest earned	535.61
<b>Total Investments</b>	535.61
<b>Other Types of Income</b>	
Membership Dues	12,227.97
Miscellaneous Revenue	150.00
Promotional Items	513.00
<b>Total Other Types of Income</b>	12,890.97
<b>Program Income</b>	
GEO King Mackerel Tournament	892.00
<b>Total Program Income</b>	892.00
<b>Total Income</b>	22,918.58
<b>Expense</b>	
<b>Business Expenses</b>	
Business Registration Fees	250.00
meal/entertainment	1,142.59
Mileage expense reimbursed	1,479.00
Travel and Meetings	
Conference, Convention, Meeting	10.15
Travel	1,012.08
<b>Total Travel and Meetings</b>	1,022.23
<b>Total Business Expenses</b>	3,893.82
<b>Contract Services</b>	
Accounting Fees	250.00
<b>Total Contract Services</b>	250.00
<b>Facilities and Equipment</b>	
Equipment	543.83
Rent	
Meeting spaces	900.00
Storage Building	1,705.96
<b>Total Rent</b>	2,605.96
<b>Facilities and Equipment - Other</b>	100.00
<b>Total Facilities and Equipment</b>	3,249.79
<b>Interest Expense</b>	9.11
<b>Operations</b>	
Bank Fees & Services	126.98
<b>Community Programs</b>	
GEO Classic King Mackerel Tourn	264.87
Parade / Flotilla	186.30
Step Up for Soldiers	111.29
<b>Total Community Programs</b>	562.46
<b>Digital Services</b>	2,750.00

8:58 PM

**Carolina Beach Inlet Association**  
**Profit & Loss**  
 January through December 2019

01/16/20

Accrual Basis

	Jan - Dec 19
<b>Donations made</b>	
American Legion Post 129	491.27
Angel Tree Charity	166.00
Got-em-on Live Bait Club	500.00
Pleasure Island Chamber of Comm	100.00
<b>Total Donations made</b>	<b>1,257.27</b>
Food / Meeting Set-up exp.	1,517.77
Memberships	100.00
Misc Admin Expense	199.50
Office Supplies	67.86
Postage, Mailing Service	934.76
Printing and Copying	902.35
Promotional Items	5,385.80
Supplies	68.06
<b>Total Operations</b>	<b>13,872.81</b>
<b>Other Types of Expenses</b>	
Insurance - Liability, D and O	662.00
<b>Total Other Types of Expenses</b>	<b>662.00</b>
<b>Total Expense</b>	<b>21,937.53</b>
<b>Net Ordinary Income</b>	<b>981.05</b>
<b>Net Income</b>	<b>981.05</b>

*Island of Lights*  
*P. O. Box 2334*  
*Carolina Beach, N. C. 28428*

February 19, 2020

To: LeAnn Pierce, Mayor  
Jay Healy, Mayor Pro Tem  
Lynn Barbee, Council Member  
Steve Shuttleworth, Council Member  
JoDan Garza, Council Member

From: Frances Massey,  
Island of Lights, President

Re: Funding Request

The Island of Lights is a non-profit organization. For the last 30 years we have provided numerous events to promote tourism on Carolina Beach and Kure Beach from November to January. We respectfully request a donation from the Town of Carolina Beach in the amount of \$5000 for the up-coming fiscal year (July 1, 2020 – June 30, 2021). We will be using the money to help fund our events, (Light Up Night, Christmas Parade, Flotilla, Tour of Homes, and New Year's Eve Countdown Celebration). Most of these events are free to the public, and bring tourists to our island. We will also use some of the funds to help pay for refurbishing some of our displays and/or purchase new displays.

These events entertain the residents of Carolina Beach. These events also bring people from out of town who spend money in our local businesses.

If you have any questions, please contact me at 458-5507 or [fmassey52@gmail.com](mailto:fmassey52@gmail.com).

Thank you for your support and generous donations over the past 30 years.

cc. Bruce Oakley, Town Manager  
Debbie Hall, Finance Director  
Kim Ward, Town Clerk

**Island of Lights  
2020 Budget**

	<b>Debits</b>	<b>Credits</b>
Fashion Show	2500	
Light-up Lake	300	
Misc Printing	400	
**New Displays	5000	
Parade	2000	
Christmas Cards/Ornaments	4000	
Tour of Homes	300	
Flotilla	3000	
New Years Eve	7000	
Misc	1200	
Insurance	1500	
Postage and PO Box	400	
Town of Carolina Beach		5000
Town of Kure Beach		1200
<b>TOTAL BUDGET</b>	<b>\$27,600.00</b>	<b>\$ 6,200.00</b>

\*\*Savings will cover this expense

Judy MacGregor  
Treasurer  
February 16, 2020







**FORM 990-N**

Department of Treasury  
Internal Revenue Service

**Electronic Notice (e-Postcard)**

For Tax Exempt Organizations not Required to File Form 990 or 990 EZ

OMB No. 1545-NNNN

**2019**

Open To Public Inspection

A For the <u>2019</u> calendar year, or tax year beginning <u>01/01/2019</u> , and ending <u>12/31/2019</u>	
B Check if applicable <input type="checkbox"/> Termination <input checked="" type="checkbox"/> Gross Receipts are \$50,000 or less	C Name of Organization <u>ISLANDS OF LIGHTS</u>
	D Employer ID number <u>56-1757140</u>
E Website Address	Number and Street (or P.O. box, if mail is not delivered to street address) <u>PO BOX 2334</u>
	City or town, state or country, and Zip + 4 <u>CAROLINA BCH, NC 28428-2334</u>
	F Name of Principal Officer <u>Frances Massey</u>
	Number of street (or P.O. box, if mail is not delivered to street address) of Principal Officer <u>403 Donzi Court</u>
	City or town, state or country, and ZIP + 4 <u>Carolina Beach, NC 28428</u>

Form 990-N



Dashboard

HELP

Your Filings

debbiesullivan

NEW 990

2019  
990N

990-N Assets Less Than \$500,000  
Gross Receipts Under \$50,000



PREVIOUS 990 FILINGS

SUBMITTED X  
ISLANDS OF LIGHTS  
(56-1757140)  
2019 990N

This filing record cannot be edited again unless your submission is rejected by the IRS.

EIN Number \*  
56-1757140

Legal organization name \*  
ISLANDS OF LIGHTS

Beginning of Tax Period \*\*  
01/01/2019

End of Tax Period \*\*  
12/31/2019

Address \*  
PO BOX 2334

Address Line 2 (optional)

City \*\*  
CAROLINA BCH

North Carolina

ZIP Code \*  
28428-2334

Company Website (optional)

Check if your organization has been terminated or gone out of business.

Check if your annual gross receipts are \$50,000 or less.

Review Filing Officer



*State of North Carolina  
Department of the Secretary of State*

Elaine F. Marshall  
SECRETARY OF STATE

CHARITABLE SOLICITATION LICENSING DIVISION

May 29, 2019

Deborah S. Sullivan, Treasurer  
Island of Lights  
403 Donzi Ct  
Carolina Beach, NC 28428-0000

Dear Deborah S. Sullivan:

The Charitable Solicitation Licensing Division (CSL) of the North Carolina Department of the Secretary of State has determined that you meet the qualifications for exemption from the provisions of the Charitable Solicitation Act, N. C. Gen. Stat. § 131F-1 et seq. Exemption means that you do not need a license to solicit contributions in North Carolina.

CSL has reached its conclusions based upon the definitions section of the Act, N. C. Gen. Stat. § 131F-2, and applicable sections of the North Carolina Administrative Code, specifically 18 NCAC 11.0104, which defines relevant terms. Any exemption that refers to "person" uses the term as it is defined in the Act as "any individual, organization, trust, foundation, association, group, entity, partnership, corporation, society, or any combination of these acting as a unit."

This letter is your formal notice that exemption is granted to you on the following basis:

N. C. Gen. Stat. § 131F-3(3): As a person that receives under \$25,000 in contributions in any calendar year AND that does not provide compensation to any officer, trustee, organizer, incorporator, fund-raiser, or solicitor. Note that this exemption must be renewed annually because it is based on receipts in a calendar year and whether compensation is paid to enumerated individuals. Failure to submit renewal information in a timely manner may result in late fees, other penalties under the Charitable Solicitation Act, and/or the exemption not being renewed. **YOUR EXEMPTION EXPIRES ON May 15, 2020.**


You may appeal our decision to the Office of Administrative Hearings as outlined in the separate Notice of Appeal Rights that is enclosed with this letter.

---

POST OFFICE BOX 29622, RALEIGH, NC 27626-0622  
PHONE: (919) 814-5400 - FAX: 919.807.2220  
CSL@SOSNC.GOV  
HTTP://WWW.SOSNC.GOV

This exemption, however, does not insulate you from criminal prosecution related to charitable solicitations in North Carolina. Changes in circumstances may affect qualifications for exemption. The Department of the Secretary of State, through CSL, may review and may modify or cancel any exemption designation at any time upon receipt or discovery of relevant new or changed information.

Sincerely,



Jeanette Blount, Document Examiner  
Charitable Solicitation Licensing Division  
(919) 814-5285  
jblount@sosnc.gov

Dear Mayor Pierce, Councilmen Shuttleworth, Barbee, Garza, and Healy

Pleasure Island PAWS is a Non Profit group on Carolina Beach. We are requesting \$2,000.00 in funding to trap/neuter/vaccinate/return feral and free roaming cats in Carolina Beach. Carolina Beach has been a dumping ground for unwanted cats in New Hanover County for years. These cats have become feral and reproduced causing an overpopulation of cats on the island.

We have been working on controlling the feral cat population on the Island since 2001, way before we started Pleasure Island PAWS, and most of the funds came out of our pockets. We have worked in conjunction with Friends of Felines, the local trap/neuter/vaccinate/return program for feral cats. Together we have worked on many problem areas on the island. Since 2001 the feral cat population has reduced greatly, however there is still much more to be done to take control of the feral cat population on the Island.

The funds we are requesting will help us to continue to work on the overpopulation issues on the Island.

The parameters for our mission are as follows:

- Cats must be feral/free roaming or un-owned.
- Cats must have a caregiver to provide food/water and as much shelter as possible.
- We will speak with each person asking for assistance to make sure it is okay to trap on the property.
- Cats will be trapped in a humane trap with a cover over it to keep them quiet and calm.

Cats will be transported to a licensed Veterinarian Hospital, and once there they will be under anesthesia, given a physical and oral exam, and then be spayed/neutered and vaccinated for rabies and distemper. They are then placed in a covered carrier and observed for 24 hours before they are taken back to the area in which they were trapped and released.

With this money we will be able to reduce the number of cat complaints to the town.

We rely solely on donations, and spend as much money as we have available on spay/neuter, medical and food for feral cats that have gone through our program. Our budget varies based on donations, and our average spay/neuter cost per cat is \$35, which includes spay/neuter, rabies vaccine, distemper vaccine and ear tip.

Pleasure Island PAWS Mission Statement since 2011 has been:

Pleasure Island PAWS is a non-profit organization that relies on donations. Our purpose is to provide the following services to Carolina Beach. To assist residents experiencing economic hardship with access to food and medication for dogs and cats. To provide trap-spay/neuter - release program for feral cats. To assist with disaster preparation and relief efforts for dogs and cats. To facilitate the use of low-cost spay/neuter clinics.

We are all volunteers that work out of our homes, and have no paid employees.

Our major sources of funding have been through donations.

Financial Statement enclosed.

Cc: Bruce Oakley - Town Manager  
Kim Ward - Town Clerk



**Pleasure Island PAWS  
Profit & Loss  
January through December 2019**

Beginning Balance	3,681.20
Individual, Business Donations	4,530.00
Veterinarian bills	1,655.31
Animal Supplies	260.27
Ending Balance	6,295.62

**Mailing address:**

**Pleasure Island PAWS  
101 Silver Lake Rd.  
Wilmington, NC 28412**

**910-395-0838**

**President - Loretta Gunter  
Secretary/Treasurer - Gail Shaw**

The Pleasure Island Sea Turtle Project  
c/o Nancy Busovne  
507 Jarrett Bay Drive  
Carolina Beach, NC 28428  
910-538-2918

February 18, 2020

Ms. LeAnn Pierce  
Mayor, Carolina Beach and  
Carolina Beach Town Council  
1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428

Dear Ms. Pierce:

We are submitting a quote for the monitoring and relocation of the sea turtle nests for the 2020 sea turtle nesting season for Carolina Beach and Freeman Park. We are a 501C non-profit corporation comprised of volunteers. Many volunteers like myself have been involved in nesting activities at Carolina Beach since the volunteer program formed 19 years ago. This is my sixteenth year serving as volunteer coordinator for Carolina Beach, and my fifteenth year as the holder of the NC Wildlife Resources Commission endangered species permit for Carolina Beach (copy attached). We will be operating as a group under my permit. This permit will enable us to conduct activities involving nesting, hatching, and stranded sea turtles anywhere in North Carolina.

Surveying of the beachfront and/or monitoring of nests would begin May 1, 2020 and continue until the end of the hatching season on or before November 30, 2020.

Our fee of \$ 1100.00 per month would include all aspects in the Scope of Work (attached). Also, a 4x4 vehicle leased by the Pleasure Island Sea Turtle Project will be provided for morning patrols. This is the same fee charged last year, we have decided not to raise the rates this year.

Any and all nests laid in Freeman Park will be relocated to Carolina Beach for monitoring at the discretion of the North Carolina Wildlife Resources Commission.

We look forward to working with you, the town officials, and the citizens of Carolina Beach in the protection of this unique marine animal.

If you have any questions, please give us a call. Thank you for your consideration.



Nancy Busovne  
Volunteer Coordinator/Permit #14ST22, Carolina Beach  
Pleasure Island Sea Turtle Project  
910-538-2918  
Cc: Bruce Oakley, Town Manager; Kim Ward, Town Clerk

**SCOPE OF WORK**

for


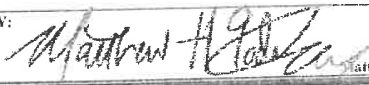
Monitoring of Sea Turtle Nesting  
Carolina Beach and Freeman Park  
New Hanover County, North Carolina

2020

1. **PURPOSE:** The contractor will monitor sea turtle nesting efforts at Carolina Beach, New Hanover County, North Carolina on a daily basis and relocate nests as needed. The area to be monitored is between the Northern and Southern limits of Carolina Beach, and the area encompassing Freeman Park.
2. **WORK EFFORTS:** The following work efforts will be undertaken as a part of this contract:
  - Patrol of the survey areas will begin at sunrise each morning (weekdays and weekends) from May 1, 2020 until August 31 2020 (or up to November 30 2020 if necessary)
  - A daily log sheet will be filled out for each day. All nests, false crawls, and strandings will be recorded on [www.seaturtle.org](http://www.seaturtle.org) and compiled by the State of North Carolina Wildlife Resources Commission.
  - All nests will be located by visual inspection and hand excavated. Nest probes will not be used unless the preferred methods prove impractical. A turtle nest data sheet will be completed for all turtle nests found. A map showing the approximate nest location will be sketched on the back of the turtle nest data sheet.
  - Nest relocations will be performed within 3 hours of nest discovery and in conformance with the Guidelines for Sea Turtle Nest Relocation. All nest relocation information, including number of eggs in each nest, date and time of relocation, and accidental breakage of eggs, hatching success, etc. must be recorded.
  - Should a stranded sea turtle be encountered on the beach, a stranding report will be completed. If a stranded Kemp's Ridley, Hawksbill, or Leatherback is encountered, the North Carolina Sea Turtle Coordinator, Matthew Godfrey (252-728-1528) will be contacted by the Contractor on the day of discovery. Dead Loggerhead and Green sea turtles should be buried on the beach after all measurements are taken. Other species should not be buried until clearance is obtained from the N.C. Sea Turtle Coordinator. Town assistance may be requested for disposal of larger species (leatherbacks).
3. **REPORTING:** In addition to the reporting requirements mentioned above, a report of findings which incorporates the daily log sheets, stranding reports, turtle nest data sheets, report of hatching success, and the names of all personnel involved in the monitoring and nest relocation, and their respective duties under this scope of work, and other pertinent field data will be prepared. All results can be viewed on [www.seaturtle.org](http://www.seaturtle.org), our reporting site.

4. SCHEDULE: The contractor will be on site at sunrise on May 1, 2020 and will monitor and relocate nests daily until August 31 2020 (or November 30 2020 if necessary). Followup on nest hatching success will be performed by the contractor until all nests are accounted for and documentation is complete.
  
5. ITEMS TO BE FURNISHED BY THE STATE OF NORTH CAROLINA:
  - a. Wooden Stakes and protective silt fencing
  - b. Flagging Tape
  - c. Nest Signs
  - d. Wire to cover nests
  - e. Badges
  - f. Guidelines for Sea Turtle Nest Relocation
  - g. Portable GPS Unit
  - h. Digital Camera
  
6. ITEMS TO BE FURNISHED BY THE CONTRACTOR:
  - a. Daily log sheets
  - b. Stranding Reports
  - c. Turtle Nest and Hatching Success Data Sheets
  - d. Measuring tapes, plastic tub, etc. used in nest relocation
  - e. Vehicle to be used for Morning Patrol
  - f. Black silt fencing and other light protection items as necessary

CONTRACTOR QUALIFICATIONS: Contractor has knowledge of sea turtle biology and is operating under an endangered species permit granted by the Wildlife Resources Commission.

 <p><b>ENDANGERED SPECIES PERMIT</b></p> <p>North Carolina Wildlife Resources Commission</p> <p>NC Sea Turtle Project 1707 Mail Service Center Raleigh, NC 27699-1700</p> <p>Tele: (919) 707-0391 FAX: (919) 707-0292</p>	<p><b>AUTHORITY</b></p> <p><b>STATUTES</b> GS 113-129, GS 113-331 &amp; GS 113-333</p> <p><b>RULES</b> 15A NCAC 101.0102</p>				
	<p><b>PERMIT NUMBER</b> 20ST22</p> <table border="1"> <tr> <td><b>EFFECTIVE</b> 01/07/2020</td> <td><b>EXPIRES</b> 12/31/2020</td> </tr> <tr> <td><b>COUNTY</b> New Hanover</td> <td><b>DISTRICT</b> 2</td> </tr> </table>		<b>EFFECTIVE</b> 01/07/2020	<b>EXPIRES</b> 12/31/2020	<b>COUNTY</b> New Hanover
<b>EFFECTIVE</b> 01/07/2020	<b>EXPIRES</b> 12/31/2020				
<b>COUNTY</b> New Hanover	<b>DISTRICT</b> 2				
<p><b>PERMITTEE/LICENSEE</b></p> <p><b>Nancy Busovne</b> <b>Pleasure Island Sea Turtle Project</b> <b>507 Jarrett Bay Drive</b> <b>Carolina Beach, NC 28428</b></p>					
<p><b>CONDITIONS AND AUTHORIZATIONS:</b></p> <p>The above-named person and those under his(her) authority is(are) hereby authorized to conduct the following activities with the specified Federally listed endangered or threatened species as a designated agent of the North Carolina Wildlife Resources Commission:</p> <p><u>Protection and Relocation of Sea Turtle Nests</u> - This permit authorizes the protection and relocation of nests, which are in danger of loss due to erosion or overwash, to a suitable location as close to the original nest site as feasible. The permittee is also allowed to collect one fresh egg from each nest for research. All activities related to nest protection and relocation must adhere to the following:</p> <ol style="list-style-type: none"> <li>The Handbook for Sea Turtle Volunteers in North Carolina must be followed in evaluating nests and determining appropriate translocation methods.</li> <li>Accurate and complete records of nest protection activities must be maintained. All data/information must be uploaded online daily during the nesting season and regularly during the hatching season. All data must be corrected and finalized by 31 December.</li> </ol> <p><u>Possession and Disposition of Stranded Sea Turtles</u> - This permit authorizes the possession and transportation of injured or sick sea turtles for the purpose of rehabilitation and/or release and the possession and transportation of dead stranded sea turtles for the purposes of disposition.</p> <p>Other requirements:</p> <ol style="list-style-type: none"> <li>The North Carolina Wildlife Resources Commission's State Sea Turtle Program Biologist, Matthew Godfrey (252-728-1528 or matt.godfrey@ncwildlife.org) must be notified within 24 hours of each stranding event.</li> <li>A Sea Turtle Stranding Report form must be completed and submitted to the North Carolina Wildlife Resources Commission within 48 hours of each stranding event</li> </ol> <p>This license covers the following sea turtle species: Loggerhead (<i>Caretta caretta</i>), Green (<i>Chelonia mydas</i>), Kemp's ridley (<i>Lepidochelys kempii</i>), Leatherback (<i>Dermochelys coriacea</i>), Hawksbill (<i>Eretmochelys imbricata</i>)</p>					
<p><b>PAGE 1 of 1</b></p>					
<p><b>This permit/license is nontransferable and expires at midnight on the above specified expiration date.</b></p>					
<p>ISSUED BY:</p>  <p>Matthew H. Godfrey, PhD</p>	<p>TITLE:</p> <p>Sea Turtle Biologist</p>	<p>DATE:</p> <p>01/07/2020</p>			

9:28 PM

01/24/20

Cash Basis

**Pleasure Island Sea Turtle Project**  
**Profit & Loss**  
 January through December 2019

	Jan - Dec 19
<b>Income</b>	
<b>Direct Public Support</b>	
<b>Contributions</b>	
Aetna	118.72
AmazonSmile	345.86
Coastal Beverage	659.00
Corporate Contributions	675.00
Happy Hlppies Java Hut	361.85
Individuals	2,924.30
State Farm	500.00
Verizon	750.00
<b>Total Contributions</b>	6,334.73
<b>Contributions Restricted</b>	
Miss Marta/Lowes Food Event	81.35
<b>Total Contributions Restricted</b>	81.35
<b>Total Direct Public Support</b>	6,416.08
<b>Government Contracts</b>	
Carolina Beach Contract	9,900.00
Kure Beach Contract	4,500.00
<b>Total Government Contracts</b>	14,400.00
<b>Interest Income</b>	2.35
<b>Sales Income</b>	
<b>Adopt a Nest</b>	
Adopt a Nest Additional Shirt	450.00
Adopt a Nest Income	3,300.00
<b>Total Adopt a Nest</b>	3,750.00
<b>Beach Store</b>	
Beachstore postage - taxable	252.39
Happy Hippie Java(no sales tax)	996.20
Patrol Gear	2,301.00
Beach Store - Other	11,017.52
<b>Total Beach Store</b>	14,567.11
<b>Total Sales Income</b>	18,317.11
<b>Special Events Income</b>	
Raffle Tickets	845.00
Wine Tasting	4,280.00
<b>Total Special Events Income</b>	5,125.00
<b>Total Income</b>	44,260.54
<b>Cost of Goods Sold</b>	
<b>Cost of Goods Sold</b>	
Adopt a Nest	201.71
Beach Store	7,909.23
<b>Total Cost of Goods Sold</b>	8,110.94
<b>Total COGS</b>	8,110.94
<b>Gross Profit</b>	36,149.60
<b>Expense</b>	
<b>Operating Expenses</b>	
<b>Administrative Expenses</b>	
Administration	105.00
Credit Card/ PayPal/Sq Fees	469.23
Dues and Registrations	50.00
Insurance - Liability, D and O	1,225.00

9:28 PM

01/24/20

Cash Basis

**Pleasure Island Sea Turtle Project**  
**Profit & Loss**  
 January through December 2019

	<u>Jan - Dec 19</u>
PO Box Rental	106.00
Postage, Mailing Service	237.30
Sales and Use Tax Refundable	99.21
Sales Tax License Fees	52.00
Telephone, Telecommunications	376.36
Website/web hosting	66.93
<b>Total Administrative Expenses</b>	<b>2,787.03</b>
<b>Adopt a Nest</b>	
Adopt a Nest Shirts	715.48
Adopt a Nest Supplies/Postage	473.27
<b>Total Adopt a Nest</b>	<b>1,188.75</b>
<b>Advertising Expenses</b>	
Business Cards	59.91
Chamber of Commerce	280.00
Signs	62.74
<b>Total Advertising Expenses</b>	<b>402.65</b>
<b>Fundraising Expenses</b>	
Wine Tasting Event	2,760.30
<b>Total Fundraising Expenses</b>	<b>2,760.30</b>
<b>Volunteer Expenses</b>	
Volunteer Appreciation Party	945.00
Volunteer Gifts/Awards	159.90
<b>Total Volunteer Expenses</b>	<b>1,104.90</b>
<b>Total Operating Expenses</b>	<b>8,243.63</b>
<b>Program Expenses</b>	
Education Expenses	
Special Events	64.97
<b>Total Education Expenses</b>	<b>64.97</b>
<b>Equip Rental and Maintenance</b>	
Beach Vehicle Gas	458.10
Beach Vehicle Rental	7,610.00
Beach Vehicle Supplies	572.30
<b>Total Equip Rental and Maintenance</b>	<b>8,640.40</b>
<b>Grants to Other Org.</b>	
Karen Beasley Turtle Hospital	5,000.00
<b>Total Grants to Other Org.</b>	<b>5,000.00</b>
Storage	1,680.00
Supplies - Nest	2,195.80
<b>Total Program Expenses</b>	<b>17,581.17</b>
<b>Total Expense</b>	<b>25,824.80</b>
<b>Net Income</b>	<b>10,324.80</b>



3:27 PM  
 01/27/20  
 Cash Basis

**Pleasure Island Sea Turtle Project**  
**Budget**  
 January through December 2020

	Jan - Dec 20
<b>Income</b>	
<b>Direct Public Support</b>	
<b>Contributions</b>	
Aetna	250.00
AmazonSmile	350.00
Carolina Beach Bar Club	1,000.00
Coastal Beverage	500.00
Corporate Contributions	600.00
Happy Hippies Java Hut	350.00
Individuals	2,700.00
State Farm	500.00
Verizon	750.00
Contributions - Other	0.00
<b>Total Contributions</b>	7,000.00
<b>Contributions Restricted</b>	
Island Women/Storage Unit	0.00
Miss Marta/Lowes Food Event	0.00
<b>Total Contributions Restricted</b>	0.00
<b>Total Direct Public Support</b>	7,000.00
<b>Government Contracts</b>	
Carolina Beach Contract	7,700.00
Kure Beach Contract	4,500.00
<b>Total Government Contracts</b>	12,200.00
<b>Sales Income</b>	
<b>Adopt a Nest</b>	
Adopt a Nest Additional Shirt	300.00
Adopt a Nest Income	3,000.00
<b>Total Adopt a Nest</b>	3,300.00
Beach Store	13,500.00
<b>Total Sales Income</b>	16,800.00
<b>Special Events Income</b>	
Special Events 1	2,500.00
Special Events 2	2,500.00
<b>Total Special Events Income</b>	5,000.00
<b>Total Income</b>	41,000.00
<b>Cost of Goods Sold</b>	
<b>Cost of Goods Sold</b>	
Adopt a Nest	200.00
Beach Store	8,500.00
<b>Total Cost of Goods Sold</b>	8,700.00
<b>Total COGS</b>	8,700.00
<b>Gross Profit</b>	32,300.00
<b>Expense</b>	
<b>Operating Expenses</b>	
<b>Administrative Expenses</b>	
Administration	100.00
Credit Card/ PayPal/Sq Fees	500.00
Dues and Registrations	450.00
Insurance - Liability, D and O	1,250.00
Office Supplies	200.00
PO Box Rental	100.00
Postage, Mailing Service	250.00

3:27 PM.  
01/27/20  
Cash Basis

**Pleasure Island Sea Turtle Project**  
**Budget**  
January through December 2020

	Jan - Dec 20
Sales and Use Tax Refundable	0.00
Sales Tax License Fees	50.00
Telephone, Telecommunications	400.00
Website/web hosting	100.00
<b>Total Administrative Expenses</b>	<b>3,400.00</b>
<b>Adopt a Nest</b>	
Adopt a Nest Shirts	600.00
Adopt a Nest Supplies/Postage	500.00
<b>Total Adopt a Nest</b>	<b>1,100.00</b>
<b>Advertising Expenses</b>	
Business Cards	50.00
Chamber of Commerce	300.00
Flyers	100.00
Signs	200.00
Window Clings	0.00
<b>Total Advertising Expenses</b>	<b>650.00</b>
<b>Fundraising Expenses</b>	
Promotional Expenses	250.00
Special Events 1	1,500.00
Special Events 2	1,500.00
<b>Total Fundraising Expenses</b>	<b>3,250.00</b>
<b>Volunteer Expenses</b>	
Volunteer Appreciation Party	1,000.00
Volunteer Gifts/Awards	200.00
Volunteer shirts-earned	800.00
<b>Total Volunteer Expenses</b>	<b>2,000.00</b>
<b>Total Operating Expenses</b>	<b>10,400.00</b>
<b>Program Expenses</b>	
Education Expenses	
Printing and Copying	250.00
Special Events	600.00
Supplies - Education	1,500.00
Turtle Talks	100.00
<b>Total Education Expenses</b>	<b>2,450.00</b>
<b>Equip Rental and Maintenance</b>	
Beach Vehicle Gas	500.00
Beach Vehicle Rental	7,600.00
Beach Vehicle Supplies	500.00
<b>Total Equip Rental and Maintenance</b>	<b>8,600.00</b>
<b>Grants to Other Org.</b>	
Karen Beasley Turtle Hospital	5,000.00
<b>Total Grants to Other Org.</b>	<b>5,000.00</b>
Storage	1,700.00
Stranding	200.00
Supplies - Nest	2,000.00
<b>Total Program Expenses</b>	<b>19,950.00</b>
<b>Total Expense</b>	<b>30,350.00</b>
<b>Net Income</b>	<b>1,950.00</b>

*Katie B. Hines Senior Center  
308 Cape Fear Boulevard  
Carolina Beach, North Carolina 28428  
(910) 458-6609*

February 24, 2020

Attention –Mayor and Town Council of Carolina Beach

We are again asking for assistance from the Town of Carolina Beach. We used your contribution to the Senior Center to help pay our yearly insurance expenses for the building (8352.25 per year) and our electric bill (3519.85 per year). Without your funds we would be unable to keep our center open and provide a place for our seniors to play cards, dance, exercise, quilt and meet with friends. Please note our total expenses were \$11,872.10 in 2019 we have been able to pay the difference thru membership dues and donations from our members. This year we had to replace a water heater and replace 3 toilets which hit our expenses hard. (2858.63)

We want to thank Carolina Beach Mayor and Town Council for your past help of \$12,000.00 and hope you will able to do the same in 2020.

Very Truly Yours,

Sarah Williams, President



Cc Town Manger and Town Clerk

12:43 PM  
02/11/20  
Cash Basis

**KATIE B HINES SENIOR CENTER INC.**  
**Profit & Loss**  
January through December 2019

	Jan - Dec 19
<b>Income</b>	
500 INSURANCE REIMBURSEMENTS	5.00
700 NC SALES TAX REFUND	200.21
<b>DONATION</b>	
171 · Mahjongg	764.70
169 QUILT CLASS	89.00
185-A RENTALS	1,570.00
166 PAINT CLASS	147.00
174 OPERATION/DONATION	2,122.50
175 DONATION	4,107.72
176 GAME DAY	335.00
178 EXERCISE CLASS	954.15
186 MEMBERSHIP FEE'S	1,410.00
190 LINE DANCES	150.00
900 TOWN OF C.B. DONATION	12,000.00
910 LANDFALL GRANT	1,500.00
<b>Total DONATION</b>	25,150.07
<b>FUND RAISERS</b>	
450 · Car Wash	-475.07
420 PANCAKE BREAKFAST	3,595.83
<b>Total FUND RAISERS</b>	3,120.76
<b>Total Income</b>	28,476.04
<b>Expense</b>	
<b>EXPENSE</b>	
1100 BANK CHARGES	35.00
1115 KITCHEN ACCOUNT	2,330.34
1120 BUILDING MAINT/REPAIRS	2,858.63
1170 INSURANCE EXPENSES	8,352.25
1180 JANITORIAL/CLEANING SERV	
1185 PAPER & FOAM PRODUCTS	344.83
1180 JANITORIAL/CLEANING SERV - Other	5,453.27
<b>Total 1180 JANITORIAL/CLEANING SERV</b>	5,798.10
2000 OFFICE SUPPLIES	130.97
2030 PEST CONTROL	180.00
2050 SALES TAX 7%	
2055 · Sales Tax 8%	634.30
2053 sales tax 7.75	36.82
2051FOOD TAX 2%	116.41
2051 FOOD TAX 2%	13.93
2050 SALES TAX 7% - Other	19.39
<b>Total 2050 SALES TAX 7%</b>	820.85
2060 SAM'S CLUB DUES	0.00
<b>UTILITIES</b>	
3020 · Charter	783.99
3000 BELL SOUTH TELEPHONE	1,495.41
3010 PROGRESS ENERGY	3,519.85
<b>Total UTILITIES</b>	5,799.25
<b>Total EXPENSE</b>	26,305.39
<b>Total Expense</b>	26,305.39
<b>Net Income</b>	2,170.65

KATIE B HINES SENIOR CENTER 2018 BUDGET

	2019 ACTUAL	2020 BUDGET
CABLE	\$783.99	\$800.00
BANCKING CHARGES	\$35.00	\$10.00
FOOD AND FOOD RELATED	\$2,330.34	\$2,500.00
MAINTENCANCE	\$2,858.63	\$2,000.00
CAPITAL IMPROVEMENT	\$0.00	\$0.00
FIRE INSP	\$0.00	\$200.00
INSURANCE	\$8,352.25	\$8,500.00
PAPER PRODUCTS	\$344.83	\$350.00
JANITORIAL	\$5,453.27	\$5,000.00
OIFFICE EXPENXE (INC POSTAGE)	\$130.97	\$365.08
TELEPHONE/INTERNET	\$1,495.41	\$1,564.00
ELECTRICITY	\$3,519.85	\$3,883.00
PEST CONTROL	\$180.00	\$180.00
ADVERSITING/MARKETING	\$0.00	\$2,300.00
SAM CLUB MEMBERSHIP	\$0.00	\$0.00
CPA SERVICE	\$0.00	\$0.00
DONATION TO BASKETBALL LEAGUE	\$100.00	\$100.00
OTHER MISC.	\$720.85	\$300.00
TOTAL	\$26,305.39	\$28,052.08

**"Helping the forgotten ones"**



***FRIENDS OF FELINES***  
***P.O. Box 475***  
***Castle Hayne, N.C. 28429***

February 14, 2020

Dear Mayor Pierce, Councilmen Healy, Barbee, Garza & Shuttleworth,

Friends of Felines was formed in 1996 as a 501 c 3 Non-Profit Rescue group in New Hanover County. We are requesting \$2,000.00 in funding to trap/neuter/vaccinate/return feral and free roaming cats in Carolina Beach. This will neuter and vaccinate approximately 60 cats. Historically, Carolina Beach has been a dumping ground for unwanted cats from the Wilmington area. Sadly, these unaltered cats have become feral and reproduced causing an overpopulation of cats on the island. Many residents have told us the cats have been there since they were kids.

Over the last 20 years the feral cat population has reduced greatly due to the TNVR program, however there is still much more to be done. We have already begun the process of identifying households that feed free roaming cats. The caregivers we have contacted are very positive in their response to any offer of assistance with their free-roaming cat colonies.

The funds we are requesting will help us continue to focus on the proactive approach as well as react to the current issues at hand. We are making a real difference in the overpopulation of feral and stray cats in this area with the help of committed caregivers and compassionate town council members like you.

Friends of Felines has a hotline and email address where residents who need help can get in touch with us to get help. We loan caregiver's traps and carriers, show them how to use them and schedule an appointment with one of our dedicated veterinarians in the area. If someone is elderly or physically cannot trap/transport, we will have a volunteer help.

Protocols:

1. Cats must be feral/free roaming or un-owned.
2. Cats must have a caregiver to provide food/water and as much shelter as possible.
3. Volunteer will speak with each person asking for assistance to make sure it is okay to trap on the property.
4. Volunteer/Caregiver must have the okay from homeowner/renter or resident
5. Flyers will be passed out and placed in doors to let people know what we are doing and when we will be there.
6. Cats will be trapped in a humane trap with a towel placed over it to keep the cats quiet.



***A 501 (c) (3) 56-1973859 Non-Profit Organization***  
***friendsofelines.org***

Cats will be transported to one of our participating Veterinarian hospitals where they will be seen by a licensed vet. Once under anesthesia, they will be given a physical and oral exam. The cats will then be spayed/neutered and vaccinated for rabies and distemper. They are placed in a carrier with a towel on the bottom where they will be observed during the recovery period. Volunteers/Caregivers will take the cats home for post-surgery observation (24 – 48 hours), then taken back to the area in which they were trapped and released.

Targeted TNVR will provide spay/neuter and vaccine services to approximately 85 cats and kittens in Carolina Beach. All of the Project's spay/neuter surgeries will be funded with this money. In addition, residents of the will be educated about feral cat care and the need for TNVR and the local community will be increasingly involved.

**1. Target Identification:**

We are working with New Hanover County Animal Services & Carolina Beach residents to determine the area of greatest need within the community. We appreciate any and all input on areas that need help.

**2. Project effectiveness and impact:**

We have in the past reduced the number of complaints to the town and Animal Services by reducing the number of cats in the area. Once a cat is fixed, poor behavior such as spraying, fighting, mating and roaming are greatly reduced if not eliminated. We want to continue the downward trend of complaints!

We also reduce killed or injured cats on our roads.

We also reduce the number of kittens born under porches, houses, sheds and in the woods. These kittens grow up and continue the breeding cycle.

We reduce the number of animals turned into Animal Services which costs the county approximately \$100 just to house and feed one cat prior to being euthanized.

Community involvement and education is the key to any program's success. Colony caregivers will become aware of the importance of spaying/neutering their animals and how easy it can be achieved. Spreading knowledge and information about caring for feral cats, and hands on training will be vital to the proper continuing care for these animals.

With this money we will be able to reduce the number of cat complaints to the town, cats that are killed or injured on the side of the road, help educate the people on the importance of fixing their animals, reduce the euthanasia rate from this area at animal services and most importantly save animals lives. It is a win-win proposal.

**2020 Budget**

Current year budget – we rely solely on donations. We spend as much money as we have available on spay/neuter, medical and food for feral cats that have gone through our program. Our budget varies based on donations. Our average spay/neuter cost per cat is \$35. This includes spay/neuter, rabies vaccine, distemper vaccine and ear tip.

***§ 501 (c) (3) 56-1973859 Non-Profit Organization  
friendsofelines.org***

We have no paid employees. Our volunteers work out of their homes.

Major sources of funding are from donations and grants.

Financial Statement enclosed

Please see additional information on our program.

Cc: Bruce Oakley – Town Manager  
Debbie Hall - Finance Director  
Kim Ward – Town Clerk

*A 501 (c) (3) 56-1973859 Non-Profit Organization  
friendsofelines.org*



12:09 PM  
02/16/20  
Accrual Basis

**Friends of Felines**  
**Profit & Loss**  
**January through December 2019**  
Jan - Dec 19

<b>Ordinary Income/Expense</b>	
<b>Income</b>	
Award S/N	1,500.00
Contributions	9,855.29
Fundraising	27,933.94
PayPal	<u>3,118.02</u>
<b>Total Income</b>	<b>42,407.25</b>
<b>Expense</b>	
Bank Service Charges	48.00
Cat Food	1,536.61
<b>Medical Expense</b>	
Bow Wow Cats Meow 2020	1,300.00
CB S/N Award 2019	1,240.00
Spay/Neuter Expense	22,029.83
Vaccines/Medical Supplies	4,399.67
Medical Expense - Other	<u>19.80</u>
<b>Total Medical Expense</b>	<b>28,989.30</b>
Office Expenses (incl gifts)	431.68
Supplies	20.31
Telephone	657.60
Website	<u>445.11</u>
<b>Total Expense</b>	<b><u>32,128.61</u></b>
<b>Net Ordinary Income</b>	<b><u>10,278.64</u></b>
<b>Net Income</b>	<b><u><u>10,278.64</u></u></b>

## FRIENDS OF FELINES

Friends of Felines is an all-volunteer, non-profit organization. Our purpose is:

PROMOTING HUMANE NON-LETHAL POPULATION CONTROL OF FERAL CATS BY MEANS OF A "TRAP/SPAY-NEUTER/VACCINATE/RETURN" PROGRAM; EDUCATION TO THE PUBLIC ABOUT RESPONSIBLE CAT OWNERSHIP.

What are Feral cats? Pet cats who have been abandoned by their owners and have not been spayed or neutered are left to forage for food wherever they can find it. They band together to form "colonies" at a food source. When kittens are born, the mothers teach them to be wary of humans, to defend themselves, and they become feral (wild, untamed, undomesticated).

Friends of Felines advocates a "trap/spay-neuter/vaccinate/return" program in which cats are returned to the location where they were trapped. There must be a committed caretaker for Friends of Felines to work with, and the caretaker must continue to provide food and water on a daily basis for the cats.

"Trap and Kill" has NOT worked!! Other cats fill the void if there is any type of food source, and the breeding starts over again. "Trap and kill" costs taxpayer money (approximately \$100 to process on cat through Animal Services to be killed).

The most humane and cost effective solution is "trap/spay-neuter/vaccinate/return". The cats protect their territory and eventually die out through natural attrition.

Friends of Felines provides education about the benefits of the "trap/spay-neuter/vaccinate/return" program. FOF provides instructions in humanely trapping feral cats and asks for a \$40 donation for the spay/neuter of each cat. All of the feral cats are vaccinated for rabies and distemper. We tip the left ear 1/8 inch to distinguish them apart from domestic cats. We loan humane traps and recovery pet carriers for use in our Feral Cat Program.

As an all-volunteer, non-profit, charitable organization, donations of any amount are needed and greatly appreciated.

Mailing address:  
Friends of Felines  
PO Box 475  
Castle Hayne, NC 28429  
friendsofelines@aol.com  
910-452-6721

FEEDING A FERAL CAT IS VERY KIND... GETTING IT "FIXED" IS EVEN KINDER.

CARETAKER INFORMATION SHEET

Friends of Felines, the State of North Carolina and the County of New Hanover want you to know the laws and codes concerning the care and well being of your feral colony. The following paragraphs outline the expectations of caretakers regarding care, vaccinations and complaints.

The caretaker must maintain their colony in an environment of sanitary conditions. All cats need adequate protection from the elements and have adequate food and water supply. If any animal becomes sick or diseased, the caretaker must contact their veterinarian to have the animal examined and properly cared for. All cats in the colony must be spayed or neutered and vaccinated against rabies.

**The first rabies vaccination of a cat is valid for one year from the date of vaccination. A second vaccination is due after one year and is valid for three years from the date of vaccination.** Friends of Felines will assist caretakers by lending you traps to have the cats vaccinated against rabies at the proper time. Rabies as well as distemper vaccinations are critical in controlling the spread of these diseases.

If a nuisance complaint is reported to Animal Services regarding your feral colony, please contact Friends of Felines at [friendsofelines@aol.com](mailto:friendsofelines@aol.com) as soon as possible. A public nuisance is anything, which annoys and disturbs right and privileges of others. Example: a cat turning over garbage containers, or damaging flower or vegetable gardens. Friends of Felines will assist you in answering any medical questions, vaccination dates and overall condition of your colony. We will work with you and Animal Services to resolve the complaint.

We ask all caretakers to keep cats under sanitary and humane conditions, to provide proper food and water at all times, shelter from the weather, reasonably clean quarters and proper medical attention for sick, diseased or injured animals, as well as adequate vaccinations against disease according to the laws of the State of North Carolina and the County of New Hanover.

PRINT NAME \_\_\_\_\_ SIGNATURE \_\_\_\_\_

HOME ADDRESS (for newsletter) \_\_\_\_\_

EMAIL ADDRESS (for newsletter if preferred) \_\_\_\_\_

LOCATION OF COLONY \_\_\_\_\_

DATE \_\_\_\_\_ TELEPHONE \_\_\_\_\_

FRIENDS OF FELINES REPRESENTATIVE \_\_\_\_\_

This information will not be viewed, shared or sold to any private or government organization, individual or entity.  
It is for the sole use of Friends of Felines.

FRIENDS OF FELINES  
P.O. BOX 475  
CASTLE HAYNE, NC 28429  
friendsofelines@aol.com  
910.452.6721

TRAPPING AND RELEASE FORM

\_\_\_\_\_ I will be trapping feral cats on my property or at a location to which I have legal access and authority to trap.

\_\_\_\_\_ I hereby authorize \_\_\_\_\_ & \_\_\_\_\_ to trap on my property or on a location to which I have legal access and authority to trap.

To be eligible for the FRIENDS OF FELINES program, I understand free spay/neuter is available solely for wild/stray unowned cats, and I certify to the best of my knowledge that these cats are unowned.

**I also recognize the risks all animals face when undergoing anesthesia, particularly those cats that are pregnant or in heat, and hold FRIENDS OF FELINES and its members harmless should a cat not make it through surgery, or experience complications afterward. Any cat that has an allergic reaction or is deemed by the veterinarian to be fatally ill or fatally injured may be humanely euthanized. I also release FRIENDS OF FELINES and its members from any liability for injuries, which I may incur, or cause while trapping or transporting these cats.**

While in our care, your cat will be spayed or neutered, vaccinated for rabies and feline distemper, weighed, ears cleaned and treated for mites, sprayed with Frontline and combed for fleas and ticks, and finally his/her **left ear will be tipped 1/8" straight across.**

I promise to keep these cats under sanitary and humane conditions, to provide proper food and water at all times, shelter from the weather, reasonably clean quarters and proper medical attention for sick, diseased or injured animals, as well as adequate vaccinations against disease when they are returned to the locations from which they were taken following surgery. I acknowledge the possibility that once released, some cats may not return.

I recognize that FRIENDS OF FELINES is not responsible for the fostering or adopting out of kittens encountered during the trapping.

PRINT NAME \_\_\_\_\_ SIGNATURE \_\_\_\_\_

HOME ADDRESS (for newsletter) \_\_\_\_\_

EMAIL ADDRESS (for newsletter if preferred) \_\_\_\_\_

LOCATION OF COLONY \_\_\_\_\_

DATE \_\_\_\_\_ TELEPHONE \_\_\_\_\_

(DONATIONS ARE TAX DEDUCTIBLE)  
(Form Adapted from Feral Cat Coalition, San Diego, California)

**This information will not be viewed, shared or sold to any private or government organization, individual or entity.  
It is for the sole use of Friends of Felines.**

INTERNAL REVENUE SERVICE  
 P. O. BOX 2508  
 CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **July 17 2001**

Employer Identification Number:  
 56-1973859

DLN:  
 201206010

FRIENDS OF FELINES  
 C/O JENNIFER DIXON  
 PO BOX 473  
 CASTLE ROCK, NC 28419-0475

Contact Person:  
 GREGORY K CLWINE ID# 31382  
 Contact Telephone Number:  
 (877) 829-5500  
 Addendum Applies:  
 No

Dear Applicant:

Based on the information you recently submitted, we have classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Internal Revenue Code because you are described in sections 512(a)(1) and 170(b)(1)(A)(vi).

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in 501(c)(3) is still in effect.

This classification is based on the assumption that your operations will continue as you have stated. If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status.

This supersedes our letter dated May 14, 1992.

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not seek to undo this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, you should keep it in your permanent records.

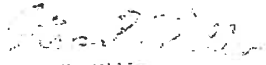
Letter 1078 (06-99)

-2-

FRIENDS OF FELINES

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



Steven T. Miller  
Director, Exempt Organization

12:09 PM  
02/16/20  
Accrual Basis

**Friends of Felines**  
**Profit & Loss**  
January through December 2019  
Jan - Dec 19

<b>Ordinary Income/Expense</b>	
<b>Income</b>	
Award S/N	1,500.00
Contributions	9,855.29
Fundraising	27,933.94
PayPal	3,118.02
<b>Total Income</b>	<u>42,407.25</u>
<b>Expense</b>	
Bank Service Charges	48.00
Cat Food	1,536.61
<b>Medical Expense</b>	
Bow Wow Cats Meow 2020	1,300.00
CB S/N Award 2019	1,240.00
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Vaccines/Medical Supplies	4,399.67
Medical Expense - Other	19.80
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Telephone	657.60
Website	445.11
<b>Total Expense</b>	<u>32,128.61</u>
<b>Net Ordinary Income</b>	<u>10,278.64</u>
<b>Net Income</b>	<u><u>10,278.64</u></u>



1610 Fort Fisher Blvd. South • Kure Beach, NC 28449 • (910) 251-7340 • [www.friendsoffortfisher.com](http://www.friendsoffortfisher.com)

February 25, 2020

Honorable Leanne Pierce, Mayor and  
Members of Carolina Beach Town Council  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

RE: non-profit request for funding of \$5,000

Dear Mayor Pierce and Town Council Members:

Thank you for your past support. It has been integral to our ability to serve the public. Fort Fisher State Historic Site has had a busy year with living history events, re-enactments, speakers, kids' programs and special events serving both local families and tourists, including a two-day event this past January which attracted approximately 12,000 visitors and was featured in magazines and social media both Regionally and Nationally. With 949,000 visitors to the Fort Fisher State Historic Site property last year, the Site is a significant part of what makes Pleasure Island special for locals and tourists alike. Please see the attached page for a more specific breakdown of our year-round programming.

Friends of Fort Fisher, Inc. is the official non-profit support organization for the Fort Fisher State Historic Site. State appropriations do not provide for educational programs, part-time or seasonal staffing, or new or rotating exhibits, and so Fort Fisher State Historic Site depends on the Friends, and contributions made to the Friends, for these needs as well as for some maintenance and promotional needs.

We are requesting \$5,000 for continued support of the Site's educational programming. In addition to (weather permitting) free daily tours, programming will include our *Beat the Heat* summer speakers' series which gives folks an alternative to outside activities in the hot summer months, the Junior Reserve programs (hands on educational programs targeted to children), a Civil War Artillery Program, WWII Anniversary Program, a Holiday Open House, a new exhibit focused on the African American experience at Fort Fisher and our commemoration of the 156<sup>th</sup> anniversary of the battle of Fort Fisher.

Fort Fisher State Historic Site benefits our local community by preserving our local history and this historic site. Beyond our mission, there are practical benefits as well. As North Carolina's most visited state historic site, its educational programs bring people to Carolina Beach. Those tourists stay, eat and spend right here in our area, increasing room occupancy tax, supporting local businesses and increasing the demand for local employment. This contribution to the local economy can be felt year-round, not just in our area's successful summer months. And Fort Fisher State Historic Site is a local employer.



Thank you for your consideration of this request. Your past support has made a real difference in our ability to offer quality educational programs. Please contact me if anything within this application needs further explanation.

Sincerely,



Christine Divoky  
Executive Director  
Friends of Fort Fisher

[cdivoky@friendsoffortfisher.com](mailto:cdivoky@friendsoffortfisher.com) 910.233.2013

Attachments: Breakdown of Fort Fisher State Historic Site's Programs, FY 2020 FOFF Budget with list of donating organizations, Balance Sheet and Profit & Loss Statement

CC: Bruce Oakley, Carolina Beach Town Manager  
Kim Ward, Carolina Beach Town Clerk

### FY 2019 Educational Programs

Educational programming has been made possible, in part, by the generous funding from the town of Carolina Beach.

### FY2019 Statistical Summary Report (July 1, 2018 – June 30, 2019)

Site Visitation FY2019: 949,920

Site Visitation FY2018: 926,064

FY2019 visitation represents an increase of approximately 2.5% over FY2018 visitation.

Special Events and Programs: 22

Special Event and Program Participants: 24,426

Fort Fisher conducted 4 major programs in FY2019 (WWII Program September 1-2, Holiday Open House December 1, 2018, 154<sup>th</sup> Commemoration January 12 and Civil War Navy Program June 15-16). Total participants were 23,652, or an average of 5,913 per program.

Fort Fisher conducted 18 smaller events throughout FY2019. Total participants were 774, or an average of 43 per program. (These include Beat the Heat summer speaker series, children's programs, etc)

Outreach Programs: 21 (These can be visits to classrooms or community groups)

Outreach Program Participants: 2,112

Average outreach program participation: 101

Total Groups: 597

Total Group Participants: 12,903

Average total group participation: 22

School and Children's Groups: 153

School and Children's Group Participants: 7,131

Average school and children's group participation: 47

Adult Groups: 444

Adult Group Participants: 5,772

Average adult group participation: 13

Approved FY 2020 Budget (July 2019 - June 2020)

<b>Expense</b>		<b>Proposed 2019/2020</b>
<b>Interpretation Support</b>		
6770	CW Trail Signs Ins	200
6780	Exhibits	600
6719	Maintenance/Repair	1,100
6754	Membership Drive	1,400
7100	Membership Events	800
7103	An Evening at the Fort	3,600
6610	Postage & Delivery	350
6620	Printing	2,300
6670	Prof. Memberships/Dues	2,000
6752	Site Promotion	1,500
6520	Temp Salaries	15,000
7000	Volunteers	700
6750	Programs other than 155th & reunion	8,200
6758	155th	24,000
67615	Descendants Reunion	1,000
	<b>Subtotal</b>	<b>62,750</b>
<b>FOFF Operations</b>		
6560	Payroll (ED)	53,000
6583	Payroll Taxes (ED)	4,055
6619	Payroll Service	700
6655	Bookkeeper	3,050
6060	Bank Fees	3,500
6616	Insurance (D&O)	1,000
6618	Office Supplies	800
6880	Telephone (ED)	1,200
6650	Professional Fees (Audit)	1,400
	Online Store production	1,000
6930	Donor Cultivation (ED meals)	600



Approved FY 2020 Budget (July 2019 - June 2020)

<b>INCOME</b>	<b>Recommend</b>
<b>General Op Fund</b>	
4011 General Donations	16,225
40111 Raffle	7,500
4016 Memberships	19,203
4060 Local Gov't Support	11,000
40151/52 Vending / Penny Press	4,000
4000 Gift Shop Sales	140,000
7103 An Evening at the Fort	1,500
7100 member events	300
	22,600 Not true income - from savings
4023 Descendants Reuion	1,000
	<b>223,328</b>
<b>Telling Their Story</b>	
28625 WOH Income	1,000
	<b>Subtotal</b>
	1,000
	<b>TOTAL INCOME</b>
	<b>224,328</b>
<b>FY 2020 Financial Assessment</b>	
2019-2020 Planned Program	
Program Expenses	<b>224,328</b>
Projected Income	<b>224,328</b>
<b>Projected Excess</b>	<b>0</b>
<b>Donating Organizations:</b>	
Cape Fear Antique Automobile Association	\$150
Cape Fear United Daughters of the Confederacy	\$100
N. Topsail Elementary School	\$75

1:57 PM  
02/25/20  
Accrual Basis

**Friends of Fort Fisher  
Profit & Loss  
July 2018 through June 2019**

FY 2019  
P+L

	Jul '18 - Jun 19
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
7200 · Membership Events and Benefits	
7202 · Speakers	611.39
<b>Total 7200 · Membership Events and Benefits</b>	<b>611.39</b>
4100 · Capital Campaign Income	3,050.00
4011 · Donations-General Donations/Box	21,067.73
40115 · Donations Check/Credit Card	3,587.68
40111 · Donations - Raffle Tickets	8,012.00
4012 · Donations - Temp. Restricted	4,000.00
4016 · Donations-Members/Matching Gift	20,057.26
4025 · Donation - Stock Proceeds	1,778.28
1156 · Dividend Income on Vanguard Act	9,364.67
4060 · Local Government Funding	9,500.00
4015 · VENDING MACHINES	
40151 · Vending Machine - Penny Press	1,977.00
40152 · Vending Machine - Drink Machine	1,432.32
4015 · VENDING MACHINES - Other	97.50
<b>Total 4015 · VENDING MACHINES</b>	<b>3,506.82</b>
18651 · TELLING THEIR STORY CAMPAIGN	
28625 · Walk Of Honor-Paver Project	1,150.00
28620 · Undesignated	3.00
<b>Total 18651 · TELLING THEIR STORY CAMPAIGN</b>	<b>1,153.00</b>
4000 · GIFT SHOP	
4030 · Sales Discounts	-4,269.93
4000 · GIFT SHOP - Other	129,231.38
<b>Total 4000 · GIFT SHOP</b>	<b>124,961.45</b>
<b>Total Income</b>	<b>210,650.28</b>
<b>Gross Profit</b>	<b>210,650.28</b>
<b>Expense</b>	
7100 · Membership Events & Benefits	
7102 · Speakers	170.82
7101 · Exhibit Openings	390.59
<b>Total 7100 · Membership Events &amp; Benefits</b>	<b>561.41</b>
<b>FOFF OPERATIONS</b>	
<b>PAYROLL EXPENSES</b>	
6560 · E.D. Payroll	
6583 · Taxes - Company Paid	3,434.06
6580 · E.D. Compensation	
6581 · E.D. Net Pay	36,044.75
6582 · Taxes - Employee Paid	8,855.70
<b>Total 6580 · E.D. Compensation</b>	<b>44,900.45</b>
<b>Total 6560 · E.D. Payroll</b>	<b>48,334.51</b>
6619 · Payroll Service	580.66
<b>Total PAYROLL EXPENSES</b>	<b>48,915.17</b>
<b>OPERATIONAL EXPENSES</b>	
6900 · Capital Campaign	
6954 · Capital Campaign Presentations	144.40
6953 · Capital Campaign Computer Equip	1,686.15
6952 · Capital Expense- Printing	356.46
6901 · Campaign Counsel	1,000.00
<b>Total 6900 · Capital Campaign</b>	<b>3,187.01</b>

1:57 PM  
02/25/20  
Accrual Basis

**Friends of Fort Fisher  
Profit & Loss  
July 2018 through June 2019**

	<u>Jul '18 - Jun 19</u>
6650 · Audit/Professional Fees	1,200.00
6655 · Bookkeeper	2,091.30
6060 · Banking Fees	3,882.91
6616 · Insurance (D&O)	854.00
6618 · Office Supplies	716.50
6880 · Telephone	1,100.00
6930 · Food/Meeting/Travel	239.81
6690 · Reconciliation Discrepancies	0.00
<b>Total OPERATIONAL EXPENSES</b>	<u>13,271.53</u>
<b>Total FOFF OPERATIONS</b>	62,186.70
<b>GIFT SHOP/CONCESSIONS</b>	
5000 · Gift Shop Inventory	69,384.81
6617 · GS Supplles/Updates	2,421.19
6820 · Shipping & Handling	4,396.59
6680 · Gift Shop Asst Manager	
6682 · Taxes - Company Paid	966.96
6681 · Gift Shop Mgr. Compensation	
6683 · Gift Shop Mgr. Net Pay	3,246.60
6684 · Taxes - Employee Paid	1,371.70
6681 · Gift Shop Mgr. Compensation - Other	8,063.52
<b>Total 6681 · Gift Shop Mgr. Compensation</b>	<u>12,681.82</u>
<b>Total 6680 · Gift Shop Asst Manager</b>	<u>13,648.78</u>
<b>Total GIFT SHOP/CONCESSIONS</b>	89,851.37
<b>INTREPRETATION SUPPORT</b>	
6770 · C. W. Trail Signs Ins	400.00
6780 · Exhibits	602.83
6719 · Maintenance/Repairs	1,290.77
6754 · Membership Drive	1,123.62
6610 · Postage and Delivery	266.17
6620 · Printing and Reproduction	2,025.77
6670 · Profesional Membership/Dues	
6228 · Web Hosting & Development	3,039.66
6223 · Filing Fee-Solicitation License	52.00
6221 · Domains/Emails	611.98
6219 · Subscriptions/Dues	1,080.00
6670 · Profesional Membership/Dues - Other	2,110.00
<b>Total 6670 · Profesional Membership/Dues</b>	<u>6,893.64</u>
6520 · Temporary Salaries	10,000.00
7000 · Volunteers	772.39
<b>Programs &amp; Special Events</b>	
6762 · Christmas Open House	219.14
6750 · Public Programs/Special Events	9,210.32
6752 · Site Promotion	417.31
<b>Total Programs &amp; Special Events</b>	<u>9,846.77</u>
<b>Total INTREPRETATION SUPPORT</b>	33,221.96
<b>SPECIAL PROJECTS/Fund Raising</b>	
18675 · Cannon Trailer (Outreach)	164.50
Walk of Honor	
18625 · Walk Of Honor Pavers	280.00
<b>Total Walk of Honor</b>	<u>280.00</u>
18670 · Rifle Raffle	1,198.10
<b>Total SPECIAL PROJECTS/Fund Raising</b>	1,642.60
<b>STRATEGIC PLANNING</b>	
6416 · Detailed Design	393.59
6415 · Master Planning	20.11
<b>Total STRATEGIC PLANNING</b>	<u>413.70</u>

1:57 PM  
 02/25/20  
 Accrual Basis

**Friends of Fort Fisher**  
**Profit & Loss**  
 July 2018 through June 2019

	Jul '18 - Jun 19
6530 · Misc. State Sales Tax	-481.20
<b>Total Expense</b>	<b>187,396.54</b>
<b>Net Ordinary Income</b>	<b>23,253.74</b>
<b>Other Income/Expense</b>	
Other Expense	
8010 · Other Expenses	19,913.15
<b>Total Other Expense</b>	<b>19,913.15</b>
<b>Net Other Income</b>	<b>-19,913.15</b>
<b>Net Income</b>	<b>3,340.59</b>



1:47 PM  
02/25/20  
Accrual Basis

**Friends of Fort Fisher  
Balance Sheet  
As of June 30, 2019**

FY 2019  
Balance sheet

	Jun 30, 19
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
1109 · BB&T Capital Campaign Account	84,893.99
1108 · BANK OF AMERICA	65,309.38
1130 · Cash on hand	800.00
<b>Total Checking/Savings</b>	151,003.37
<b>Other Current Assets</b>	
Sales Tax Receivable	-14.82
1140 · Vanguard	159,888.89
<b>Total Other Current Assets</b>	159,874.07
<b>Total Current Assets</b>	310,877.44
<b>Fixed Assets</b>	
<b>1400 · Equipment</b>	
1420 · Accumulated Depreciation	
1421 · office equipment	-19,164.02
1422 · improvements	-3,569.37
1423 · equipment	-49,827.52
1424 · Furniture	-2,472.09
<b>Total 1420 · Accumulated Depreciation</b>	-75,033.00
1400 · Equipment - Other	84,197.00
<b>Total 1400 · Equipment</b>	9,164.00
<b>Total Fixed Assets</b>	9,164.00
<b>Other Assets</b>	
1430 · Inventories	47,720.69
<b>Total Other Assets</b>	47,720.69
<b>TOTAL ASSETS</b>	<b>367,762.13</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Accounts Payable</b>	
2000 · Accounts Payable	2,415.99
<b>Total Accounts Payable</b>	2,415.99
<b>Other Current Liabilities</b>	
4151 · Capital Campaign Loan Repayment	20,000.00
2060 · Sales Tax Payable	-352.45
<b>Total Other Current Liabilities</b>	19,647.55
<b>Total Current Liabilities</b>	22,063.54
<b>Total Liabilities</b>	22,063.54
<b>Equity</b>	
3900 · Net Assets UnRestricted	342,358.00
Net Income	3,340.59
<b>Total Equity</b>	345,698.59
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>367,762.13</b>



————— **Federal Point** —————  
**Historic Preservation Society, Inc.**

February 25, 2020

Honorable Mayor & Council  
 Town of Carolina Beach  
 1121 North Lake Park Boulevard  
 Carolina Beach, NC 28428

Please consider the following request for a donation in your year 2020/2021 budget.

**Organization Name:** Federal Point Historic Preservation Society, Inc.  
**Organization Address:** P.O. Box 623  
 1121-A North Lake Park Boulevard  
 Carolina Beach, NC 28428  
**Staff Contact:** Rebecca Taylor – Manager  
 (910) 458-0502

**The Federal Point History Center** is a function of the Federal Point Historic Preservation Society, Inc., a non-profit organization dedicated to the preservation, protection and portrayal of the Federal Point history through monthly newsletters, educational meetings, and exhibits. Our library and archives are also available to researchers, genealogists, and writers working on material related to the history of the Federal Point area.

The History Center is open Tuesdays, Fridays, and Saturdays year round, staffed by our contract employees and volunteers. ***The funds we are requesting will be used specifically for the public operation of the History Center, including utilities, insurance and other facility maintenance as well as for a portion of the salary of the History Center contract employees.***

Meetings are held the third Monday of each month at the History Center where lecturers and speakers throughout the State present programs on historic topics. These programs are free to the public, with an average attendance of 40 members and guests.

**Total Request to the Town of Carolina Beach: \$9,000.00**

**Tax-exempt 501(c)(3) Federal Tax ID #: 56-1869814**

Sincerely,  
 Federal Point Historic Preservation Society, Inc.

By: *Darlene J. Bright*  
 Darlene J. Bright, Director

P.O. Box 623 • Carolina Beach, North Carolina 28428 • (910) 458-0502



————— Federal Point —————  
**Historic Preservation Society, Inc.**

Treasurer's Statement  
Federal Point Historic Preservation Society

February 25, 2020

Our organization does not require a formal audit. Detailed reports of all income and expenditures are presented to the membership at each monthly meeting. In addition, quarterly reports are closely reviewed by the Board of Directors. The Board also establishes and approves the budget each fiscal year.

The accounting procedures practiced by this organization were recommended and established by Bill Ufferman around 2004. At that time, Mr. Ufferman did an informal audit and review of the financial activities of the Society and helped the Society to establish the accounting system that is currently in use. Our system is transparent and accounts for all expenditures and receipts through the use of an industry approved electronic accounting system and spreadsheets.

Respectfully:

A handwritten signature in cursive script that reads "Eddie Capel".

Eddie Capel  
Treasurer

P.O. Box 623 • Carolina Beach, North Carolina 28428 • (910) 458-0502

10:22 AM

**Federal Point Historical Preservation Society**  
**Profit & Loss**  
 January through December 2019

03/03/20

Accrual Basis

	Jan - Dec 19
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
<b>4000 · Membership Dues</b>	
4001 · Individual - New	560.00
4002 · Individual - Renewals	1,730.00
4003 · Individual - Lifetime	350.00
4004 · Business - New	140.00
4005 · Business - Renewal	580.00
<b>Total 4000 · Membership Dues</b>	3,360.00
<b>4008 · Fundraising</b>	
4008-1 Cookbook - Not Taxed	160.00
4008-2 Cookbook - Taxed	532.50
4008-3 Fort Fisher Reenactment	931.39
<b>Total 4008 · Fundraising</b>	1,623.89
<b>4010 · Donations</b>	
4025 Historic Boardwalk Tour	600.00
4011 · Town of Carolina Beach	7,500.00
4012 · Town of Kure Beach	1,500.00
4013 · Donation box	173.27
4016 · Miscellaneous donations	795.00
4010 · Donations - Other	300.00
<b>Total 4010 · Donations</b>	10,868.27
<b>4030 · Gift Shop</b>	
4031 · Taxed	1,578.46
4032 · Not Taxed	80.00
4033 · Shipping and Handling	5.00
4030 · Gift Shop - Other	-87.86
<b>Total 4030 · Gift Shop</b>	1,575.60
<b>4040 · Walk of Fame</b>	2,132.00
<b>Total Income</b>	19,559.76
<b>Cost of Goods Sold</b>	
50000 · Cost of Goods Sold	67.41
<b>Total COGS</b>	67.41
<b>Gross Profit</b>	19,492.35
<b>Expense</b>	
<b>5000 · General Operating</b>	
5001 · Dues and subscriptions	50.00
5005 · Historical sites committees	
Historic sites inventory,plaque	149.80
<b>Total 5005 · Historical sites committees</b>	149.80
5012 · Memorials	50.00
<b>5015 · Office supplies</b>	
Computer supplies & operation	105.93
Copy paper & stationery	602.22
Office supplies	235.76
5015 · Office supplies - Other	260.14
<b>Total 5015 · Office supplies</b>	1,204.05
5020 · Newsletter	
Postage	600.00
<b>Total 5020 · Newsletter</b>	600.00

**Federal Point Historic Preservation Society  
Proposed Budget  
July 2018 through June 2019**

Cash Basis

	Jul '19 - Jun 20	Budget	\$ Over Budget	% of Budget
<b>Ordinary Income/Expense</b>				
<b>Income</b>				
4000 · Membership Dues				
4001 · Individual - New	0.00	500.00	-500.00	0.0%
4002 · Individual - Renewals	0.00	2,900.00	-2,900.00	0.0%
4003 · Individual - Lifetime	0.00	0.00	0.00	0.0%
4004 · Business - New	0.00	100.00	-100.00	0.0%
4005 · Business - Renewal	0.00	640.00	-640.00	0.0%
4000 · Membership Dues - Other	0.00	0.00	0.00	0.0%
<b>Total 4000 · Membership Dues</b>	<b>0.00</b>	<b>4,140.00</b>	<b>-4,140.00</b>	<b>0.0%</b>
4008 · Fundraising				
4008-1 Cookbook - Not Taxed	0.00	160.00	-160.00	0.0%
4008-2 Cookbook - Taxed	0.00	850.00	-850.00	0.0%
4008-3 Fort Fisher Reenactment	0.00	1,000.00	-1,000.00	0.0%
4008 · Fundraising - Other	0.00	0.00	0.00	0.0%
<b>Total 4008 · Fundraising</b>	<b>0.00</b>	<b>2,010.00</b>	<b>-2,010.00</b>	<b>0.0%</b>
4010 · Donations				
4025 Historic Boardwalk Tour	0.00	490.00	-490.00	0.0%
4026 Historic Plaques	0.00	300.00	-300.00	0.0%
4011 · Town of Carolina Beach	0.00	7,500.00	-7,500.00	0.0%
4012 · Town of Kure Beach	0.00	1,500.00	-1,500.00	0.0%
4013 · Donation box	0.00	150.00	-150.00	0.0%
4016 · Miscellaneous donations	0.00	150.00	-150.00	0.0%
4018 · GOT-EM-ON LIVE BAIT CLUB	0.00	500.00	-500.00	0.0%
4010 · Donations - Other	0.00	0.00	0.00	0.0%
<b>Total 4010 · Donations</b>	<b>0.00</b>	<b>10,590.00</b>	<b>-10,590.00</b>	<b>0.0%</b>
4030 · Gift Shop				
4031 · Taxed	0.00	0.00	0.00	0.0%
4032 · Not Taxed	0.00	360.00	-360.00	0.0%
4033 · Shipping and Handling	0.00	0.00	0.00	0.0%
4030 · Gift Shop - Other	0.00	1,500.00	-1,500.00	0.0%
<b>Total 4030 · Gift Shop</b>	<b>0.00</b>	<b>1,860.00</b>	<b>-1,860.00</b>	<b>0.0%</b>
4040 · Walk of Fame	0.00	2,000.00	-2,000.00	0.0%
4999 · Interest earned in Money Market	0.00	0.00	0.00	0.0%
<b>Total Income</b>	<b>0.00</b>	<b>20,600.00</b>	<b>-20,600.00</b>	<b>0.0%</b>
<b>Gross Profit</b>	<b>0.00</b>	<b>20,600.00</b>	<b>-20,600.00</b>	<b>0.0%</b>
<b>Expense</b>				
5000 · General Operating				
5001 · Dues and subscriptions	0.00	75.00	-75.00	0.0%
5003 · Fundraising Costs				
5004 Fort Fisher Reenactment	0.00	275.00	-275.00	0.0%
5003 · Fundraising Costs - Other	0.00	0.00	0.00	0.0%
<b>Total 5003 · Fundraising Costs</b>	<b>0.00</b>	<b>275.00</b>	<b>-275.00</b>	<b>0.0%</b>
5005 · Historical sites committees				
Historic sites inventory,plaque	0.00	300.00	-300.00	0.0%
<b>Total 5005 · Historical sites committees</b>	<b>0.00</b>	<b>300.00</b>	<b>-300.00</b>	<b>0.0%</b>
5015 · Office supplies				
Computer supplies & operation	0.00	0.00	0.00	0.0%
Copy paper & stationery	0.00	0.00	0.00	0.0%
Office supplies	0.00	0.00	0.00	0.0%
5015 · Office supplies - Other	0.00	525.00	-525.00	0.0%
<b>Total 5015 · Office supplies</b>	<b>0.00</b>	<b>525.00</b>	<b>-525.00</b>	<b>0.0%</b>

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03/03/20

Accrual Basis

**Federal Point Historic Preservation Society  
Profit & Loss Budget vs. Actual  
July 2019 through June 2020**

	Jul '19 - Jun 20	Budget
<b>Ordinary Income/Expense</b>		
<b>Income</b>		
4000 · Membership Dues		
4001 · Individual - New	355.00	500.00
4002 · Individual - Renewals	880.00	2,000.00
4003 · Individual - Lifetime	0.00	0.00
4004 · Business - New	140.00	200.00
4005 · Business - Renewal	320.00	640.00
4000 · Membership Dues - Other	0.00	0.00
<b>Total 4000 · Membership Dues</b>	<b>1,695.00</b>	<b>3,340.00</b>
4008 · Fundraising		
4008-1 Cookbook - Not Taxed	160.00	0.00
4008-2 Cookbook - Taxed	97.50	500.00
4008-3 Fort Fisher Reenactment	2,635.76	1,000.00
4008 · Fundraising - Other	0.00	0.00
<b>Total 4008 · Fundraising</b>	<b>2,893.26</b>	<b>1,500.00</b>
4010 · Donations		
4025 Historic Boardwalk Tour	290.00	600.00
4026 Historic Plaques	0.00	200.00
4011 · Town of Carolina Beach	7,500.00	7,500.00
4012 · Town of Kure Beach	1,500.00	1,500.00
4013 · Donation box	0.00	175.00
4016 · Miscellaneous donations	695.00	150.00
4018 · GOT-EM-ON LIVE BAIT CLUB	0.00	500.00
4010 · Donations - Other	0.00	0.00
<b>Total 4010 · Donations</b>	<b>9,985.00</b>	<b>10,625.00</b>
4030 · Gift Shop		
4031 · Taxed	909.97	0.00
4032 · Not Taxed	80.00	0.00
4033 · Shipping and Handling	0.00	0.00
4030 · Gift Shop - Other	0.00	1,900.00
<b>Total 4030 · Gift Shop</b>	<b>989.97</b>	<b>1,900.00</b>
4035 · Sugar Loaf Earthworks	2,000.00	
4040 · Walk of Fame	1,602.00	2,025.00
4999 · Interest earned in Money Market	0.00	0.00
<b>Total Income</b>	<b>19,165.23</b>	<b>19,390.00</b>
<b>Cost of Goods Sold</b>		
50000 · Cost of Goods Sold	44.41	
<b>Total COGS</b>	<b>44.41</b>	
<b>Gross Profit</b>	<b>19,120.82</b>	<b>19,390.00</b>
<b>Expense</b>		
5000 · General Operating		
5001 · Dues and subscriptions	50.00	50.00
5003 · Fundraising Costs		
5004 Fort Fisher Reenactment	280.16	0.00
5003 · Fundraising Costs - Other	0.00	0.00
<b>Total 5003 · Fundraising Costs</b>	<b>280.16</b>	<b>0.00</b>
5005 · Historical sites committees		
Historic sites inventory,plaque	74.90	300.00
<b>Total 5005 · Historical sites committees</b>	<b>74.90</b>	<b>300.00</b>
5012 · Memorials	50.00	

**FEDERAL POINT HISTORIC PRESERVATION SOCIETY**

2019            1099 – Miscellaneous Annual Summary

                  2 Contractors      Total Amount: \$10,175.00

**FEDERAL POINT HISTORIC PRESERVATION SOCIETY**  
**BANK ACCOUNTS AS OF DECEMBER 31, 2019**

Checking	
Ending Balance:	\$11,207.78
Money Market	
Ending Balance:	\$23,370.68





## AGENDA ITEM

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Miles Murphy

Department: Planning

### Consider a Conditional Use Permit located at 1230 N. Lake Park Blvd for a Business Planned Unit Development Applicant: Bryant Real Estate Investments, LLC

#### BACKGROUND:

The applicant, Bryant Real Estate Investments LLC., is requesting a Conditional Use Permit (CUP) to build a two-unit business PUD comprised of an existing one office building and a proposed building with office and warehouse space at 1230 N. Lake Park Blvd. The parcel is zoned HB which allows Business PUDs.

**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) 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;

- Ingress and egress will be via Risley Rd.

(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;

- Parking will be based off the parking requirements for office and warehouse space

- 1 per 300ft<sup>2</sup> of office and 1 per 5000ft<sup>2</sup> of warehouse for a total of 23 parking spaces

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

- Trash service will not be altered

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

- Stormwater and utilities will be dealt with by standard methods

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

- There will be a minimum of a 10' landscape buffer around the second building and 5' around the preexisting structure

(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 at this time
- Any new signs would have to comply with the sign ordinance

(7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land.

- There is no require yard or open space beyond general zoning standards for a residential PUD
- Minimum of 15' between structures
- Minimum of 10% of open space
- Below maximum of 60% lot coverage

**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.;

- Business PUDs are permitted in HB and the zoning standards are being followed

(2) That the use meets all required conditions and specifications;

- The proposed CUP meets all required conditions.
- They are not asking for any waivers or modifications.

(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 will conform with the HB zoning district and be buffered from adjacent residential uses

(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 Commercial 1 area includes a continued use as a highway business corridor. Single-family residential uses will be allowed if they are dependent and subordinate to commercial uses. Transportation and traffic improvements are encouraged and will be sought from sources such as the Metropolitan Planning Organization's Long-range Transportation Plan, the North Carolina Department of Transportation's Transportation Improvement Program, the North End Traffic and Circulation Study, and a planned Fiscal Year 07-08 Town-wide Transportation Plan. Commercial uses in Commercial 1 shall primarily include retail, office, restaurant, entertainment, and service. Building height on property abutting Highway 421/Lake Park Boulevard shall not exceed a 50' maximum. Building height on property not abutting Highway 421/Lake Park Boulevard shall not exceed a 60' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A). 10,000 square foot lot minimums will be required. Lot coverage will

not be allowed to exceed 60%. Stormwater, signage and lighting regulation should continually be addressed to meet future needs, issues or problems, given the predominant commercial use of the area.

**ACTION REQUESTED:**

- Approve the CUP in accordance with the draft grant order and that the proposal meets the 7 specific standards and the 4 general conditions, if developed according to the plan as submitted and approved.

- Deny the CUP as it fails to sufficiently meet 1 or more of the general conditions to include (state conditions not met in the motion)

- (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.;

- (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

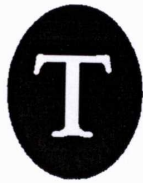
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town land use plan and policies.

**COMMITTEE RECOMMENDATION:**

Staff recommends approval of the CUP

**ATTACHMENTS:**

- [19-C09 CUP App](#)
- [19008-C2 01-08-20](#)
- [1230 LPBN PUD - PPT](#)



Job No. 19008

Date: 11-05-19

# 19-C09

**TRIPP ENGINEERING, P.C.**  
419 Chestnut Street, Wilmington, NC 28401  
Phone: (910) 763-5100 • FAX: (910) 763-5631  
Email: [trippeng@ec.rr.com](mailto:trippeng@ec.rr.com)

LETTER OF TRANSMITTAL

To: Town of Carolina Beach  
Attention: Planning Department  
Subject: Bryant Real Estate 2

\_\_\_\_\_ FAX TRANSMITTAL: NUMBER OF PAGES INCLUDES COVER \_\_\_\_\_

I am sending you: ( X ) ATTACHED ( ) UNDER SEPARATE COVER

( X ) Prints ( ) Tracings ( ) Copy of letter ( ) Specifications ( X ) Other

Copies	Item No.	Description
1		Conditional Use Permit Application
1		\$800 Check
1	C1-C3	Site Plans and Details
1		Pdf Disk

These are transmitted as checked below:

( ) For Approval ( ) For Your Use ( ) Sign & Return ( X ) Review

Remarks: Please schedule this project for the December 16, 2019 TRC meeting. Please contact us if you need any additional information. Thank you.

cc: \_\_\_\_\_  
\_\_\_\_\_

Signed: Phil Tripp



Please complete all sections of the application.

**A. Property Information**

Address(es): 1230 N. Lake Park Blvd.

PIN(s): R08810-005-002-000

Project Name Bryant Real Estate 2

Size of lot(s): 0.91 ac

**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):

The proposed building will provide an accessory structure for the existing real estate business and tenant space for lease

**C. Applicant Contact Information**

Bryant Real Estate Investments, LLC

Company/corporate Name (if applicable):

Mark Bryant

Applicant's Name

1001 N. Lumina Ave.

Mailing Address

Wrightsville Beach, NC 28480

City, State, and Zip Code

910-352-1372

Telephone

mbryant@bryantre.com

Email

**D. Owner Contact Information (if different)**

Bryant Real Estate Investments, LLC

Owner's Name

1001 N. Lumina Ave.

Mailing Address

Wrightsville Beach, NC 28480

City, State, and Zip Code

910-352-1372

Telephone

mbryant@bryantre.com

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 proposed building will provide an accessory structure for the existing real estate business and tenant space for lease. The owner has spent much time and effort to create an architecturally pleasing facility and the second building will be a compliment. Health and safety are both addressed through the layout. It is open with great visibility and accessibility to Risley Rd. and North Lake Park Blvd.

---

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

**No waivers are 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 property has been improved and the tax value increased significantly over the previous usage. The improvements and increased value should reflect positively on all the neighboring properties. The owner/business owner connects vacationers and vacation homes in and around Pleasure Island. The second building will enhance their ability to service customers from this location, it also supplements a return on the investment.

---

- 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.:

---

The property is located within a Neighborhood Commercial node area as per the Land Use Plan. The existing and proposed facilities provide a commercial service to the local community. The property owners are residents of the County and are good neighbors to this area and will continue to be by attracting tenants with like-minded attitudes.

---

*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:

The proposed facility will utilize existing driveway connection onto Risley Road. The property is of nearly new construction and the site complies with Town of Carolina Beach parking, pedestrian and fire requirements. The site plan was developed with the possibility a second building built into the design.

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 parking facilities are constructed. Noise and glare will be confined between the two buildings.

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

Solid waste is through road side carts.

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.

Water and sewer are available along Risley Road. Stormwater improvements were installed in the previous phase to accommodate the second building as is.

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

Screening and buffers were established with the earlier phase and will be protected and maintained throughout the construction of the proposed phase.

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;

Signage will be provided on the storefront of the proposed building and will be in accordance with Town regulations. Exterior lighting for the parking lot as well as

Building lighting will be added to the front of the proposed building and faces the rear of the existing building, providing for screening of the light between the two buildings.

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

The protection of trees was important from the start of phase one. The existing building and parking were situated to provide for the protection of several existing

large oak trees. The second building is to be placed in a remaining vacant area of the property and will avoid disturbance and provide protection to adjacent vegetation.



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

**I. Site Plan Criteria**

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

Yes	No	N/A	
<input checked="" 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.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Engineers scale 1 inch = 40 ft or larger
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Title block or brief description of project including all proposed uses
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Date
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	North arrow
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Property and zoning boundaries
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The square footage of the site
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lot coverage (buildings, decks, steps)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Location of all existing and proposed structures and the setbacks from property lines of affected structures to remain on-site
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Design of driveways and parking
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adjacent right-of-ways labeled with the street name and right of way width
<input checked="" 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:

Yes	No	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Location and design of refuse facilities
<input checked="" 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 checked="" type="checkbox"/>	Existing and/or proposed fire hydrants (showing distances)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Adjacent properties with owners' information and approximate location of structures
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Distances between all buildings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Number of stories and height of all structures
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Locations of all entrances and exits to all structures
<input checked="" 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Location of flood zones and finished floor elevations
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CAMA Areas of Environmental Concern (AEC) and CAMA setbacks
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed landscaping including percentages of open space
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stormwater management systems
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cross-sectional details of all streets, roads, ditches, and parking lot improvements
<input checked="" 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 checked="" type="checkbox"/>	Location of fire department connection(s) for standpipes
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Turning radii, turnarounds, access grades, height of overhead obstructions
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Dimensions and locations of all signs
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A vicinity map drawn with north indicated

- I have provided a scaled electronic version of each required drawing
- 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 Tripp Engineering

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.

  
\_\_\_\_\_  
Signature

11/15/19  
Date


**AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF**

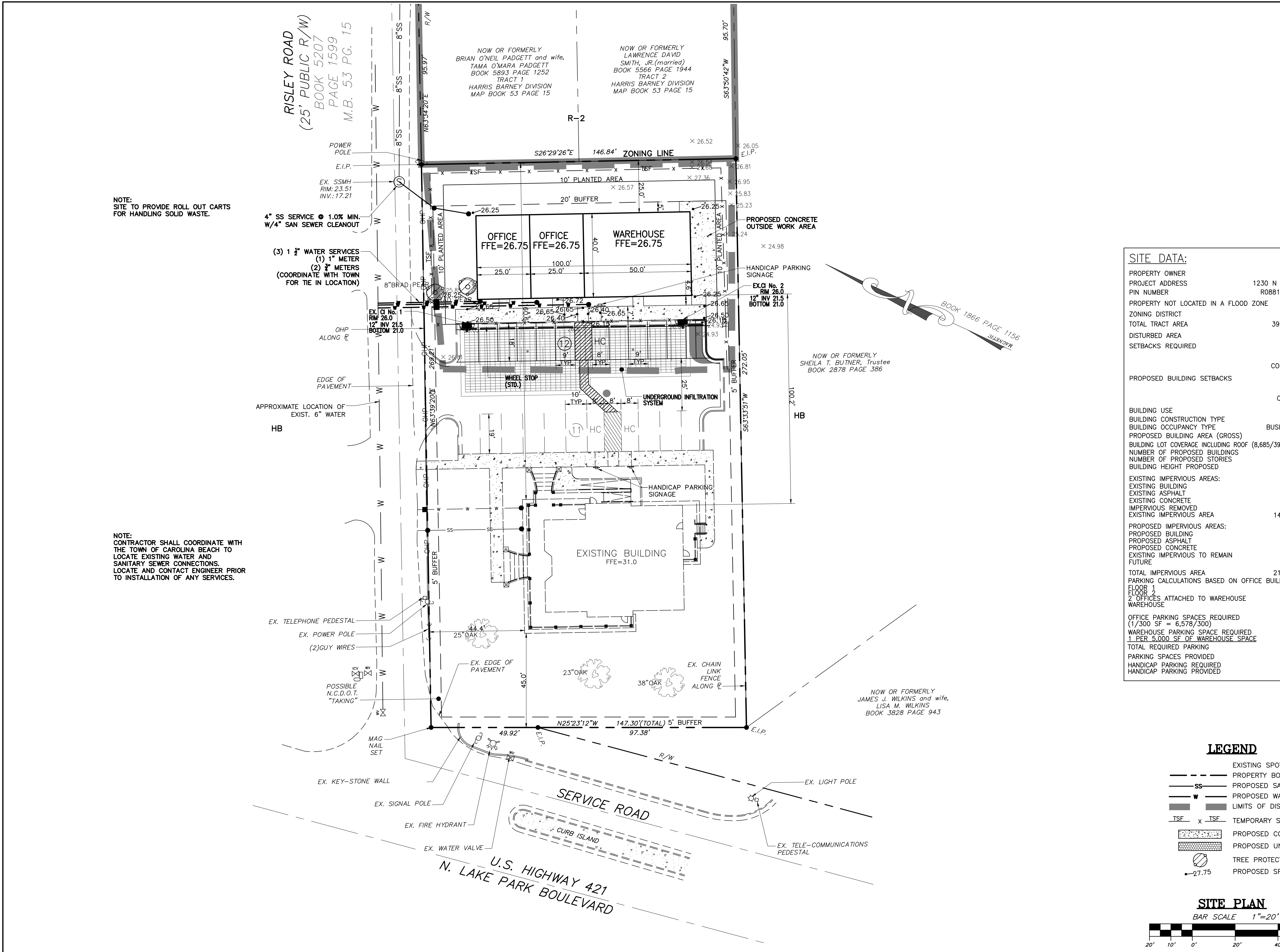
The undersigned owner, Mark Bryant, does hereby appoint Tripp Engineering to act on my behalf for the purpose of petitioning the Town of Carolina Beach for: a) an amendment to the text regulations; b) a change to the zoning map; c) approval of a special use permit; d) approval of a special use district; 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: 11/5/19

Appointee's Name, Address & Telephone:

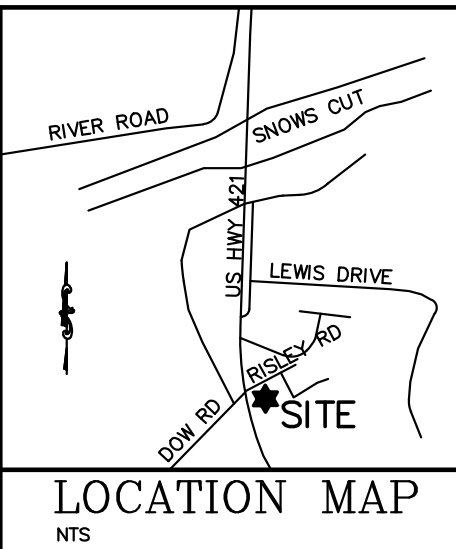
Phil Tripp  
419 Chestnut St  
Wilmington NC 28401  
910-763-5100

Signature of Owner: 



NOTE:  
SITE TO PROVIDE ROLL OUT CARTS  
FOR HANDLING SOLID WASTE.

NOTE:  
CONTRACTOR SHALL COORDINATE WITH  
THE TOWN OF CAROLINA BEACH TO  
LOCATE EXISTING WATER AND  
SANITARY SEWER CONNECTIONS.  
LOCATE AND CONTACT ENGINEER PRIOR  
TO INSTALLATION OF ANY SERVICES.



REVISIONS		
NO.	Description	By

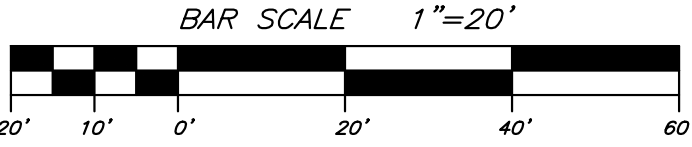
**SITE DATA:**

PROPERTY OWNER	ROBERT D BRYANT
PROJECT ADDRESS	1230 N LAKE PARK BLVD
PIN NUMBER	RO8810-005-002-000
PROPERTY NOT LOCATED IN A FLOOD ZONE	
ZONING DISTRICT	HB
TOTAL TRACT AREA	39,799 SF/0.91 AC
DISTURBED AREA	0.31 AC
SETBACKS REQUIRED	FRONT: 30' REAR: 20' SIDE: 10' CORNER SIDE: 12.5'
PROPOSED BUILDING SETBACKS	FRONT: 44.4' REAR: 20' SIDE: 160.6' CORNER SIDE: 45'
BUILDING USE	OFFICE
BUILDING CONSTRUCTION TYPE	V
BUILDING OCCUPANCY TYPE	BUSINESS (GROUP B)
PROPOSED BUILDING AREA (GROSS)	4,000 SF
BUILDING LOT COVERAGE INCLUDING ROOF (8,685/39,799)	21.82%
NUMBER OF PROPOSED BUILDINGS	1
NUMBER OF PROPOSED STORIES	1
BUILDING HEIGHT PROPOSED	20'
EXISTING IMPERVIOUS AREAS:	
EXISTING BUILDING	4,685 SF
EXISTING ASPHALT	7,845 SF
EXISTING CONCRETE	2,060 SF
IMPERVIOUS REMOVED	57 SF
EXISTING IMPERVIOUS AREA	14,533 SF (29.4%)
PROPOSED IMPERVIOUS AREAS:	
PROPOSED BUILDING	4,000 SF
PROPOSED ASPHALT	171 SF
PROPOSED CONCRETE	1,479 SF
EXISTING IMPERVIOUS TO REMAIN	14,533 SF
FUTURE	1,407 SF
TOTAL IMPERVIOUS AREA	21,590 SF (54.3%)
PARKING CALCULATIONS BASED ON OFFICE BUILDING	
FLOOR 1	2,687 SF
FLOOR 2	1,861 SF
2 OFFICES ATTACHED TO WAREHOUSE	2,000 SF
WAREHOUSE	2,000 SF
OFFICE PARKING SPACES REQUIRED (1/300 SF = 6,578/300)	22
WAREHOUSE PARKING SPACE REQUIRED (1 PER 5,000 SF OF WAREHOUSE SPACE)	1
TOTAL REQUIRED PARKING	23
PARKING SPACES PROVIDED	23
HANDICAP PARKING REQUIRED	1
HANDICAP PARKING PROVIDED	1

**LEGEND**

- EXISTING SPOT ELEVATION
- - - - - PROPERTY BOUNDARY
- SS- PROPOSED SANITARY SEWER
- W- PROPOSED WATER
- LIMITS OF DISTURBANCE
- TSF x- TSF TEMPORARY SILT FENCE
- [Pattern] PROPOSED CONCRETE AREA
- [Pattern] PROPOSED UNDERGROUND INFILTRATION SYSTEM
- (Circle with X) TREE PROTECTION - DO NOT DISTURB
- 27.75- PROPOSED SPOT ELEVATION

**SITE PLAN**



**TRIPP ENGINEERING, P.C.**  
419 Chestnut Street  
Wilmington, North Carolina 28401  
Phone 910-763-5100  
Fax 910-763-5631  
© 2013 TRIPP ENGINEERING, P.C.

**BRYANT REAL ESTATE**  
CAROLINA BEACH, NORTH CAROLINA

DATE 01-08-20  
DESIGN PGT  
DRAWN JET/EJW

**C2**  
SHEET 2 OF 3  
19008





# Conditional Use Permit: 1230 N. Lake Park Blvd – Planned Unit Development

March 10<sup>th</sup>, 2020  
Miles Murphy – Planner



**Location:** 1230 N. Lake Park Blvd

**Applicant:** Bryant Real Estate Investments LLC

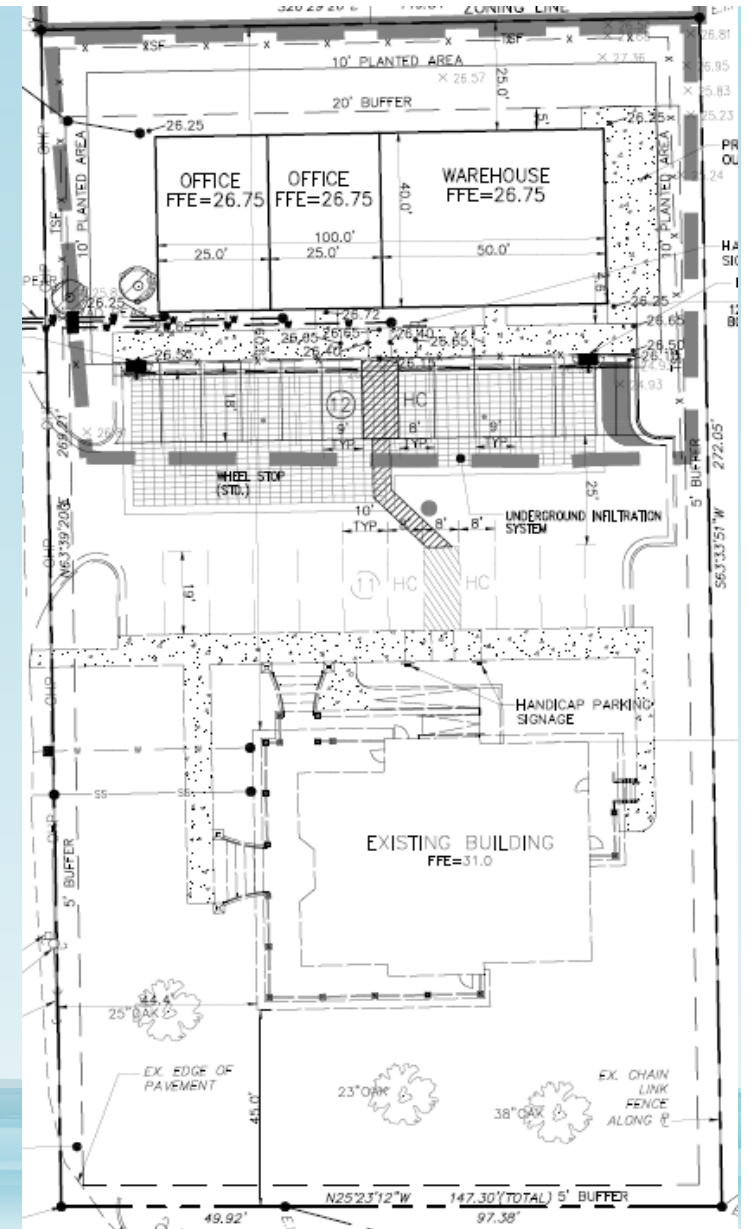
ARTICLE III. – ZONING DISTRICT REGULATIONS - HB

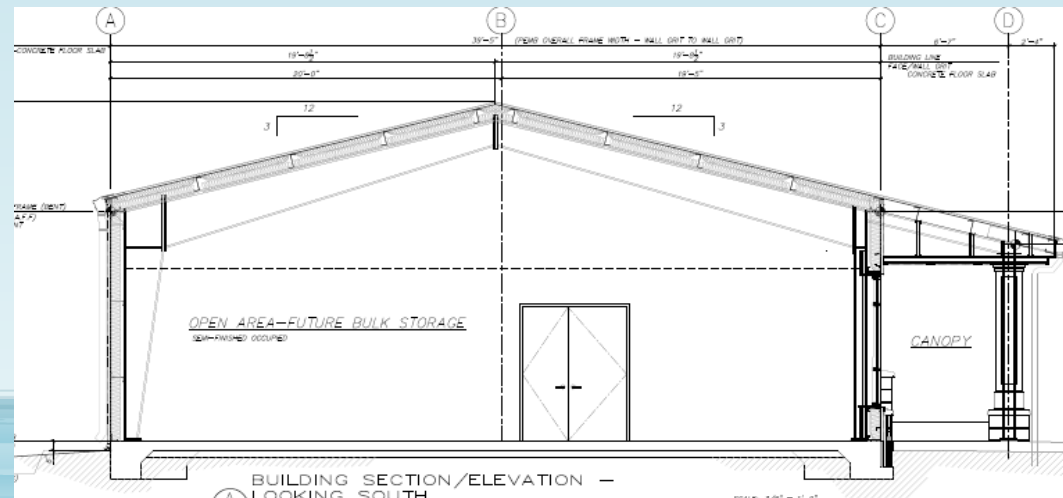
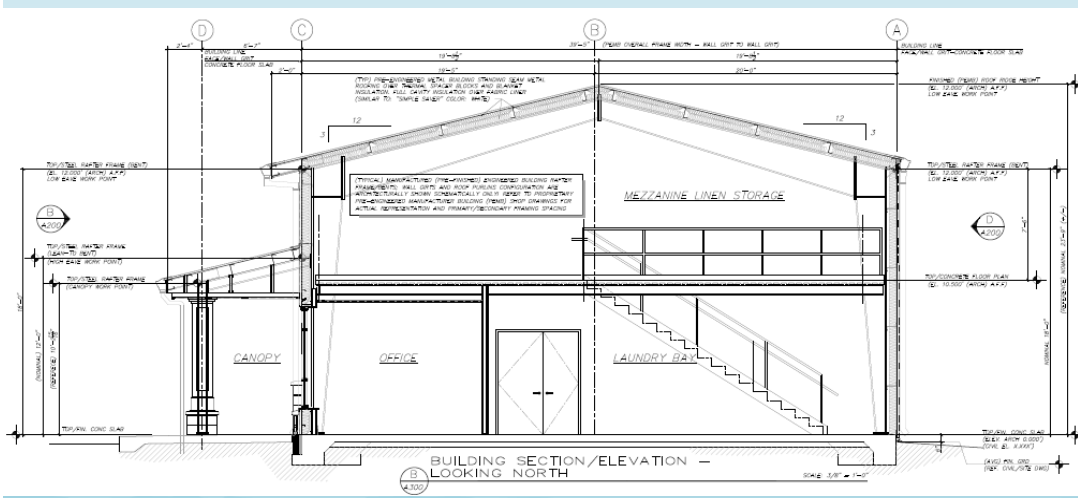
ARTICLE V. – OFF-STREET PARKING AND LOADING REQUIREMENTS; PARKING

USES OF LAND	HB
Planned unit development, business (See article XII of this chapter)	C

OFFICE PARKING SPACES REQUIRED (1/300 SF = 6,578/300)	22
WAREHOUSE PARKING SPACE REQUIRED 1 PER 5,000 SF OF WAREHOUSE SPACE	1
<b>TOTAL REQUIRED PARKING</b>	<b>23</b>
PARKING SPACES PROVIDED	23
HANDICAP PARKING REQUIRED	1
HANDICAP PARKING PROVIDED	3

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width <sup>5</sup>	Min. Front Yard	Min. Rear Yard	Min. Side Yards (Corner Lot- Min 12.5 ft.) <sup>5</sup>	Max. Density	Max. Height	Max. Lot Coverage
HB	Highway Commercial	10,000 sq. ft.	100 ft.	30 ft.	15 ft., or 20 ft. if abutting a residential district	10 ft.	NA	50 ft. <sup>2</sup>	60%









1230 LPBN



# Adjacent Commercial Properties



1300 LPBN



1206 LPBN



# Adjacent Residential Properties



100-101  
Moorefield



101-103  
Moorefield

## 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.;
  - Business PUDs are permitted in HB and the zoning standards are being followed
- (2) That the use meets all required conditions and specifications;
  - The proposed CUP meets all required conditions.
  - They are not asking for any waivers or modifications.
- (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 will conform with the HB zoning district and be buffered from adjacent residential uses
- (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 Commercial 1 area includes a continued use as a highway business corridor. Single-family residential uses will be allowed if they are dependent and subordinate to commercial uses. Transportation and traffic improvements are encouraged and will be sought from sources such as the Metropolitan Planning Organization's Long-range Transportation Plan, the North Carolina Department of Transportation's Transportation Improvement Program, the North End Traffic and Circulation Study, and a planned Fiscal Year 07-08 Town-wide Transportation Plan. Commercial uses in Commercial 1 shall primarily include retail, office, restaurant, entertainment, and service. Building height on property abutting Highway 421/Lake Park Boulevard shall not exceed a 50' maximum. Building height on property not abutting Highway 421/Lake Park Boulevard shall not exceed a 60' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A). 10,000 square foot lot minimums will be required. Lot coverage will not be allowed to exceed 60%. Stormwater, signage and lighting regulation should continually be addressed to meet future needs, issues or problems, given the predominant commercial use of the area.

## Specific standards.

- (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;
  - Ingress and egress will be via Risley Rd.
- (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;
  - Parking will be based off the parking requirements for office and warehouse space
  - 1 per 300ft<sup>2</sup> of office and 1 per 5000ft<sup>2</sup> of warehouse for a total of 23 parking spaces
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
  - Trash service will not be altered
- (4) Utilities, with reference to locations, availability, and compatibility;
  - Stormwater and utilities will be dealt with by standard methods
- (5) Screening and buffering with reference to type, dimensions, and character;
  - There will be a minimum of a 10' landscape buffer around the proposed second building and 5' around the preexisting structure
- (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 at this time
  - Any new signs would have to comply with the sign ordinance
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land.
  - There is no require yard or open space beyond general zoning standards for a residential PUD
  - Minimum of 15' between structures
  - Minimum of 10% of open space
  - Below maximum of 60% lot coverage

Required	Proposed
Front - 30'	N/A
Rear - 20'	25'
Side - 12.5/7.5'	25'

# Staff Recommendation

Staff recommends the approval of the CUP

# Motion from Planning & Zoning

- Approve the CUP in accordance with the draft grant order and that the proposal meets the 7 specific standards and the 4 general conditions, if developed according to the plan as submitted and approved.
  
- Deny the CUP as it fails to sufficiently meet 1 or more of the general conditions to include (state conditions not met in the motion)
  - (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.;
  - (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.



## AGENDA ITEM

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Miles Murphy

Department: Planning

### Consider a Conditional Use Permit located at 1012 S. Lake Park Blvd for a 2 unit detached Business Planned Unit Development Applicant: Ralph Roof

#### BACKGROUND:

The applicant, Ralph Roof, is requesting a Conditional Use Permit (CUP) to construct a business Planned Unit Development by placing a second commercial structure on 1012 S. Lake Park Blvd. This is separate CUP, not an update from the previous CUP. The previous CUP was denied by Town Council in December based on a lack of staff approval. Staff did not approve of the previous CUP due to its landscape buffer waiver request.

The Applicant has changed the design to fully meet the landscape buffer (excluding the preexisting nonconformity) and altered the proposed parking design. The parcel is zoned NB which now allows Business as of a Text Amendment decision on 10/8/2019 by Town Council.

**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) 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;

- Ingress and egress will remain via S. Lake Park Blvd

- The parking lot design will accommodate 2-way traffic

(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;

- Parking will be contained on the property

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

- Trash will be collected in a refuse container on site

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



- Utilities will be provided by Duke and the Town as they are already existing through the access easement

- New parking improvements will require the grading of the lot so that no stormwater collects on the rear of the property and all stormwater is directed towards Lake Park

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

- A 10' landscape buffer is required for this type of development

(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 signage is proposed at this time and will have to meet all standards zoning requirements in the future

(7) Required *yards* and other *open space* and preservation of existing trees and other attractive *natural features* of the land.

- There is no require yard or open space beyond general zoning standards for a business PUD

- Minimum of 15' between structures

- Minimum of 10% of open space

- Below maximum of 40% lot coverage

**General conditions.** The *town council*, in granting the permit, must also find that all four (4) of the following conditions exist;

(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 density falls within the standard NB density requirements and the proposed structure follows the setback requirements

(2) That the use meets all required conditions and specifications;

- The proposed CUP does not meet 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

- The proposed structure will conform with the neighboring 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 Mixed Use 1 area includes a future predominance of single-family and duplex units. Commercial uses shall include lower intensity restaurants and commercial services and retail. Building height shall not exceed a 50' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A) and (B). Density will be moderate with 5,000 to 6,000 square foot lot

minimums for residential uses, with around 15 to 17 units per acre density in Mixed Use 1 areas west of Lake Park Boulevard, and higher density ratios around 29 units per acre for Mixed Use 1 areas east of Lake Park Boulevard (oceanside). A ratio of roughly two-thirds residential to one-third commercial is desired. Lot coverage will not be allowed to exceed 40%.

**ACTION REQUESTED:**

- Approve the CUP in accordance with the draft grant order and that the proposal meets the 7 specific standards and the 4 general conditions, if developed according to the plan as submitted and approved.

- Deny the CUP as it fails to sufficiently meet 1 or more of the general conditions to include (state conditions not met in the motion)

- (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.;

- (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

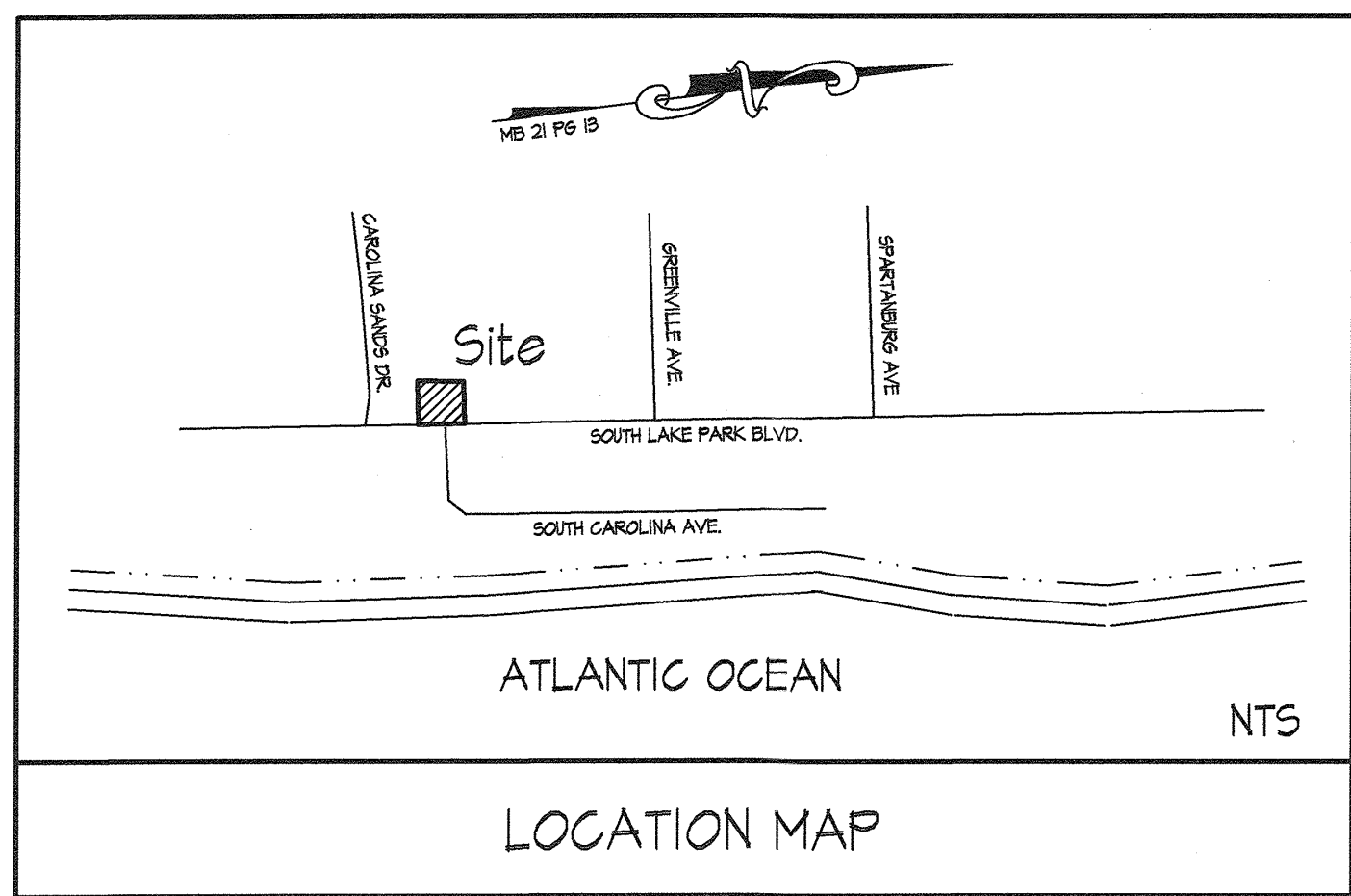
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the town land use plan and policies.

**COMMITTEE  
RECOMMENDATION:**

Staff recommends approval of the CUP

**ATTACHMENTS:**

[1012B S Lake Park Blvd - Site Plan VI-2 - Mar 2020 - Sealed 20-C01 Application](#)  
[1012 LPBS PUD PPT](#)



**SURVEY LEGEND:**

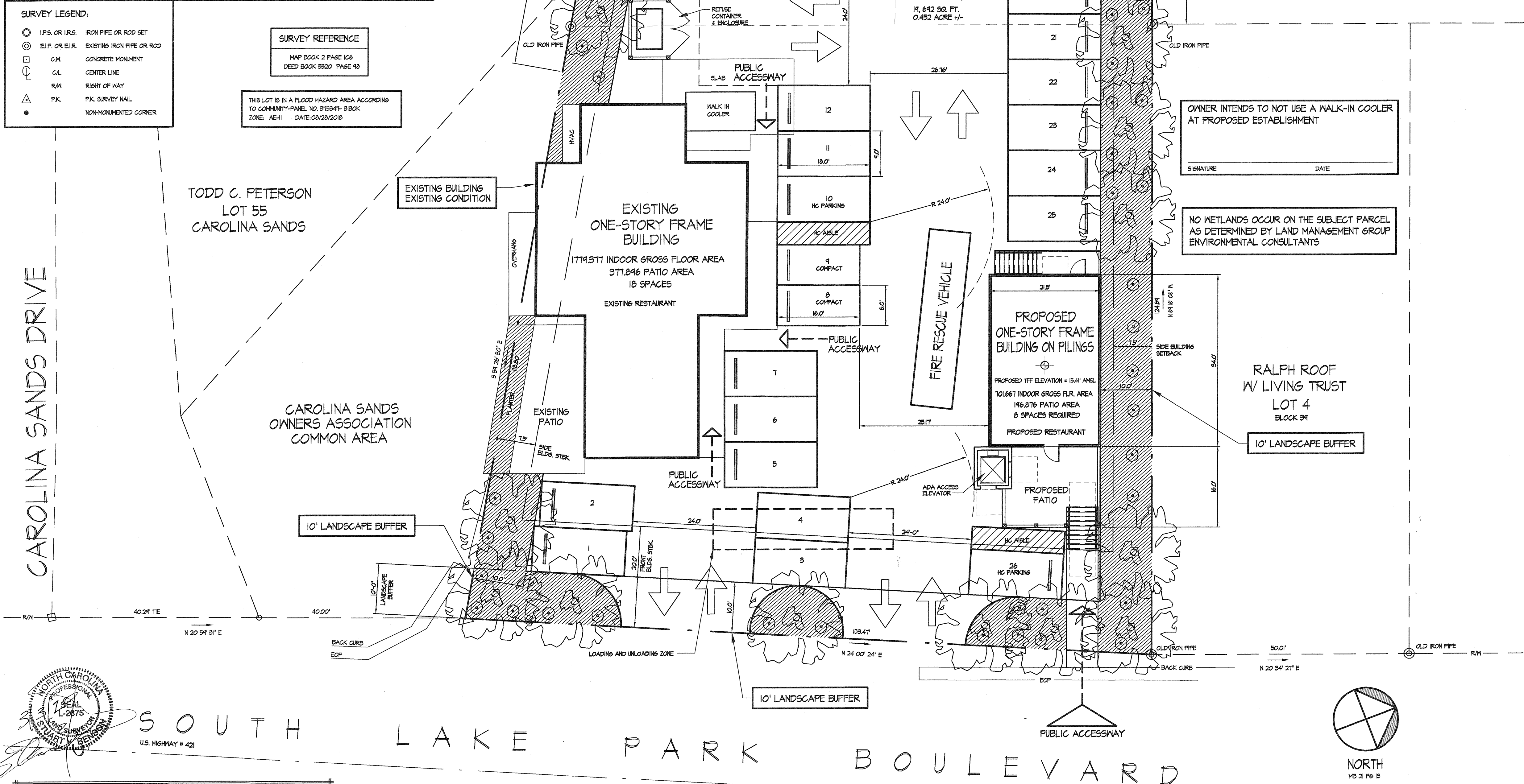
- I.P.S. OR I.R.S. IRON PIPE OR ROD SET
- ⊙ E.I.P. OR E.I.R. EXISTING IRON PIPE OR ROD
- C.M. CONCRETE MONUMENT
- C.L. CENTER LINE
- R.W. RIGHT OF WAY
- △ P.K. P.K. SURVEY NAIL
- NON-MONUMENTED CORNER

**SURVEY REFERENCE**  
 MAP BOOK 2 PAGE 106  
 DEED BOOK 5820 PAGE 49

THIS LOT IS IN A FLOOD HAZARD AREA ACCORDING TO COMMUNITY-PANEL NO. 375841-3180K ZONE: AE-11 DATE: 06/25/2019

**PARKING SPACE CALCULATIONS**

EXISTING ESTABLISHMENT	PROPOSED ESTABLISHMENT
1714,371 INDOOR GROSS FLR. AREA DIV x 10 = 16.2	101,661 INDOOR GROSS FLR. AREA DIV x 10 = 6.4
371,846 PATIO AREA DIV x 220 = 1.7	146,876 PATIO AREA DIV x 220 = 0.6
17.4 = 16 SPACES	7.3 = 6 SPACES
16 + 6 = 26 TOTAL SPACES REQUIRED	
26 TOTAL SPACES PROVIDED	

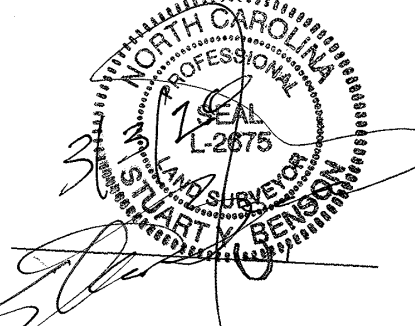


OWNER INTENDS TO NOT USE A WALK-IN COOLER AT PROPOSED ESTABLISHMENT

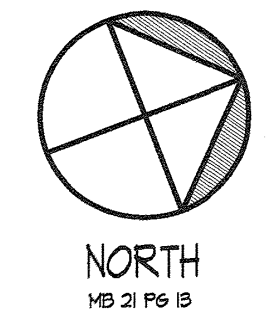
SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

NO WETLANDS OCCUR ON THE SUBJECT PARCEL AS DETERMINED BY LAND MANAGEMENT GROUP ENVIRONMENTAL CONSULTANTS

RALPH ROOF  
 W/ LIVING TRUST  
 LOT 4  
 BLOCK 34



SOUTH LAKE PARK BOULEVARD



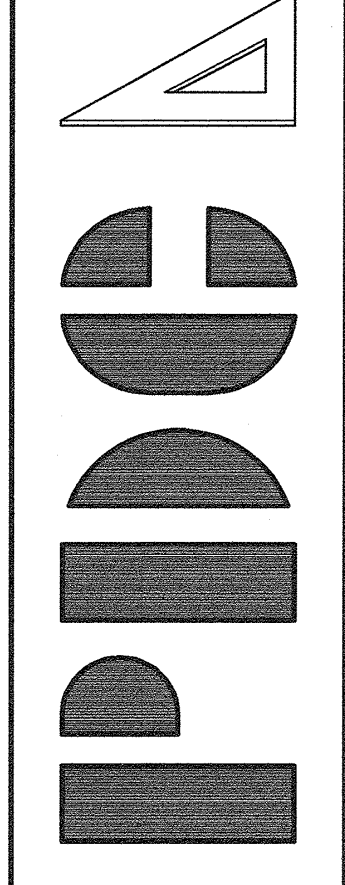
1 SITE PLAN  
 AI SCALE: 1" = 10'

CRABBY JACK'S

1012 1/2 South Lake Park Blvd.  
 Carolina Beach, North Carolina 28428

DATE Jan. 30, 2020 REVISED

PINKSTON  
 DRAFTING  
 COMPANY

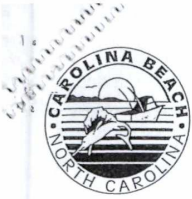


SHEET  
 A1

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SITE PLAN INFORMATION TAKEN FROM SURVEY FOR RALPH ROOF  
 LOTS 5, 6, & 7, BLOCK 34 CAROLINA BEACH, NEW HANOVER COUNTY, NORTH CAROLINA.  
 PREPARED BY CAPE FEAR SURVEYING, P.C., ONE NORTH 8TH STREET, WELMINGTON, NC, 28401, PH: (910) 762-4166,  
 FAX: (910) 762-8444, EMAIL: cfe@capefearsurveying.com, LICENSE NO. C-5986, STUART Y. BENSON, PROFESSIONAL  
 LAND SURVEYOR, LICENSE NO. L-2676, DATED JANUARY 20, 2019





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

Permit Number: 20-C01

Each application must be printed or typewritten and have all information answered. It is strongly recommended 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 person, firm, or corporation who 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 be harmonious with the area in which it is proposed to be located and 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 petition will be scheduled for the next possible regular Planning and Zoning Commission meeting. The applicant or a representative should be present at the meeting to answer any questions the Commission may have. Planning and Zoning Commission meetings are held on the second (2<sup>nd</sup>) Thursday of each month at 6:30 P.M. in the Council Room at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Applicants will be informed of any changes in date, time, or location of meetings. Applications and supplementary time for processing and advertisement are required by the General Statutes of North Carolina.

Project Name/Title: Crabby Jacks

Applicant Name: Ralph Roof

Applicant Mailing Address: 105 Tennessee Ave. Carolina Beach NC 28428  
Street Address City State Zip

Applicant Phone Number: 919 624 5671 mobile/work/home (circle one): mobile/work/home (circle one):

Applicant Email Address: \_\_\_\_\_

Property Owner Name: Ralph Roof

Property Owner Mailing Address: Same as above  
Street Address City State Zip

Address of Requested Site: 1012 S. Lake Park Blvd. Carolina Beach NC 28428

APPROVED FOR THE BOARD OF SUPERVISORS

Current Land Use: Commercial / Restaurant Requested Land Use: additional Restaurant

Tax Parcel Number: \_\_\_\_\_

Acreage &/or square footage: \_\_\_\_\_ Existing Zone: MX

Owner Signature: Ralph Roof Date: 1 / 6 / 20

Owner Printed Name: Ralph Roof

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

**Written Application**

All zoning permits and/or site plans submitted for review and approval shall be accompanied by a written application containing the following information:

**Yes No N/A**

- The applicant's, mailing address, phone number, and email address.
- The property owner's name, address and phone number if different than the applicant.
- The *developer's* name, address, and phone number, if different than the applicant.
- If the applicant is different than the property owner of record, a signed statement that the applicant is officially acting on the owner's behalf.
- The address and parcel identification number of the property.
- Proof of *lot* recordation (i.e. map book & pg #; *lot* and block #; and/or deed book and page#).

**Site Plan/Drawings**

The following site plans shall always be certified and stamped by a licensed professional. It is recommended that all site plans be certified by a licensed professional duly registered by the State of North Carolina (i.e. engineer, architect, or land surveyor).

**Yes No N/A**

- Conditional Use Permits*
- New commercial or industrial *development*
- Change to a more intense use (i.e. increase in occupancy) for *Multi family/Commercial* uses
- New residential *development* with three or more units

**Site Plan Criteria**

All site plans shall include the following:

**Yes No N/A**

- The name, address, and phone number of the professional(s) responsible for preparing the plan if different than the applicant.
- Engineers scale 1 inch = 40 ft or larger
- Title block or brief description of project including all proposed uses
- Date
- North arrow
- Property and zoning boundaries
- The square footage of the site
- Lot coverage* (buildings, decks, steps)
- Location of all existing and proposed *structures* and the setbacks from property lines of all affected *structures* to remain on-site
- Design of driveways and parking
- Adjacent right-of-ways labeled with the street name and right of way width
- 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:

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

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

I have checked off each of the above boxes and attest that the required information noted on this application checklist is submitted for my project. I understand that if my application is incomplete, that my project may be delayed by one month unless I am able to retrieve the missing portion(s) by the submission deadline.

Ralph Rod  
Applicant Signature

1/16/20  
Date





**Ralph W Roof POD**  
221 Lochview Dr  
Cary, NC 27518

66-30/531

0962

**Buster's Pit Beef, Carolina Beach, NC**

DATE 1-6-20

PAY  
TO THE  
ORDER OF

Town of Carolina Beach

\$ 350.00

Three Hundred fifty <sup>+00</sup>/<sub>100</sub>

DOLLARS



Security features  
included.  
Details on back.

FIRST CITIZENS BANK  
Raleigh, NC 27609-5718

Void after 90 days

MEMO

Special use permit

Ralph Roof

AUTHORIZED SIGNATURE

MP

⑈000962⑈ ⑆053100300⑆008177274468⑈





# Conditional Use Permit: 1012 S. Lake Park Blvd – Business Planned Unit Development

March 10<sup>th</sup>, 2020  
Miles Murphy – Planner



**Location:** 1012 S. Lake Park Blvd

**Applicant:** Ralph Roof



1012 LPBS



# Adjacent Properties



1016 S. Lake Park Blvd  
Carolina Sands HOA



1006 S. Lake Park Blvd

# Business PUDs Permitted in NB

## ARTICLE III. – Zoning District Regulations

### Sec. 40-72. – Table of permissible uses.

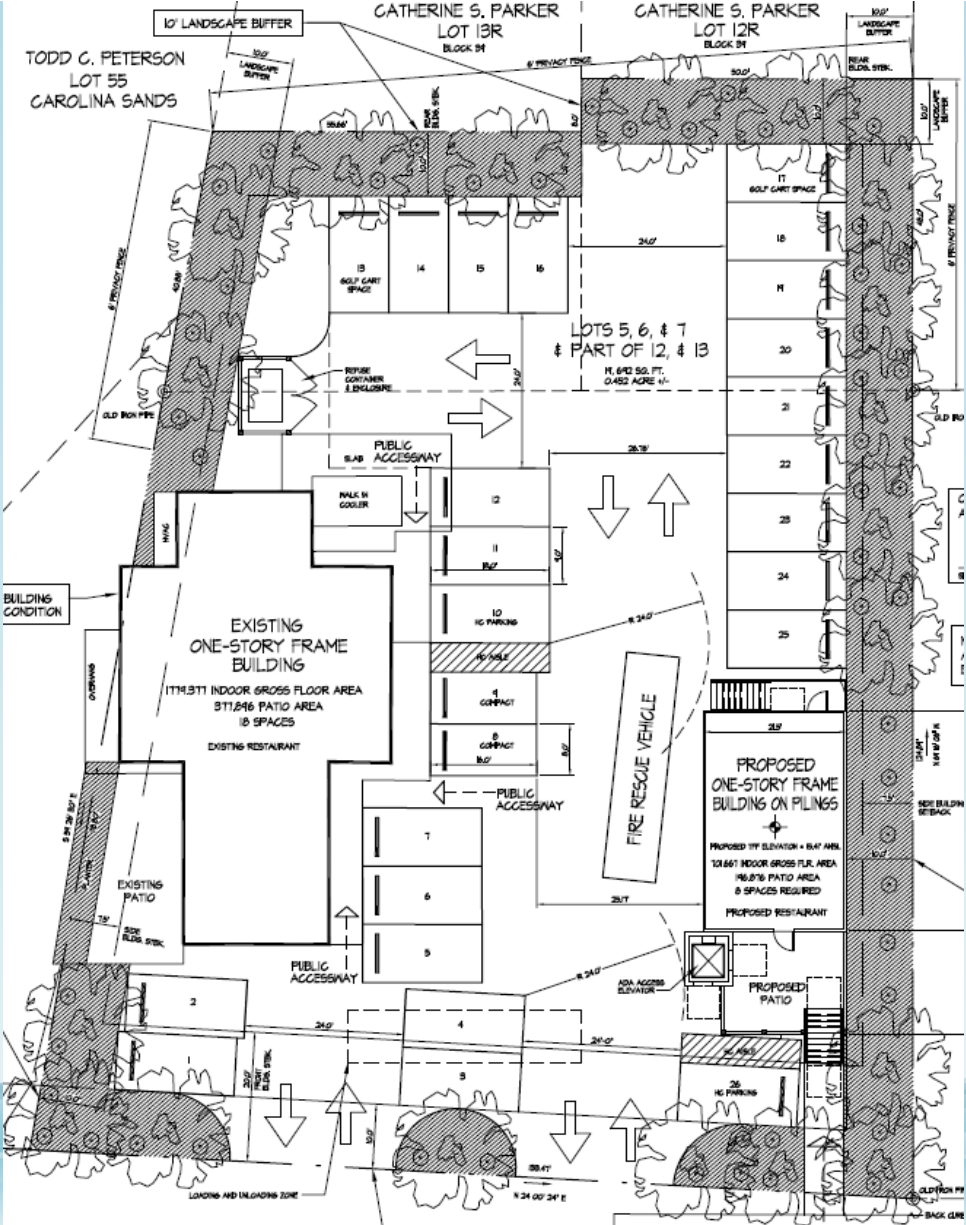
USES OF LAND	NB
Planned unit development, business (See article XII of this chapter)	C

### Dimensional Standards for Lots and Principal Structures, Other Districts

Zoning District	Primary Permitted Uses	Min. Lot Size	Min. Lot Width <sup>5</sup>	Min. Front Yard	Min. Rear Yard	Min. Side Yards (Corner Lot-Min 12.5 ft.) <sup>5</sup>	Max. Density	Max. Height	Max. Lot Coverage
NB	Neighborhood Goods and Services	5,000 sq. ft.	50 ft.	20 ft.	10 ft.	7.5 ft.	8.7 units/acre	50 ft. <sup>2</sup>	40%



# Design



PARKING SPACE CALCULATIONS	
EXISTING ESTABLISHMENT	PROPOSED ESTABLISHMENT
1774.871 INDOOR GROSS FLR. AREA 21' x 10' = 18.2	101.661 INDOOR GROSS FLR. AREA 21' x 10' = 6.4
871.846 PATIO AREA 21' x 230' = 17	146.876 PATIO AREA 21' x 230' = 0.9
17.4 = 18 SPACES	7.3 = 8 SPACES
18 + 8 = 26 TOTAL SPACES REQUIRED	
26 TOTAL SPACES PROVIDED	

- Landscaping buffer has been met in all areas excluding pre-existing building/patio footprint
- Handicap and access to public ROW is sufficient per building inspector
- Drive aisles and parking meet standards

**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 density falls within the standard NB density requirements and the proposed structure follows the setback requirements

(2) That the use meets all required conditions and specifications;

- The proposed CUP 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

- The proposed structure/use will conform with the neighboring 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 Mixed Use 1 area includes a future predominance of single-family and duplex units. Commercial uses shall include lower intensity restaurants and commercial services and retail. Building height shall not exceed a 50' height maximum and shall be consistent with Section 4.3, II. Management Topic: Land Use Compatibility Policies, 31 (A) and (B). Density will be moderate with 5,000 to 6,000 square foot lot minimums for residential uses, with around 15 to 17 units per acre density in Mixed Use 1 areas west of Lake Park Boulevard, and higher density ratios around 29 units per acre for Mixed Use 1 areas east of Lake Park Boulevard (oceanside). A ratio of roughly two-thirds residential to one-third commercial is desired. Lot coverage will not be allowed to exceed 40%.

## Specific standards.

- (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;
  - Ingress and egress will remain via S. Lake Park Blvd
  - The parking lot design will accommodate 2-way traffic
- (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;
  - Parking will be contained on the property
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
  - Trash will be collected in a refuse container onsite
- (4) *Utilities*, with reference to locations, availability, and compatibility;
  - Utilities will be provided by Duke and the Town as they are already existing through the access easement
  - New parking improvements will require the grading of the lot so that no stormwater collects on the rear of the property and all stormwater is directed towards Lake Park
- (5) Screening and buffering with reference to type, dimensions, and character;
  - A 10' landscape buffer is required for this type of development
- (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 signage is proposed at this time and any signage will have to meet all standards zoning requirements in the future
- (7) Required *yards* and other *open space* and preservation of existing trees and other attractive *natural features* of the land.
  - There is no required yard or open space beyond general zoning standards for a business PUD
  - Minimum of 15' between structures
  - Minimum of 10% of open space
  - Below maximum of 40% lot coverage

Required	Proposed
Front - 20'	23'
Rear - 10'	N/A
Side - 7.5'*	10'

\*The requirement for a side setback is actually 10' due to the landscape buffer requirement. This is more strict than the general zoning district requirement



# Staff Recommendation

Staff recommends the approval of the proposed Business CUP

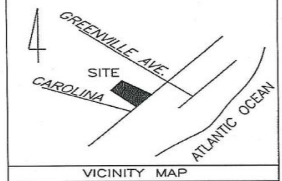
# Motion from Town Council

- Approve the CUP in accordance with the draft grant order and that the proposal meets the 7 specific standards and the 4 general conditions, if developed according to the plan as submitted and approved.
- Deny the CUP as it fails to sufficiently meet 1 or more of the general conditions to include (state conditions not met in the motion)
  - (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.;
  - (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.

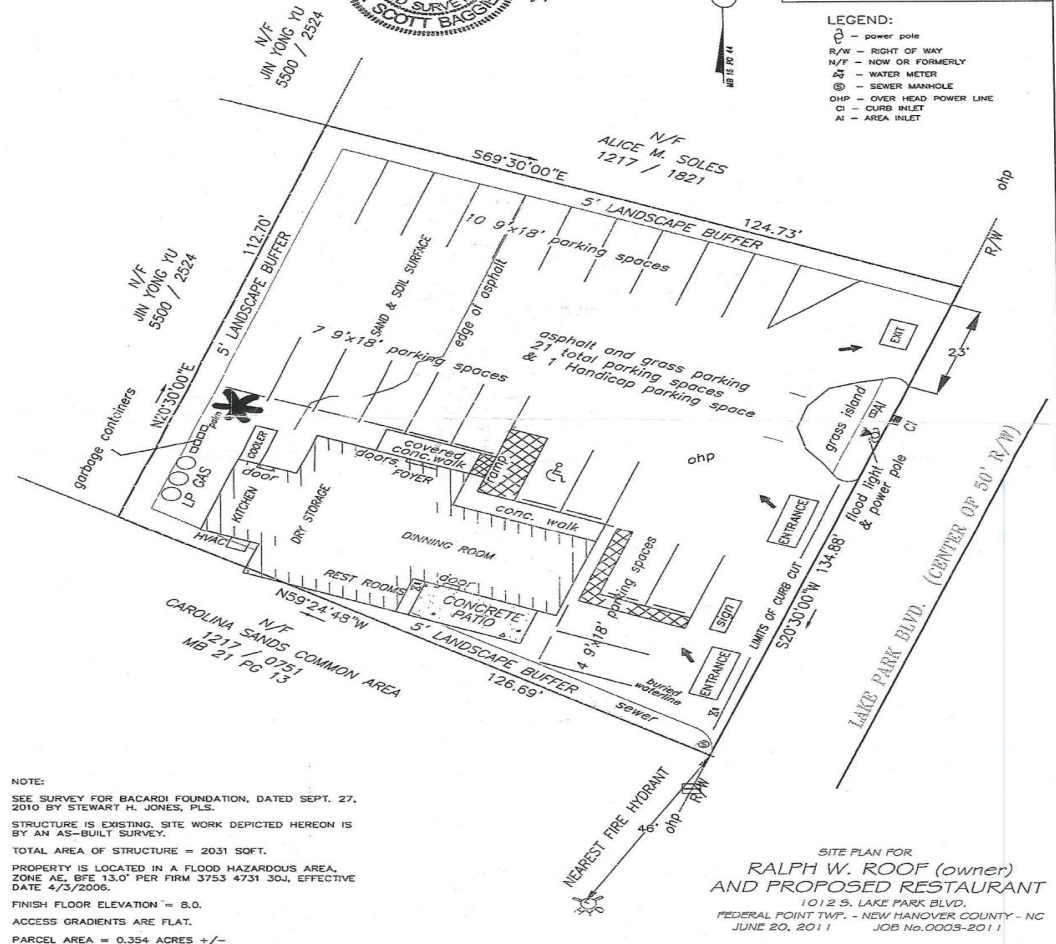
NORTH CAROLINA  
NEW HANOVER COUNTY

I, L. SCOTT BAGGIE, CERTIFY THAT THIS SITE PLAN WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DESCRIPTION RECORDED IN DEED BOOK 5520 PAGE 0098 PLOTTED FROM INFORMATION REFERENCED, THAT THIS PLAN WAS NOT PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED, WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS DATE: 2011

L. SCOTT BAGGIE, P.L.S.  
REGISTRATION NUMBER L-3450  
SEAL OR STAMP



- LEGEND:
- ⊕ - power pole
  - R/W - RIGHT OF WAY
  - N/F - NOW OR FORMERLY
  - ⊕ - WATER METER
  - ⊕ - SEWER MANHOLE
  - OHHP - OVER HEAD POWER LINE
  - CI - CURB INLET
  - AI - AREA INLET



NOTE:

SEE SURVEY FOR BACARDI FOUNDATION, DATED SEPT. 27, 2010 BY STEWART H. JONES, P.L.S.

STRUCTURE IS EXISTING, SITE WORK DEPICTED HEREON IS BY AN AS-BUILT SURVEY.

TOTAL AREA OF STRUCTURE = 2031 SQFT.

PROPERTY IS LOCATED IN A FLOOD HAZARDOUS AREA, ZONE AE, BFE 13.0' PER FIRM 3753 4731 30J, EFFECTIVE DATE 4/3/2006.

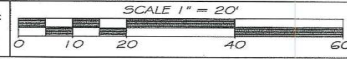
FINISH FLOOR ELEVATION = B.O.

ACCESS GRADIENTS ARE FLAT.

PARCEL AREA = 0.354 ACRES +/-

SITE PLAN FOR  
**RALPH W. ROOF (owner)**  
**AND PROPOSED RESTAURANT**  
1012 S. LAKE PARK BLVD.  
FEDERAL POINT TWP. - NEW HANOVER COUNTY - NC  
JUNE 20, 2011 JOB No.0003-2011

PROGRESSIVE LAND DEVELOPMENT CONSULTANTS, PLLC  
107 ISLAND PALMS DRIVE  
CAROLINA BEACH, NORTH CAROLINA 28428  
TELE (910) 707-0168  
sbaggie@pldcpa.com





## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Ed Parvin

Department: Executive

## **2020 Parking Rates and Fees**

**ACTION REQUESTED:** Discuss and vote on the proposed parking rates and fee changes.

**ATTACHMENTS:** [2020 Parking Rates and Fees](#)

RATES AND FEES  
**RE-ENTRY, PARKING, GOLF CART, AND FREEMAN PARK FEES**

Re-entry, parking, golf cart, and Freeman Park permits must be renewed annually. Costs are listed below:

<b><u>Re-Entry Only Decal (annual)</u></b>	<b><u>Fee</u></b>
Resident/Property Owner	\$2.00 (+ \$10 penalty after June 1st)

<b><u>Parking Permit Decal (annual)</u></b>	<b><u>Fee</u></b>
Resident/Property Owner (also serves as re-entry permit)	\$20.00 (+ \$10 penalty after June 1st)
Non-Resident	\$150.00
CBD-Employee (only valid in MACK lot at 104 Charlotte Ave.)	\$25.00

<b><u>Golf Cart Registration and Parking</u></b>	
<b>Resident:</b>	
State Registered Slow Moving Vehicles	\$20.00
Non-State Registered Golf Carts	\$20.00
<b>Non-Resident:</b>	
State Registered Slow Moving Vehicles	\$100.00
Non-State Registered Golf Carts	\$100.00

<b><u>Parking Lots</u></b>	<b><u>Fee</u></b>
Vehicles/Small Trucks	\$17.00/day or \$2.50/hr <u>\$20/day or \$5/hour</u>
Limos & Oversize Vehicles	\$17.00/day or \$2.50/hr <u>\$20/day or \$5/hour</u>

<b><u>Parking Meters</u></b>	<b><u>Fee</u></b>
Vehicles/Small Trucks	<span style="color: red;"><u>\$2.50/hr</u></span> <u>\$5/hr or \$20/day</u> <u>\$3/hr.</u>

<b><u>Parking Violations</u></b>	<b><u>Fee</u></b>
Expired meter parking.	<del>30</del> <u>\$50</u>
Parking over the specified time limit.	<del>30</del> <u>\$50</u>
Protrusion beyond designated parking space.	<del>30</del> <u>\$50</u>
Double parking.	<del>30</del> <u>\$50</u>
Parking in a controlled residential parking area without a valid residential parking permit.	<del>30</del> <u>\$50</u>
Vehicles parked so as to obstruct sidewalk, private driveway, crosswalk, or bike lanes.	<del>30</del> <u>\$50</u>
Vehicles parked unattended in commercial and passenger loading zones.	<del>30</del> <u>\$50</u>

Vehicles parked in front of or within five (5) feet in either direction of a private driveway or road.	<del>30</del> -\$50
Vehicles other than buses parked in a bus stop.	<del>30</del> -\$50
Vehicles parked within twenty-five (25) feet of an intersection.	<del>30</del> -\$50
Oversize vehicles parked on town streets.	<del>30</del> -\$50
Vehicles parked on medians.	<del>30</del> -\$50
Vehicles parked in "No Parking Anytime" zone	<del>30</del> -\$50
Non-Payment Penalty (after 7 days)	<del>30</del> -\$50
Non-Payment Penalty (after 15 days)	60 \$80

**Freeman Park Entry/Camping**

	<b>Fee</b>
Annual Permit (per year)	\$200.00
Discounted Annual Permit (Must be purchased in person December 1st- 20th)	\$100.00
Daily Pass (per vehicle)	\$40.00
Holiday Daily Pass (per vehicle)	\$60.00
Camping Reservation (per night)	\$30.00

**Online Payment Processing Fees**

	<b>Fee</b>
On-line Citation Payment Fee	3% of transaction cost
On-line Purchase of Freeman Park Annual or Day Permit	\$ 2.00 Per Transaction
On-line Purchase of Freeman Park Camping Permit	\$ 2.00 Per Transaction
Freeman Park On-line Purchase Transaction Fee	\$ 0.15 Per Transaction

**Credit Card Convenience Fees**

Convenience fee for any/all payments made with credit card	3% of transaction cost
------------------------------------------------------------	------------------------

**Policies:**

- 1. HANDICAP PARKING: No charges shall be administered to parking lot patrons that are displaying valid handicap documentation and are in a designated handicap parking place.**
- 2. Allocation of Freeman Park and Parking passes: All passes must be paid for in accordance with this fee scheule unless otherwise approved by Town Council.**
- 3. Any request for donated passes must be received by the Town Clerk a minimum of 45 days prior to the Town Council meeting.**
- 4. Temporary parking passes may be allocated for government entitites and/or associated activities as approved by the Town Manager.**
- 5. Full time employees and standing committee members will receive a free parking pass. A second pass may be purchased at the Town resident rate.**
- 6. Full time employees and Freeman Park Committee members will receive one free Freeman Park pass annually.**
- 7. Town Marina Boat Captains will receive two free parking passes annually**
- 8. No individuals shall receive additional free passes based on meeting mulitiple criteria above.**



## AGENDA ITEM

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Kim Ward

Department: Clerk

### Appointments to the Ad-hoc Beautification Committee

- BACKGROUND:** At the January 14, 2020 Council meeting, Council voted to create an Ad-hoc Beautification Committee. MPT Healy agreed to head up the committee and create a mission statement. Staff advertised the committee vacancies for six weeks. Attached are the applications that were received.
- ACTION REQUESTED:** Council will make appointments by written ballot. A staff liaison may also need to be identified.
- ATTACHMENTS:**
- [Ballot Beautification 2020](#)
  - [Amanda Prill](#)
  - [Amanda Prill Resume 2020](#)
  - [Blair Williams](#)
  - [Cindy Dunn 2020](#)
  - [Dawn Betz](#)
  - [Emily Harding 2020](#)
  - [Holly Martin 2020](#)
  - [Jacquie Ott 2020](#)
  - [Jacquie Ott Resume 2020](#)
  - [Jeanette Morales](#)
  - [Julenna Jones Shelley](#)
  - [Karen Graybush 2020](#)

COMMITTEE BALLOT

At the January 14, 2020 Council meeting, Council voted to establish a Beautification Ad-hoc Committee.

Please select from the interested applicants or if you wish the Clerk’s office to re-advertise.

- Dawn Betz
- Cindy Dunn
- Karen Graybush
- Emily Harding
- Holly Martin
- Jeanette Morales
- Jacquie Ott
- Amanda Benoit-Prill
- Jullena Shelley (also serves on BOA)
- Blair Williams
- Please re-advertise the vacancy.

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Council Signature



For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Amanda Louise Benoit Prill

Home Address

813 Magnolia Ave  
Carolina Beach NC

\* **Email Address**

albenoit01@gmail.com

Phone

(508) 844-8364

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

6 years

Availability

Available for day meetings

Available for night meetings

**Educational Background**

AS- Business Management AS- Pastry Arts BS- Food & Beverage Management BS- Clinical Research

**Occupational Background**

Worked throughout the food industry for over ten years, however finally made a career change to Clinical Trial work in July 2019

**Special Talents and Interests**

I love going to other cities and towns and looking at the beautification and often times "different" senses of art, but believe it is what makes a city. I love the Hermit graffiti on the back of the Last Resort and would love more of that type of art work in Carolina Beach.

**Community Involvement**

n/a

Resume or other Attachment

Prill\_Amanda\_CV\_2019Signed.pdf

\* **Date of Application**

01/30/2020



## Amanda Benoit Prill

### Covance Clinical Development Services Clinical Trial Administrator

3147 South 17th Street, Suite 200, Wilmington, NC, USA

Tel: +1-910-350-2393

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### Employment History

**Covance Clinical Development Services, Wilmington, NC, USA – Jun. 2019 – Present**

**Clinical Trial Administrator – Jun. 2019 – Present**

- Documenting and tracking study activities using relevant forms and tools, as well as relevant Project Management System with guidance/support
- Assist in the preparation of study site specific materials in accordance with relevant SOPs
- Assist with minute taking and documentation for sponsor/external or internal teleconferences as requested
- Assist in setting up and maintaining tracking systems for e.g. study supplies and investigator payments
- Provide clerical support to project team (e.g. proof-reading and editing correspondence, large and small documents, mailings, shipment of study files, fax and photocopy documents, assemble study documents and arrange meetings, etc.)
- Maintain paper trial master file documentation and tracking/archiving as applicable
- Perform other administrative duties as assigned by management
- Might be requested to work in a client facing environment

**The Southerly Biscuit & Pie, Carolina Beach, NC, USA – Nov. 2017 – Jun. 2019**

**Manager – Nov. 2017 – Jun. 2019**

- Oversaw up to 5 employees
- Performed general admin work, included payroll via PayChex, tip gathering and scheduling
- Determined sales of future weeks based on data from previous year
- Completed order guides as product was needed
- Directed the team on quality control and procedures

**Surf House, Carolina Beach, NC, USA – Apr. 2015 – Jun. 2019**

**Pastry Chef – Apr. 2015 – Jun. 2019**

- Forecasted production volume based on weekly sales report
- Incorporated customer feedback into new menu items
- Explored new techniques and new ideas for desserts

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COVANCE INC. CONFIDENTIAL – PERSONAL INFORMATION

Page 1 of 3  
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**Name: AMANDA BENOIT PRILL**

**Whole Foods Market, Wilmington, NC, USA – May 2014 – Nov. 2017**

**Prepared Foods Team – May 2014 – Nov. 2017**

- Maintained quality standards and fullness of the salad bar
- Prepared custom orders per customers' special request
- Helped and served customers at Chef's Case

**Port City Java, Carolina Beach, NC, USA – May 2014 – May 2015**

**Barista – May 2014 – May 2015**

- Used customer service skills by greeting and taking customers' orders
- Managed customer orders from both the drive thru and front counter
- Maintained knowledge of drink menu for more than 15 drink items

**Shuga Shak, Wilmington, NC, USA – Nov. 2013 – Apr. 2014**

**Assistant Baker – Nov. 2013 – Apr. 2014**

- Prepared orders upon request of customers; delivered products
- Picked up necessary groceries and ingredients that had run out for that day's production
- Completed owners list of various tasks such as cleaning the floor, putting away dishes, folding towels, organizing shelves and stocking deliveries

**Shuga Shak, Wilmington, NC, USA – Jun. 2013 – Aug. 2013**

**Internship – Jun. 2013 – Aug. 2013**

- Prepared customer orders
- Organized customer orders
- Prepped cakes, cupcakes, etc. for delivery

**Bridgwood, Benoit, CPA Accounting Firm, Lakeville, MA, USA – Jan. 2009 – Apr. 2009**

**Receptionist/Office Assistant – Jan. 2009 – Apr. 2009**

- Answered phones
- Filed tax returns in appropriate matter
- Organized tax returns

## Therapeutic Experience

- Not Applicable

## Language Capabilities

- English



Name: AMANDA BENOIT PRILL

### Education


- Bachelors of Science, Food and Beverage Management, Johnson & Wales University, Providence, RI, USA
- Associates of Science, Baking and Pastry Arts, Johnson & Wales University, Providence, RI, USA
- Associates of Business, Bristol Community College, Fall River, MA, USA

### Memberships/Awards

- Not Applicable

### Other

- Not Applicable

Employee Signature:  \_\_\_\_\_

Date: 25Jun2019 \_\_\_\_\_

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COVANCE INC. CONFIDENTIAL – PERSONAL INFORMATION

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QA-AD-011 version 04

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Blair Williams

Home Address

605 Sumter Ave  
Carolina Beach NC

\* **Email Address**

blairfetner@hotmail.com

Phone

(910) 995-1018

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

3 years, worked on island for over 5 years

Availability

Available for night meetings

**Educational Background**

BA in Communications from UNCW

**Occupational Background**

- Teacher 2012 to present (4th-8th grades) - Program Coordinator DREAMS of Wilmington (2008 - 2011) - Kayak Tour Guide in CB (5 seasons) with Carolina Coastal Adventures

**Special Talents and Interests**

Organized, creative ideas, event planning

**Community Involvement**

Trying to find ways to be involved! Love the outdoors and landscaping. Have ideas already! If resume is needed for this committee, please email and one can be sent.

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

01/30/2020

**First Name:** Cynthia (Cindy)

**Last Name:** Dunn

**Phone:** 252-531-9231

**Email** [maxfli70@suddenlink.net](mailto:maxfli70@suddenlink.net)

**Street Address:** 915 Tidewater Lane

**City** Carolina Beach

**Province/State** NC

**Postal/Zip Code** 28428

**Please choose the Board/Committee you are applying for** Powerline Committee  
Beautification Committee

**Length of Residency** Since 2014

**Appointment to a Board, Commission, or Committee will require your consistent attendance at regularly scheduled meetings.** Appointment to a Board, Commission, or Committee will require your consistent attendance at regularly scheduled meetings.

**Are you available for:** Are you available for:

**Evening Meetings** True

**Daytime Meetings** True

**Employment Status**

**Employer if applicable**

**Occupational Background** Retired from NC Local Government that was an Electricity with its own municipal electric system.

**Educational Background** Business School and Community College

**Reason for Applying** Relocating electric utilities from overhead to under ground is a huge undertaking and I am interested in being part of the feasibility process to hopefully encourage a well thought out study prior to any recommendation being made.

**Relevant Experience** Somewhat familiar with process through my 23 years experience with the Town of Ayden.

**Community Involvement:** This will be my first involvement with the Town of Carolina Beach. Since moving here, I've been active with one of our HOA committees and have supported numerous fundraisers on the Island.

<b>Please indicate if any of the following are true:</b>	Please indicate if any of the following are true:
<b>You are a property owner within the community</b>	True
<b>You or a family member is the owner of a local business in the community</b>	False
<b>You have been convicted of a felony</b>	False
<b>Date Received</b>	12/28/18

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Dawn Betz

Home Address

917 Oceanward Lane  
Carolina Beach NC

\* **Email Address**

plantladydesignsnc@gmail.com

Phone

(910) 368-9029

\* Check Box List

Beautification Committee

Other:

**How long have you lived in Carolina Beach?**

19 years

Availability

Available for night meetings

**Educational Background**

I have a degree in Physical Education with a minor in Biology from Winthrop University. I have many Horticultural certifications in design, and plant certification.

**Occupational Background**

I have been the owner of Plant Lady Designs for the last 13 years. We are a full design, installation of designs, hardscape installation, irrigation and drainage. I have taught school and coached basketball and track. Have worked in Marketing and sells for over 20 years. I worked in a Retirement Community before moving to Carolina

**Special Talents and Interests**

Talents would include my love for horticulture as well as my interest in it. I am well organized. And work well with others. I teach Zumba at the Rec Center. I love to run.

**Community Involvement**

I have been involve in most fundraisers around time. Especially Steve Haydou. I have been a member of Island Woman. I was a team leader for Martha's Kitchen for many years. I am a Master Gardner since 2002 and I am on the Speaker's Bureau for the Arboretum. I have worked the Farmers Market for them as well as for Island Women.

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

\*\*SKIPPED\*\*



For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Emily Harding

Home Address

210 Virginia Ave.  
Carolina Beach NC

\* **Email Address**

hardingemi17@students.ecu.edu

Phone

(910) 233-2857

\* Check Box List

Beautification Committee  
Canal Drive Flooding Committee  
Parks and Rec Committee

**How long have you lived in Carolina Beach?**

I have lived here on and off since 2006, my husband has owned property here since 1998. We bought our house in 2018 and are back full time!

Availability

Available for night meetings

**Educational Background**

Graduating this May from East Carolina University with a Family and Consumer Sciences degree. (BS)

**Occupational Background**

I worked in the film industry prior to returning to school to finally finish my degree.

**Special Talents and Interests**

I have extensive training and experience in landscaping as I worked as a greens man for many years in the film industry. I have an interest in efficiency and feel as though I have a knack for spotting potential dangers or risks of products and situations - I attribute this to growing up as the daughter of an attorney!

**Community Involvement**

While we lived in Marietta, Georgia, I volunteered with MS Society. Many moons ago I volunteered with the Disabled Fisherman's Tournament held in Kure Beach.

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

02/28/2020

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Holly Martin

Home Address

512 Atlanta Ave  
Carolina Beach NC

\* **Email Address**

hemartin80@gmail.com

Phone

(336) 829-0475

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

6 years

Availability

Available for night meetings

**Educational Background**

\*\*SKIPPED\*\*

**Occupational Background**

Sr. Mortgage Loan Processor

**Special Talents and Interests**

Growing flowers is my main hobby and tie dyeing. I enjoy being crafty.

**Community Involvement**

As of right now I haven't gotten involved, I have a 8 year old that has kept me busy with sports.

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

01/30/2020

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Jacque Ott

Home Address

412 Sumter Ave  
Carolina Beach NC

\* **Email Address**

jsueott@gmail.com

Phone

(910) 523-1793

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

26 years (on Valentine's Day!)

Availability

Available for day meetings

Available for night meetings

**Educational Background**

MS in Marine Studies from Univ. Delaware; BS in Earth Studies from Central Michigan Univ.

**Occupational Background**

Retired GIS (Mapping) Specialist

**Special Talents and Interests**

Strong communication skills & ability to see multiple sides of a situation; Empathy; lively interest in nature & plants to beautify and enhance our community & well being & resiliency

**Community Involvement**

Mapping & monitoring of Zeke's & Masonboro Islands as GIS Specialist w/ NC Coastal Reserve; loyalty and appreciation for our Community; being kind to neighbors, servers & visitors; buying local

Resume or other Attachment

Jacque Ott Resume 2020.pdf

\* **Date of Application**

02/03/2020

## Jacquie Ott

### Special Skills

strong work ethic  
great communicator and listener  
excellent learner and instructor  
talented project manager  
creative problem solver  
highly adaptable  
pleasant personality

### Education

**Completed** Small Business Start Up short course  
CFCC Small Business College **2012**  
**MS in Marine Studies** University of Delaware,  
Newark, DE **1991**  
**BS in Earth Sciences** Central Michigan University  
Mt. Pleasant, MI **1975**  
**Graduate** Mt. Pleasant, MI High School **1970**

### Experience

**Coordinator** for Salty Paws Thrift Store non-profit business set-up **Oct. 2012 – Sep. 2013**

Identify and negotiate retail lease space and utility hookups, assist with set up of display space, process, price and arrange donated stock, recruit and manage volunteers, help and check out customers, reconcile daily sales - cash register totals, create business logo and cards, outside store sign, banners and ads (<http://insidewilmington.com/listing/557046.html>).  
5202 Carolina Beach Rd, Wilmington, NC.

Jeannie Mintz, Director, phone: 910-458-7233

**Artisan** for Pelican Fantasy Designs Artisan Co-Op **Aug. 2011 – present**

Produce and market hand crafted jewelry.

Business Partner: Becky Ziemianski, phone: 586-839-6417,  
email: descon732@verizon.net

**GIS Specialist** for North Carolina Coastal Reserve **May 1998 – Jun 2011**

Conduct geospatial data analyses, prepare hardcopy and digital GIS-based maps and products to support and enhance Reserve Research, Education, Stewardship & Management activities (<http://www.nccoastalreserve.net/Maps-And-GIS/Maps/35.aspx>),  
UNCW Center for Marine Sciences, 5600 Marvin Moss Lane, Wilmington, NC 28409.

Contact: Peggy Dallmer, phone: 910-962-2309, email: dallmerp@uncw.edu.

**GIS Specialist** for New Image Marketing, **1998**

Analyze and map customer and supplier geographical distributions and relationships for marketing company. Ft. Myers, FL. Phone: 239-275-9979 email: info@nimresearch.com.

**Rental Agent** for Federal Point Real Estate **1995 – 1997**

Handle vacation rental reservations and annual tenant leases, arrange for rental property repairs, perform basic book keeping of accounts. Federal Point Shopping Center, Carolina Beach, NC. Contact: Sharon Lyons, phone: 910-231-6423.

**Research Scientist** for Environmental Research Institute of Michigan **1976 – 1994**

Monitor natural and cultural resources using combined field, aerial photo and satellite data. Example projects include land use mapping and change in the US and Costa Rica, documenting water characteristics in the Great Lakes, Bahamas and Chesapeake Bay. Business has closed, formerly based in Ann Arbor, MI.

### Contact

910-523-1793  
jsueott@gmail.com  
412 Sumter Avenue  
Carolina Beach, NC 28428

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name  
Jeanette Morales

Home Address  
207 Atlanta Ave  
Carolina Beach NC

\* **Email Address**  
jeanettemorales48@yahoo.com

Phone  
(518) 265-5411

\* Check Box List  
Beautification Committee

**How long have you lived in Carolina Beach?**  
8 years

Availability  
Available for day meetings  
Available for night meetings

**Educational Background**  
Some college

**Occupational Background**  
Business Manager, payroll,HR,insurance Accounts payable, receivable real estate agent home stager

**Special Talents and Interests**  
Certified Home staging, experience Interior design and remodeling Botany

**Community Involvement**  
Volunteer bike rodeo, music festival, beer and bacon, neon bike ride, surfrider nourishment with Christmas tree,

Resume or other Attachment  
\*\*SKIPPED\*\*

\* **Date of Application**  
02/02/2020

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Jullena Jones Shelley

Home Address

309 Seafarer Dr  
Carolina Beach NC

\* **Email Address**

jonesjullena@msn.com

Phone

(301) 642-1693

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

3 years

Availability

Available for day meetings

Available for night meetings

**Educational Background**

AA Degree

**Occupational Background**

\*\*SKIPPED\*\*

**Special Talents and Interests**

Past member of Beautification Committee and Garden Club for many years in Maryland. Have taken classes at the University of Maryland Extension Services in plants and gardening.

**Community Involvement**

Carolina Sands Social Committee member. Carolina Beach Board of Adjustment member

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

02/02/2020

For a brief description of the Town of Carolina Beach's Boards & Committees click [here](#).

\* Full Name

Karen Graybush

Home Address

518 Sumter Ave  
Carolina Beach NC

\* **Email Address**

karenggraybush@graybush.com

Phone

(732) 492-7643

\* Check Box List

Beautification Committee

**How long have you lived in Carolina Beach?**

Six years.

Availability

Available for day meetings

Available for night meetings

**Educational Background**

BS Environmental Science and Public Health

**Occupational Background**

OSHA, Pathology Tech and more Robert Wood Johnson Univ. Hosp., Real Estate Broker

**Special Talents and Interests**

Gardening, floral gardens, mountain biking, beach, decor and staging, science, math, sustainable projects.

**Community Involvement**

Land Use Plan, Island Women - various committees and local functions, Girl Scouts (past), Little Pink Houses of Hope, Drgon boat regatta.

Resume or other Attachment

\*\*SKIPPED\*\*

\* **Date of Application**

02/16/2020



## **AGENDA ITEM**

Meeting: Regular Town Council - 10 Mar 2020

Prepared By: Kim Ward

Department: Clerk

### **Closed Session to Discuss an Attorney/Client Matter**

**ACTION REQUESTED:**

Motion to go into closed session to discuss an attorney/client matter in accordance to NCGS 143-318.11(a)(3).