

ROY COOPER  
Governor  
ELIZABETH S. BISER  
Secretary  
WILLIAM F. LANE  
General Counsel



TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: August 12, 2024 (for the August 27-28, 2024 CRC Meeting)

RE: **Variance Request by S Water St, LLC and George 128, Inc. (CRC-VR-24-02)**

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Petitioners are S. Water St, LLC and George 128, Inc. dba The George on the Riverwalk (collectively “Petitioners”) through Edson Munekata. S. Water St., LLC owns property located at 128 Water Street South in Wilmington, New Hanover County. A portion of the site is located over the waters of the Cape Fear River and within the urban waterfront area of Wilmington. The site is currently developed with a 3,279 square foot structure which includes an enclosed building, a 16’ x 76’ “canopy” porch area and a 98’ long open wooden deck. In 2022, Petitioner purchased and installed new vinyl wall panels used to enclose the “canopy” porch area, replacing roll-up vinyl curtains. Following a Notice of Violation and removal of the panels, Petitioners applied for and were denied a CAMA Major Permit on January 24, 2024 where the vinyl wall panels are not allowed per the Commission’s rules at 7H .0209(g)(4)(B)(iii)(II) which only allows for “pile supported, single-story, unenclosed decks” within the Urban Waterfront rules. Petitioners now seek a variance in order to enclose the “canopy” porch with the vinyl wall panels.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules  
Attachment B: Stipulated Facts  
Attachment C: Petitioners’ Positions and Staff’s Responses to Variance Criteria  
Attachment D: Petitioners’ Variance Request Materials  
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Edson Munekata, Petitioners’ member/secretary, electronically  
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically



**ATTACHMENT A****RELEVANT RULES****15A NCAC 07H .0209 COASTAL SHORELINES**

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines.

(1) Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environmental Quality [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters (ORW) by the Environmental Management Commission (EMC), the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties.

(2) Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) Significance. Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) Management Objective. All shoreline development shall be compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) Use Standards. Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid or minimize adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. Development shall comply with the following standards:

(1) All development projects, proposals, and designs shall preserve natural barriers to erosion, including peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.

(2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to service the primary purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the rule to the maximum extent feasible.

(3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:

(A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water that is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.

(B) No development project proposal or design shall propose an angle for graded slopes or fill that is greater than an angle that can be retained by vegetative cover or other erosion control devices or structures.

(C) All development projects, proposals, and designs that involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; unless the project involves clearing land for the purpose of forming a reservoir later to be inundated.

(4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.

**(5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.**

(6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the

facility outweighs the required public expenditures for construction, maintenance, and continued use.

(7) Development shall not cause irreversible damage to valuable, historic architectural or archaeological resources as documented by the local historic commission or the North Carolina Department of Natural and Cultural Resources.

**(8) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the use of the accessways.**

(9) Within the AECs for shorelines contiguous to waters classified as ORW by the EMC, no CAMA permit shall be approved for any project that would be inconsistent with rules adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.

**(10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:**

(A) Water-dependent uses as described in Rule 07H .0208(a)(1) of this Section;

(B) Pile-supported signs (in accordance with local regulations);

(C) Post- or pile-supported fences;

(D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;

(E) Crab Shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;

(F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;

(G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters;

(H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased;

(I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development shall be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:

- (i) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities, such as water and sewer; and
- (ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in 15A NCAC 07J .0201 and .0211; and
- (J) Where application of the buffer requirement set out in Subparagraph (d)(10) of this Rule would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development shall be permitted within the buffer if all the following criteria are met:
  - (i) The lot on which the proposed residential structure is to be located, is located between:
    - (I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or
    - (II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;
  - (ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;
  - (iii) Placement of the residential structure and pervious decking shall be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
  - (iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces shall be allowed within the buffer; and
  - (v) The lots shall not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Marine Fisheries of the Department of Environmental Quality.
- (e) The buffer requirements in Paragraph (d) of this Rule shall not apply to Coastal Shorelines where the EMC has adopted rules that contain buffer standards.
- (f) Specific Use Standards for ORW Coastal Shorelines.
  - (1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall limit the built upon area

in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:

- (A) provide a buffer zone of at least 30 feet from the normal high water line or normal water line; and
  - (B) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.
- (2) Single-family residential lots that would not be buildable under the low-density standards defined in Subparagraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.

**(g) Urban Waterfronts.**

(1) **Description.** Urban Waterfronts are waterfront areas, not adjacent to ORW, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met:

- (A) the area lies wholly within the corporate limits of a municipality; and
- (B) the area has a central business district or similar commercial zoning classification where there are mixed land uses, and urban level services, such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.

(2) **Significance.** Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.

(3) **Management Objectives.** To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.

(4) **Use Standards:**

(A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule shall not apply to development within Urban Waterfronts that meets the following standards:

- (i) The development shall be consistent with the locally adopted land use plan;

(ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation shall be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and

(iii) The development shall meet all state stormwater management requirements as required by the EMC;

**(B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands shall be allowed only within Urban Waterfronts as set out below.**

**(i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes. Commercial, non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited.**

(ii) For the purposes of this Rule, existing enclosed structures may be replaced or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure, and is consistent with local requirements or limitations.

**(iii) New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:**

(I) shall provide for enhanced public access to the shoreline;

**(II) may be roofed, but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind;**

(III) shall require no filling of coastal wetlands, estuarine waters or public trust areas;

(IV) shall not extend more than 20 feet waterward of the normal high water level or normal water level;

(V) shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;

(VI) shall have no more than six feet of any dimension extending over coastal wetlands;

(VII) shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the

water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;

(VIII) shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;

(IX) shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there shall be no alternative that would avoid wetlands. Significant adverse impacts include the development that would impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;

(X) shall not degrade waters classified as SA or High Quality Waters or ORW as defined by the EMC;

(XI) shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and

(XII) shall not pose a threat to navigation.



**ATTACHMENT B****STIPULATED FACTS**

1. Petitioners are S. Water St., LLC (“Petitioner”) and George 128, Inc. (the “George”) dba The George on the Riverwalk (collectively “Petitioners”). S. Water St., LLC is a North Carolina Limited Liability Company organized in 2021, according to the attached Articles of Organization and 2024 Annual Report, attached. The George is a North Carolina Corporation created in 2021, according to the attached Articles of Incorporation and 2024 Annual Report, attached. These filings indicate that Mr. Edson Munkata is both a member and the secretary of S. Water St., LLC and the Secretary of the George.
2. Petitioner owns the property located at 128 Water Street South in Wilmington, New Hanover County (the “Site”). Petitioner purchased the Site in December of 2021 from Riverwalk Partners, LLC, according to a deed recorded at Book 6525, Page 2827 of the New Hanover Registry, a copy of which is attached. The Site is shown on a survey recorded at Plat Book 49, Page 138 of the New Hanover Registry, a copy of which is attached.
3. The George is a restaurant which occupies the building on Tract B of the Site (Tract A is located on the east side of South Water Street) and is located on the Wilmington waterfront adjacent to the boardwalk. The George originally opened in 2004, and the Petitioner and The George continued the name for the business. The building at this location was first built in 2003, and tax cards indicate it had been vacant since 1978.
4. The 0.17-acre parcel upon which the George is located is developed with a 3,279 square foot structure including a 37’ 78’ building, a 16’ x 76 “canopy” porch area and a 98’ long open wooden deck, as shown on the attached tax card. The tax card also indicates that the parcel has approximately 99 linear feet of rip-rap armored shoreline. Mean High Water runs generally at the bulkhead on the Site.
5. Waterward of the open wooden deck is the 12’ Riverwalk Easement, and waterward of the Riverwalk Easement is a 10’ x 94’ floating dock which was authorized as a 2002 modification of the City’s original CAMA Major permit #149-98.
6. The open deck and “canopy porch” portions of The George Restaurant are located over the public trust waters of the Cape Fear River (waterward of MHW).
7. The waters of the Cape Fear River are classified as SC Waters by the North Carolina Environmental Management Commission (“EMC”), are a designated Primary Nursery Area (“PNA”) by the Marine Fisheries Commission and are closed to the harvest of shellfish.
8. The George is located over the Public Trust and Estuarine Waters Areas of Environmental Concern (“AECs”), and the area of the Site landward of mean high water is within the Urban Waterfront portion of the Coastal Shorelines AEC.
9. The legal capacity of the restaurant, the “canopy porch” and the open deck are 112 occupants, according to the August 22, 2005 Occupancy Certificate, a copy of which is attached.

10. On September 11, 2002, DCM issued a Major Modification to CAMA Major Permit No. 149-98 to the City of Wilmington, a copy of which is attached. This permit authorized the construction of a two-story building with a partially covered deck and floating dock on the Site described in Condition 1. The original permit had authorized the construction of the City's Riverwalk project on the Site. Condition 2 authorized that the entire building would be landward of MHW (This did not include the "canopy porch and open deck, where the permit drawing, attached, had MHW located about half of the width of the "canopy porch"/open deck area waterward of the building). Condition 3 required that the roofed portion of the wooden deck (the "canopy porch") "shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls" in keeping with the (new at that time) Urban Waterfront Rule at 15A NCAC 7H .0209(h)(4)(B)(iii)(II).
11. On March 8, 2022, Petitioner hired Ingram Brothers, Inc. to replace the existing vinyl curtains around the "canopy porch" which had been in place when the Site was purchased in 2021. Instead of new vinyl curtains, Petitioner opted for approximately 119 linear feet of 4-track custom vinyl siding panels (8 panels of various widths) at a cost of \$40,000. A copy of the purchase contract dated March 28, 2022 is attached. The panels could either be opened and stored stacked within the 4-track frame or be removed from the frame. Two specification brochures are attached.
12. Attached is an affidavit from Edward Albrecht Jr. from Ingram Brothers, Inc. which states that they did not discuss CAMA permitting with Petitioners because they were being asked to replace vinyl roll-down screens with vinyl screen panels, and they "thought that no permit was required to replace the old wind screen with removable temporary polyvinyl wind panels.
13. In emails from December 12-15, 2022, George Coffin emailed DCM Wilmington District Manager Tara MacPherson to inquire about the enclosure of the "canopy deck" and whether they were a violation of the permit condition. A copy of these emails is attached. Mr. Coffin was a Member/Manager of Riverwalk Partners, LLC and signed the deed for the Site when it was sold to Petitioners.
14. On January 24, 2023, Petitioner received a Notice of Violation from the City of Wilmington for a violation (case number ZEWWP-001094-2023) as the enclosure was not allowed under the conditions of CAMA Major Permit No. 149-98 as modified. A copy of this NOV is attached.
15. March 22, 2023, a Certificate of Appropriateness application was filed by a representative of Ingram Brothers on Petitioner's behalf, a copy of which is attached. This application would seek a variance of the city zoning code to allow the panels to be used.
16. Following a June 20, 2023 variance hearing before the City of Wilmington Zoning Board of Appeals, a Certificate of Appropriateness was issued on June 20, 2023, a copy of which is attached.

17. On September 9, 2023, Petitioner, through its CAMA Agent Debbie Wilson, submitted seeking a CAMA major permit for the development of the vinyl panel system to enclose the “canopy porch” area of the Site. A copy of the permit application materials is attached and it was accepted as complete on October 30, 2023.

18. On November 2, 2023, DCM Field Representative completed a Field Investigation Report, a copy of which is attached.

19. As required, Petitioner sent notice of the application to the two adjacent riparian property owners and to the public through onsite posting and a newspaper advertisement. Mr. Marshburn received notice on October 16, 2023 and the City of Wilmington received notice on October 10, 2023 as shown on the attached and signed green cards. Neither of the adjacent owners objected to the project. No public comment about the permit application was received by DCM. Copies of the adjacent riparian notices are provided.

20. All comments received from resource agencies were either no comment or no objection.

21. The CRC adopted urban waterfront rules in 2001. The rules describe urban waterfronts as "waterfront areas, not adjacent to Outstanding Resource Waters, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state." 15A NCAC 7H .0209(g)(1).

22. The George is within the City of Wilmington’s Central Business District and is an Urban Waterfront as that term is defined in 15A NCAC 7H .0209(g)(1).

23. The management objectives for urban waterfronts recognize that "activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas." 15A NCAC 7H.0209(g)(3). The urban waterfront rules expressly allow "non-water dependent uses over estuarine waters, public trust waters, and coastal wetlands" as long as such uses occur within designated "Urban Waterfront" areas and comply with the specific urban waterfront use standards in 15A NCAC 7H.0209(g)(4)(B).

24. The urban waterfront Use Standards in 15A NCAC 7H .0209(g)(4)(B) specifically provide that:

(B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands shall be allowed only within Urban Waterfronts as set out below.

(i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes. Commercial, non-water dependent uses shall be limited to restaurants and retail services.

(ii) For the purposes of this Rule, existing enclosed structures may be replaced or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the new structure, and is consistent with local requirements or limitations.

(iii) New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria:

- (I) Shall provide for enhanced public access to the shoreline;
- (II) **May be roofed, but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid wood walls of any kind;**
- (III) Shall require no filling of coastal wetlands, estuarine waters or public trust areas;
- (IV) Shall not extend more than 20 feet waterward of the normal high water level or normal water level;
- (V) Shall be elevated at least three feet over the wetland substrate as measured from the bottom of the decking;
- (VI) Shall have no more than six feet of any dimension extending over coastal wetlands;
- (VII) Shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting agency prior to initiating any development;
- (VIII) Shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
- (IX) Shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there shall be no alternative that would avoid wetlands. Significant adverse impacts include the development that would impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;

- (X) Shall not degrade waters classified as SA or High Quality Waters or ORW as defined by the EMC;
- (XI) Shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and
- (XII) Shall not pose a threat to navigation.

25. On January 24, 2024, DCM denied Petitioner's application because the proposed development does not comply with 15A NCAC 7H .0209(g)(4)(B)(iii)(II) which limits new structures built for non-water dependent purposes to pile-supported, single-story, **unenclosed** decks and boardwalks. A copy of the denial letter is attached.

26. Petitioner stipulates that the proposed development is inconsistent with 15A NCAC 07H .0209(g)(4)(B)(iii)(II) which limits new structures to pile-supported, single-story, **unenclosed** decks and boardwalks.

27. Except for the enclosure by the panels around the "canopy porch" as proposed, Petitioner's project is otherwise consistent with the relevant use standards outlined in criteria (I) and (III) through (XII) above.

28. Petitioner sent notice of the variance to the adjacent property owners as required by 15A NCAC 7J .0701(c)(7). Copies of these letters and delivery information are provided.

29. Petitioner seeks a variance from the Commission of 15A NCAC 7H .0209(g)(4)(B)(iii)(II) in order to resume use of the vinyl panels at the Site.

30. Without a variance, Petitioner could use vinyl roll-up curtains like those in place when Petitioner purchased the Site or use no curtains on the "canopy porch."

31. Photos of the Site are included in the powerpoint presentation attached as a stipulated exhibit.

**STIPULATED EXHIBITS**

1. S. Water St., LLC Articles of Organization and 2024 Annual Report
2. George 128, Inc. Articles of Incorporation and 2024 Annual Report
3. Deed in at Book 6525-2827
4. Plat 49-138
5. Tax Card for Site
6. CAMA Major Permit #149-98 as Modified on 9-12-02
7. Certificate of Occupancy
8. Purchase agreement for vinyl panels and two specification brochures
9. Affidavit from Ingram Brothers, Inc.
10. December 12-15-22 emails from Coffin to DCM
11. 1-24-23 NOV
12. 3-22-23 Application for Zoning Certificate of Appropriateness
13. 6-20-23 Issued Certificate of Appropriateness
14. CAMA Major Permit Application
15. 11-2-23 DCM Field Investigation Report
16. Notice of CAMA Application to Adjacent Riparian Owners
17. 1-24-24 Denial of CAMA Permit
18. Notice of Variance Petition to Adjacent Riparian Owners
19. Powerpoint

**PETITIONER'S and STAFF'S POSITIONS****ATTACHMENT C**

**I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.**

**Petitioner's Position: Yes.**

Strict application of the applicable development rules causes an unnecessary hardship. The outdoor deck seats 104 guests, while the indoor main dining room has 46 seats. During inclement weather days, seating capacity is reduced by 70%, financially impacting sales revenue and labor hours for the staff.

Although guests are notified of weather dependent conditions when making reservations for outdoor deck seating, we are overwhelmed with complaints and bad reviews if they cannot be accommodated inside.

It is also very hard for the business to operate and maintain staff when sales drop by 70% during fall and winter. We operate at a loss during the winter, while trying to retain key staff. We still need to lay off a significant amount of employees, who must then be re-hired and trained, adding additional labor cost for the restaurant.

Sales in January of 2024 were \$81,761.15, compared to \$259,089.22 in July of 2023 as shown on our sales reports. Exhibit H1 and H2

Having the ability to enclose the deck will eliminate most of the seasonality factor, helping stabilize business.

**Staff's Position: No.**

Strict application of the Urban Waterfront rules does not cause Petitioners unnecessary hardship. The Urban Waterfront rules recognize that in the central business districts of waterfront municipalities, there is often existing development which is of cultural, historical and economic importance, and that these areas are suitable for maintaining or promoting dense development along the shore. (See 15A NCAC 7H .0209(g)(2)). For these reasons, the Urban Waterfront rules provide exceptions to both the Commission's 30' Buffer Rule and the limitations on non-water dependent uses over Public Trust Waters.

The Commission's Urban Waterfront rules allow certain existing structures associated with restaurants and retail services to be replaced within the original footprint and expanded up to one-story within that footprint, provided that there is a "public benefit." (See 15A NCAC 7H .0209(g)(4)(B)(i)). After the rule was adopted in 1999, any new non-water-dependent structures were limited to "pile-supported, single-story, unenclosed decks and boardwalks" and had to meet 12 specific requirements in the rules (See 15A NCAC 7H .0209(g)(4)(B)(iii)(I-XII)). In developing this exception with a dozen conditions, the Commission was being deliberately cautious about what development was allowed over public trust waters.

Petitioners focus on the fact that the restaurant is constrained by the layout and the economic impacts which Petitioners allege (which Staff cannot stipulate to). This single-story use (under the canopy roof) already provides an additional area for customers and bar patrons to sit in the shade and enjoy a view of the water while eating at the Petitioners' restaurant in addition to the deck seating.

Petitioner's argument above is that these panel walls are needed during inclement weather and during cooler parts of the year. Petitioner does not explain why these more permanent panels are needed instead of the vinyl curtains which had been used here previously and are used by other similar establishments. What Petitioner seems to be indicating is that the desired panel walls are more air-tight and permanent, keeping out the weather and the cold compared with the curtains. However, the permanence of these enclosures is what concerned the Commission when developing this exception for spaces over public trust waters.

While the Commission's Urban Waterfront rules acknowledge the need for in-fill development, reuse and redevelopment in urban areas, in this case, Petitioners have already availed themselves of that ability to develop the outdoor seating area over the water with both the "canopy deck" (and the formerly used curtains) and the open deck. Petitioner's alleged hardship is a result of Petitioners' removal of existing roll-down vinyl curtains similar to those used by neighboring properties, and having purchased new vinyl wall panels without asking DCM Staff if such development is allowed or proceeding through the permitting process before purchase.

Any hardship to Petitioners is not unnecessary, as the Commission's Urban Waterfront rules establish a reasonable limitation on commercial, non-water-dependent uses over navigable public trust waters. Requesting to enclose the "canopy deck" is beyond the expanded uses afforded by the Commission.

**II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.**

**Petitioner's Position: Yes.**

The hardship results from conditions peculiar to petitioners' property as the lot is small and located in Urban Waterfront. 11' wide open deck, 8' wide riverwalk and 10' wide floating dock all waterward of the covered deck.

Enclosing the deck would not have any restrictions for the public to access the water.

The deck is already covered, and winds typically blow from South to North across the deck causing light weight objects such as napkins and menus to blow off tables when wind picks up significant speeds, sometimes sending them into the river. Enclosures would help contain any debris going into the river.

Restaurant loses outdoor business, creating additional hardship during cold, windy, and rainy days, regardless of the time of the year.



**Staff's Position: No.**

Staff contends that any hardships which may exist do not result from conditions peculiar to Petitioner's property. The physical limitations of this parcel have existed for a long time and were present when Petitioners purchased the property in 2021 including the "canopy deck" located over Public Trust Waters at that time. After maximizing the use of most areas (enclosed restaurant, canopy deck, open deck and floating dock) allowed to be developed under various land use regulations, Petitioners now want to enclose additional space on the site through this variance request.

Petitioner's stated concerns above are that the property he purchased for a restaurant was small and he wishes to enclose the "canopy porch" area over public trust waters. However, the Commission's rules regarding what private uses of this public trust area quite limited to covered porches which are not enclosed and "privatized" and are instead open to public view and use.

The cause of any hardships is Petitioners' desired use of the property, and not based on peculiarities of the size, topography or location of the property. Further, Staff disagrees with Petitioner's assertion that the small parcel in an Urban Waterfront causes Petitioners' hardship, where the Urban Waterfront already allows for this non-water-dependent use over public trust waters and provides exceptions to the Commission's 30' buffer if conditions are met including not enclosing the space.

**III. Do the hardships result from the actions taken by the Petitioner? Explain.****Petitioner's Position: No.**

The Petitioner has taken no actions that cause hardship to the restaurant as it already had roll down curtains when it was purchased, and we had no knowledge of CAMA or any special permits. We were simply trying to improve the aesthetics of the restaurant, and further, neighboring restaurants had the same roll down vinyl curtains that were previously installed at The George.

Mother nature in the cold months and acts of God such as storms and gusty winds are beyond our control.

**Staff's Position: Yes.**

Petitioner's own actions have created any hardship alleged by Petitioners. Petitioners purchased the property in 2021 apparently without inquiring about limitations placed on this non-water-dependent use located over the public trust waters of the Cape Fear River. Petitioners appear to allege that the hardship is that the indoor seating has been maximized and they wish to enclose the "canopy deck" with vinyl wall panels instead of using the then-existing roll down vinyl curtains they had and which are used by other neighboring restaurants. Other than the fact that Petitioner has paid for these panels, Petitioner apparent reasoning for wanting the panels instead of the curtains is to better protect from wind and cold, enclosing this space for private use. The panels are a step toward a more permanent enclosure of this space and present a continual enforcement

issue for the Division to ensure no additional efforts are made to turn it into a permanently enclosed, heated and cooled space . The curtains which Petitioner had and other establishments use are able to be rolled or zipped up and down more easily as needed to temporarily block inclement weather.

Petitioners are causing any hardship by choosing to seek this variance from the Commission's long-standing restriction on enclosing the existing "canopy deck" over navigable water in order to more permanently and seasonally enclose this public space for its private use instead of continuing to use the roll up curtains to temporarily block weather on an hourly or daily time scale.

**V. Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.**

**Petitioner's Position: Yes.**

The variance will be consistent with the spirit, purpose, and intent of the Commission's rules as the restaurant is located in the Urban Waterfront, in the heart of the Historic Downtown District in Wilmington. The restaurant has been in good standing for almost 20 years with great economic significance for the city, who has approved the use of the removable vinyl panels in June of 2023. The enclosure will in no way block the view of navigable waters or obstruct pedestrians accessing the water.

Public safety and especially welfare will be enhanced with the removable panels in place, with the ability to control the climate and safely keep guests protected from rainy and windy conditions.

Substantial justice will be preserved by this variance as the enclosures will not interfere with vessels traveling the Cape Fear River, as the outdoor sitting area sits approximately 25 ft from navigable waters, with the dock and Riverwalk sitting in between these areas. There are residential buildings to the south and businesses to the north of the restaurant and further, there are neighboring restaurants, sitting on the water, with the same roll up vinyl curtains used by the previous owners.

**Staff's Position: No.**

Staff contends that the requested variance to enclose the existing "canopy deck" which is located over public trust waters would not be within the spirit, purpose and intent of the Commission's limitations on non-water dependent uses, and the Commission's existing exceptions found in the Urban Waterfront rules. The Commission's rules generally limiting non-water dependent uses over public trust waters but allow exceptions to this limitation through the Urban Waterfront rules. These rules recognize urban waterfront areas as having "cultural, historical, and economic significance" and are "suitable for maintaining and promoting dense development." 15A NCAC 0209(g)(2). The Commission also set out 12 conditions for non-water-dependent uses over public trust waters to carefully limit private, commercial uses of this public trust area.

In this case, Petitioners (and their predecessors) have already availed themselves of the Urban Waterfront rules in order to fully develop the Site including inside seating, covered outdoor

seating and open deck seating. The Urban Waterfront rules limit new uses to single-story unenclosed decks and boardwalks. The rules prohibit the enclosure of new deck structures by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind, to prevent the blocking of the view of the water by the public on land and enclosing public area into private commercial use. See 15A NCAC 7H .0209(g)(4)(B)(iii)(II). Staff have allowed clear vinyl roll-up curtains as they retain the view of the water by the public while being easy to roll-up and are more temporary in nature and have not been considered development enclosing a space more like walls. Staff believes that the proposed vinyl wall panels used to enclose the “canopy deck” exceed the reasonable limitations found in the Commission’s Urban Waterfront rules (already an exception to the Commission’s limitations on non-water dependent uses over Public Trust Waters) [15A NCAC 7H .0208(a)(1)] where they might be installed and uninstalled on a more seasonal basis lending to their permanence. Therefore, a variance would not be within the spirit, purpose and intent of the Urban Waterfront’s reasonable rules prohibiting the enclosure of public space for commercial use.

Substantial justice will not be preserved by granting this variance where Petitioners have already developed the commercial uses on the Site where there is seating inside, covered seating and open deck seating under the existing regulations which limit use of docks over public trust waters within an Urban Waterfront to roof-covered unenclosed spaces. Petitioners now wish to increase “indoor” enclosed customer seating space by enclosing the area over Public Trust Waters for its private commercial use.

Staff believes that this variance would not preserve substantial justice as it would be unfair to neighboring and competing businesses in the Urban Waterfront area who utilize the more-temporary roll-up vinyl curtains like those previously used by Petitioners at this Site. If this request is granted it could lead to other businesses seeking variances for new enclosure wall panels in the Wilmington Urban Waterfront district in order to compete with Petitioners’ increased enclosure and maximize the private use of the public trust area, as well as requests from businesses in other Urban Waterfront districts along the coast. Of particular concern to Staff are the potential cumulative impacts new enclosures in Urban Waterfront along the coast might have. While the Commission’s Urban Waterfront exception recognizes the need for in-fill development, reuse and redevelopment, it limits this use to single-story use (or one additional story for existing enclosed structures) unenclosed structures so as to limit enclosed structures over Public Trust Waters. Given the potential for this use, if allowed, to generate a significant number of similar requests for more permanent style enclosures over Public Trust, a rulemaking analysis and stakeholder engagement process can help the Commission to better understand the scope and scale of this issue.

**ATTACHMENT D**

Petitioner's Petition Materials  
(without initial proposed facts or duplicative exhibits)



March 7, 2024

Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28577

Dear CAMA

Enclosed please find our Variance Request Form along with Stipulated Facts, Petitioner's Positions and supporting documents for your review.

Please feel free to contact me at any time should you need further information.

Sincerely,

Edson Munekata  
Secretary  
S Water St, LLC  
George 128, Inc.  
6575 Summerfield Pl SW  
Ocean Isle Beach, NC 28469  
Email: [edson@cowboybraziliansteakhouse.com](mailto:edson@cowboybraziliansteakhouse.com)  
Cell: 803-394-9493

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DCM-MHD CITY

**CAMA VARIANCE REQUEST FORM**

DCM FORM 11

DCM FILE No.:

24-02

PETITIONER'S NAME S Water St, LLCCOUNTY WHERE THE DEVELOPMENT IS PROPOSED New Hanover County

Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 *et seq.*, the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

**VARIANCE HEARING PROCEDURES**

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be *received* by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: [www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

**VARIANCE CRITERIA**

The petitioner has the burden of convincing the CRC that it meets the following criteria:

- (a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.
- (b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.
- (c) Do the hardships result from actions taken by the petitioner? Explain.
- (d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

*Please make your written arguments that Petitioner meets these criteria on a separate piece of paper. The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the*

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MAR 11 2024

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*Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.*

**For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:**

- X   The name and location of the development as identified on the permit application;
- X   A copy of the permit decision for the development in question;
- X   A copy of the deed to the property on which the proposed development would be located;
- X   A complete description of the proposed development including a site plan;
- X   A stipulation that the proposed development is inconsistent with the rule at issue;
- X   Proof that notice was sent to adjacent owners and objectors\*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- X   Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- X   Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- X   A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- X   This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.

*\*Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.*

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Due to the above information and pursuant to statute, the undersigned hereby requests a variance.



03/07/24

Signature of Petitioner or Attorney

Date

Edson Munekata

edson@cowboybraziliansteakhouse.com

Printed Name of Petitioner or Attorney

Email address of Petitioner or Attorney

6575 Summerfield Pl SW

( 803 ) 394-9493

Mailing Address

Telephone Number of Petitioner or Attorney

Ocean Isle Beach NC 28469

( )

City

State

Zip

Fax Number of Petitioner or Attorney

### DELIVERY OF THIS HEARING REQUEST

This variance petition must be **received** by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division, 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

Contact Information for Attorney General's Office:

**By mail, express mail or hand delivery:**

Director  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

**By mail:**

Environmental Division  
9001 Mail Service Center  
Raleigh, NC 27699-9001

**By Fax:**

(252) 247-3330

**By express mail:**

Environmental Division  
114 W. Edenton Street  
Raleigh, NC 27603

**By Email:**

Check DCM website for the email address of the current DCM Director  
[www.nccoastalmanagement.net](http://www.nccoastalmanagement.net)

**By Fax:**

(919) 716-6767

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MAR 11 2024

Revised: July 2014

DCM-MHD CITY



State of North Carolina  
Department of the Secretary of State

SOSID: 2311932 Date Filed: 11/29/2021 11:28:00 AM Elaine F. Marshall North Carolina Secretary of State <b>C2021 327 00949</b>
-------------------------------------------------------------------------------------------------------------------------------------------

Limited Liability Company  
ARTICLES OF ORGANIZATION

Pursuant to §57D-2-20 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Organization for the purpose of forming a limited liability company.

1. The name of the limited liability company is: S. Water St. LLC  
(See Item 1 of the Instructions for appropriate entity designation)
2. The name and address of each person executing these articles of organization is as follows: (State whether each person is executing these articles of organization in the capacity of a member, organizer or both by checking all applicable boxes.) **Note: This document must be signed by all persons listed.**

Name	Business Address	Capacity
<u>Chih Kuo Lee</u>	<u>128 South Water St. Wilmington NC 28401</u>	<input checked="" type="checkbox"/> Member <input checked="" type="checkbox"/> Organizer
<u>Terence CheFa Lee</u>	<u>128 S. Water St. Wilmington, NC 28401</u>	<input checked="" type="checkbox"/> Member <input type="checkbox"/> Organizer
<u>Edson Munekata</u>	<u>128 S. Water St. Wilmington, NC 28401</u>	<input checked="" type="checkbox"/> Member <input type="checkbox"/> Organizer
3. The name of the initial registered agent is: Chih Kuo Lee
4. The street address and county of the initial registered agent office of the limited liability company is:  
 Number and Street 128 South Water St.  
 City Wilmington State: NC Zip Code: 28401 County: New Hanover
5. The mailing address, if different from the street address, of the initial registered agent office is:  
 Number and Street 1339 Baxter St. STE 200  
 City Charlotte State: NC Zip Code: NC County: 28204
6. Principal office information: (Select either a or b.)
  - a.  The limited liability company has a principal office.  
 The principal office telephone number: 336-324-4767  
 The street address and county of the principal office of the limited liability company is:  
 Number and Street: 128 South Water St.  
 City: Wilmington State: \_\_\_\_\_ Zip Code: NC County: 28401

The mailing address, if different from the street address, of the principal office of the company is:

Number and Street: 1339 Baxter St. STE 200

City: Charlotte State: NC Zip Code: 28401 County: Mecklenburg

b.  The limited liability company does not have a principal office.

7. Any other provisions which the limited liability company elects to include (e.g., the purpose of the entity) are attached.

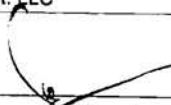
8. **(Optional):** Listing of Company Officials (See instructions on the importance of listing the company officials in the creation document.

Name	Title	Business Address

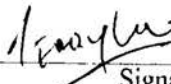
9. **(Optional):** Please provide a business e-mail address: \_\_\_\_\_  
The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is offered, please see the instructions for this document.

10. These articles will be effective upon filing, unless a future date is specified:

This is the 23rd day of November, 2021.

S. Water St. LLC  
  
 \_\_\_\_\_  
 Signature  
 member/organizer  
Chih Kuo Lee - President  
 Type or Print Name and Title

The below space to be used if more than one organizer or member is listed in Item #2 above.

S. Water St. LLC  
  
 \_\_\_\_\_  
 Signature  
 member

Terence CheFa Lee - Vice President  
Type and Print Name and Title

S. Water St. LLC  
  
 \_\_\_\_\_  
 Signature  
 member

Edson MuneKata - Secretary  
Type and Print Name and Title

**NOTE:**

1. Filing fee is \$125. This document must be filed with the Secretary of State.



State of ~~North~~ Carolina  
Department of the Secretary of State

ARTICLES OF INCORPORATION

SOSID: 2310652  
Date Filed: 11/23/2021 3:43:00 PM  
Elaine F. Marshall  
North Carolina Secretary of State

C2021 327 00941

Pursuant to §55-2-02 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Incorporation for the purpose of forming a business corporation.

1. The name of the corporation is: GEORGE 128, INC.
2. The number of shares the corporation is authorized to issue is: 100
3. These shares shall be: (*check either a or b*)
  - a.  All of one class, designated as common stock; or
  - b.  Divided into classes or series within a class as provided in the attached schedule, with the information required by N.C.G.S. Section 55-6-01.
4. The name of the initial registered agent is: CHIH KUO LEE
5. The North Carolina street address and county of the initial registered office of the corporation is:  
Number and Street 128 SOUTH WATER ST.  
City WILMINGTON State NC Zip Code 28401 County NEW HANOVER
6. The mailing address, *if different from the street address*, of the initial registered office is:  
Number and Street 1339 BAXTER ST. STE 200  
City CHARLOTTE State NC Zip Code 28204 County MECKLENBURG
7. Principal office information: (*must select either a or b.*)
  - a.  The corporation has a principal office.  
The principal office telephone number: 336-324-4767  
The street address and county of the principal office of the corporation is:  
Number and Street 128 SOUTH WATER ST.  
City WILMINGTON State NC Zip Code 28401 County NEW HANOVER  
The mailing address, *if different from the street address*, of the principal office of the corporation is:  
Number and Street 1339 BAXTER ST. STE 200  
City CHARLOTTE State NC Zip Code 28204 County MECKLENBURG
  - b.  The corporation does not have a principal office.

- 8. Any other provisions, which the corporation elects to include, i.e., the purpose of the corporation, are attached.
- 9. The name and address of each incorporator is as follows:

Name	Address
CHIH KUO LEE	128 SOUTH WATER ST., WILMINGTON, NC 28401

- 10. **(Optional):** Listing of Company Officers (See instructions on why this is important)

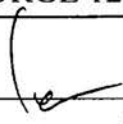
Name	Address	Title

- 11. **(Optional):** Please provide a business e-mail address: \_\_\_\_\_  
 The Secretary of State's Office will e-mail the business automatically at the address provided at no charge when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is being offered, please see the instructions for this document.

- 12. These articles will be effective upon filing, unless a future date is specified:

\_\_\_\_\_

This the 23RD day of NOVEMBER, 2021.

GEORGE 128, INC.  
 \_\_\_\_\_  
*Incorporator*  
 \_\_\_\_\_  
  
*Signature*  
CHIH KUO LEE - PRESIDENT  
 \_\_\_\_\_  
*Type or Print Name and Title*

**NOTES:**

- 1. Filing fee is \$125. This document must be filed with the Secretary of State.



# BUSINESS CORPORATION ANNUAL REPORT

030

1/6/2022

NAME OF BUSINESS CORPORATION: George 128, Inc.

SECRETARY OF STATE ID NUMBER: 2310652 STATE OF FORMATION: NC

REPORT FOR THE FISCAL YEAR END: 12/31/2023

Filing Office Use Only
E - Filed Annual Report
2310652
CA202406700034
3/7/2024 01:30
<input checked="" type="checkbox"/> Changes

## SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: Lee, Chih Kuo

2. SIGNATURE OF THE NEW REGISTERED AGENT: \_\_\_\_\_  
SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY	4. REGISTERED AGENT OFFICE MAILING ADDRESS
<u>128 South Water St</u>	<u>128 South Water St</u>
<u>Wilmington, NC 28401 New Hanover County</u>	<u>Wilmington, NC 28401</u>

## SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Full Service Restaurant

2. PRINCIPAL OFFICE PHONE NUMBER: (336) 324-4767 3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS	5. PRINCIPAL OFFICE MAILING ADDRESS
<u>128 South Water St</u>	<u>128 South Water St</u>
<u>Wilmington, NC 28401</u>	<u>Wilmington, NC 28401</u>

6. Select one of the following if applicable. (Optional see instructions)

- The company is a veteran-owned small business
- The company is a service-disabled veteran-owned small business

## SECTION C: OFFICERS (Enter additional officers in Section E.)

NAME: <u>Chih Kuo Lee</u>	NAME: <u>Terence CheFa Lee</u>	NAME: <u>Edson Munekata</u>
TITLE: <u>President</u>	TITLE: <u>Vice President</u>	TITLE: <u>Secretary</u>
ADDRESS: _____	ADDRESS: _____	ADDRESS: _____
<u>128 South Water St</u>	<u>128 South Water St.</u>	<u>128 S. Water St.</u>
<u>Wilmington, NC 28401</u>	<u>Wilmington, NC 28401</u>	<u>Wilmington, NC 28401</u>

## SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

<u>Chih Kuo Lee</u>	<u>3/7/2024</u>
_____ SIGNATURE	_____ DATE

Form must be signed by an officer listed under Section C of this form.

<u>Chih Kuo Lee</u>	<u>President</u>
_____ Print or Type Name of Officer	_____ Print or Type Title of Officer

031

BK: RB 6525  
PG: 2827 - 2830

RECORDED:

12/29/2021

02:38:27 PM

BY: ANGELA ENGLISH

DEPUTY

2021061153

NEW HANOVER COUNTY,

TAMMY THEUSCH PIVER

REGISTER OF DEEDS

NC FEE \$26.00

REAL ESTATE

EXTX \$5000.00

ELECTRONICALLY RECORDED

Prepared by: Nancy M. Guyton, Attorney  
Law Firm Carolinas  
219 Racine Drive, Suite B  
Wilmington, NC 28403

Excise Tax: \$ 5,000.00      TAX PARCEL No: R05308-006-001-000;  
R05308-005-005-000

The property conveyed herein is not the primary residence of Grantor.

Brief description for the index:

Tract A and Tract B Map Book 49, Page 138

### NORTH CAROLINA GENERAL WARRANTY DEED

**THIS DEED**, made December 29, 2021, by and between **Riverwalk Partners, LLC**, whose mailing address is 212 S. Water St. Unit 1N, Wilmington, NC 28401, herein, whether one or more, called **GRANTORS**, and **S. Water St. LLC**, whose mailing address is 901 W. 4th St., Winston-Salem, NC 27101, herein, whether one or more, called **GRANTEES**.

### WITNESSETH THAT:

**THE GRANTORS**, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations to them in hand paid by the **GRANTEES**, the receipt whereof is hereby acknowledged, have bargained and sold, and by these presents do hereby grant, bargain, sell and convey unto **GRANTEES** and their heirs, successors, and assigns forever, all that certain real property located in **New Hanover County, North Carolina**, described in **Exhibit A** attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantors by instrument recorded in Book 3768, Page 133, of the New Hanover County Registry.

Submitted electronically by "Black, Slaughter & Black, PA"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the New Hanover County Register of Deeds.

**TO HAVE AND TO HOLD** the above granted and described property, together with all and singular, the rights, privileges, easements, tenements and appurtenances thereunto belonging, or in anywise appertaining unto the said GRANTEES, their heirs, successors, and assigns, in fee simple, forever.

**AND THE GRANTORS**, for themselves, their heirs, successors and assigns, do covenant to and with the said GRANTEES, their heirs, successors, and assigns, that GRANTORS are seized in fee of the above granted and described property, that GRANTORS have good right to sell and convey the same in fee simple, that the same is free and clear from any and all restrictions, easements or encumbrances, and that GRANTORS will and their heirs, successors, and assigns will warrant and defend the title to the same against the lawful claims and demands of any and all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

1. All easements, rights of way and restrictions of record.
2. All governmental land use statutes, ordinances or regulations, including, zoning, building and subdivision regulations.
3. Ad valorem taxes for current and subsequent years.

IN TESTIMONY WHEREOF, the said GRANTORS have hereunto set their hands and seals as of the day and year first above written.

RIVERWALK PARTNERS, LLC

By: George K. Coffin 12/29/21 (SEAL)  
George K. Coffin, Member/Manager



STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: **George K. Coffin**, Member/Manager of Riverwalk Partners, LLC.

Date: December 29, 2021

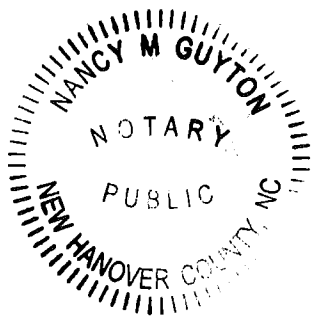
(OFFICIAL SEAL)



Notary Public

Print Name: Nancy M. Guyton

My commission expires: February 22, 2025



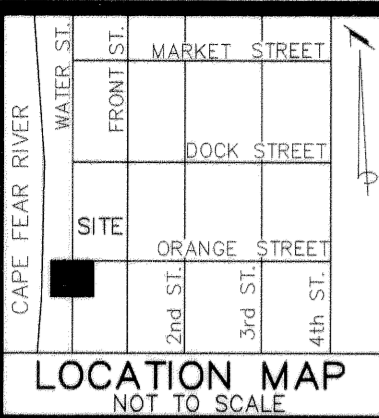
**EXHIBIT A**

**Legal Description**

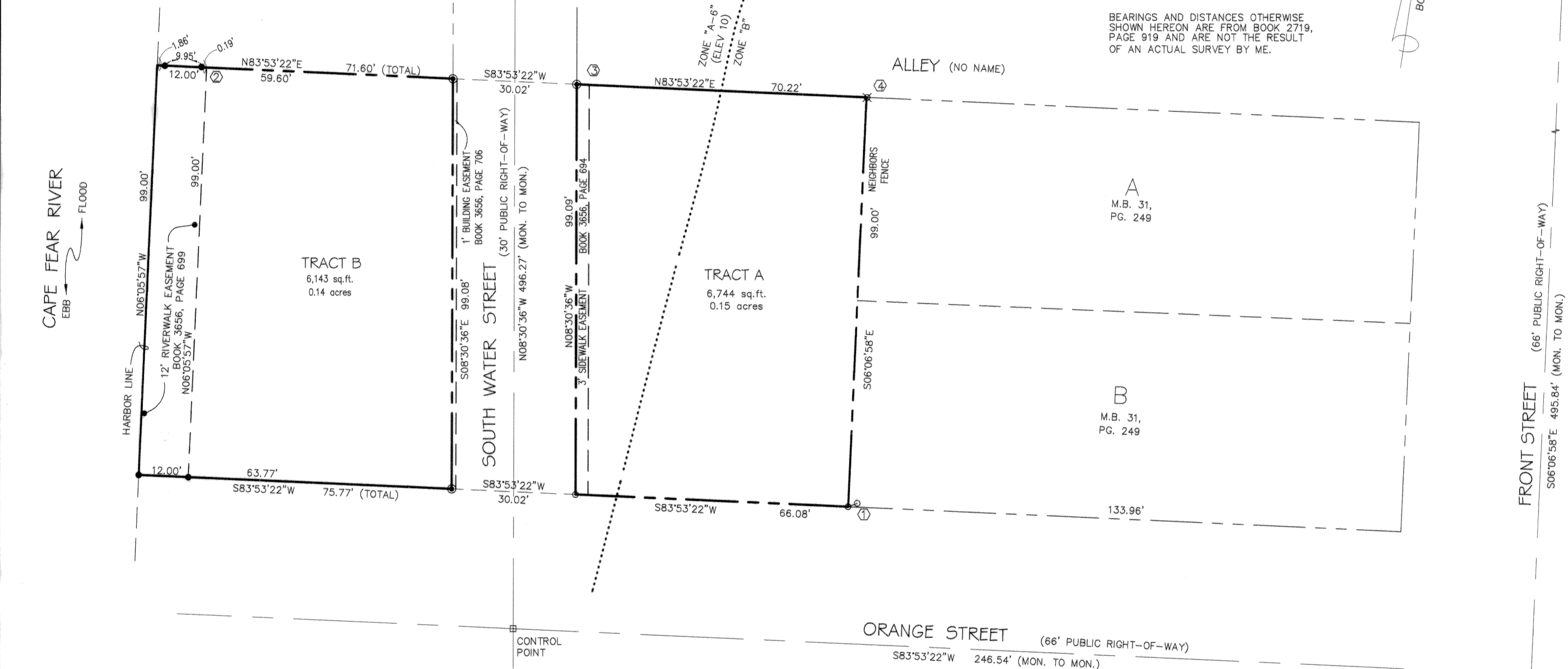
**BEING** all of that certain real property located in New Hanover County, North Carolina and being more particularly described as follows:

**BEING** all of that real property designated as **Tract A and Tract B** on that plat entitled "Composite Map of Riverwalk Partners, LLC Site" and dated October 5, 2004, by Arnold W. Carson, PLS PC, recorded in Map Book 49, Page 138, of the New Hanover County Registry; and also being known as tax parcel nos. R05308-005-005-000 (Tract B) and R05308-006-001-000.

Property Address: Tract A – 129 S. Water Street, Wilmington, NC 28401  
Tract B – 128 S. Water Street, Wilmington, NC 28401



NOTES:  
 1. THIS LOT IS LOCATED IN ZONE "A-6 (ELEV 10)" & ZONE "B" ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY-PANEL NUMBER 370171 0005 C, DATED: NOVEMBER 4, 1987.  
 2. TOTAL AREA= 0.29 AC.±  
 3. RATIO OF PRECISION = 1:10,000 +.  
 4. THIS MAP ONLY SHOWS THE PRESENT LOCATION OF THE EXISTING BUILDING "THE GEORGE" #128. NO OTHER IMPROVEMENTS ARE SHOWN AT THIS TIME AS A RESULT OF THIS MAP.



NEW HANOVER COUNTY  
 Benjamin C. Brown  
 REVIEW OFFICER OF NEW HANOVER COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.  
 REVIEW OFFICER: Benjamin C. Brown  
 DATE: 2-24-2006  
 NORTH CAROLINA

TABLE DISCLOSING LOCATION OF FOUND PROPERTY CORNERS FROM SAME AS INDICATED BY BOOK 2719, PAGE 919

①	N60°28'56"E	2.35'
②	S83°53'22"W	0.19'
③	N89°45'10"E	0.10'
④	S87°13'55"E	0.14'

NOTE: THE ABOVE FIGURES WERE DERIVED FROM AN ACTUAL SURVEY USING CONTROL MONUMENTS WITHIN THIS SUBDIVISION AS THE CONTROL  
 BEARINGS AND DISTANCES OTHERWISE SHOWN HEREON ARE FROM BOOK 2719, PAGE 919 AND ARE NOT THE RESULT OF AN ACTUAL SURVEY BY ME.

- LEGEND**
- HOLE IN CONC.
  - EXISTING NAIL
  - ⊙ EXISTING IRON
  - ⊗ SET "PK" NAIL
  - ⊗ EXISTING "PK" NAIL
  - EXISTING MONUMENT (CONTROL POINT)
  - EXISTING REBAR IN CASTING

COMPOSITE MAP OF RIVERWALK PARTNERS, LLC SITE

PART OF THAT TRACT DESCRIBED IN DEED BOOK 3768, PAGE 133 AND ALSO BEING PART OF LOTS 5, 6 & 6 1/2, BLOCK 138 OF THE WILMINGTON SUBDIVISION AS RECORDED IN MAP BOOK 11, PAGE 11 OF THE NEW HANOVER COUNTY REGISTRY WILMINGTON TOWNSHIP NEW HANOVER COUNTY NORTH CAROLINA  
 SCALE: 1" = 20'  
 OCTOBER 5, 2004 (FIELD SURVEY)  
 FEBRUARY 1, 2006 (RECORD MAP ONLY)

EXCLUSIVELY FOR RIVERWALK PARTNERS, LLC  
 1920 HIGHWAY 54, SUITE 510  
 DURHAM, N.C. 27713  
 (919) 554-6436

NEW HANOVER COUNTY NORTH CAROLINA  
 I, ARNOLD W. CARSON, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED AS SHOWN HEREON); THAT BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND AS SHOWN HEREON; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 1st DAY OF February A.D., 2006.  
 THIS PLAT IS OF A SURVEY OF EXISTING PARCELS OF LAND WHICH IS AN EXCEPTION TO THE DEFINITION OF A SUBDIVISION.

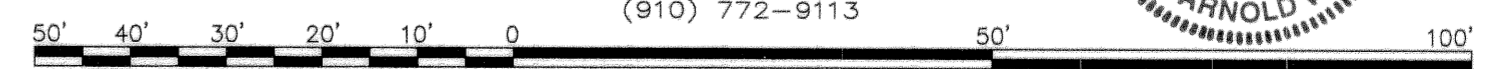
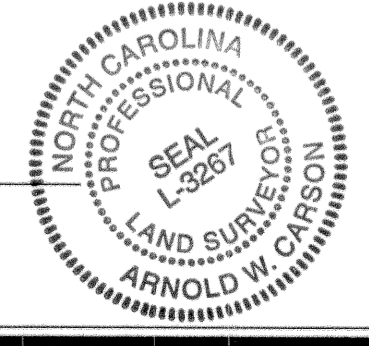
NEW HANOVER COUNTY NORTH CAROLINA  
 FILED FOR REGISTRATION ON THE 24 DAY OF Feb. 20 06, AT 8:57 AM/PP  
 AND DULY RECORDED IN MAP BOOK 49 AT PAGE 138. # 2006010367

ARNOLD W. CARSON  
 N.C. LICENSE NO. L-3267



REBECCA P. CHRISTIAN Smith  
 REGISTER OF DEEDS  
 BY: Donna Horne / Deputy

ARNOLD W. CARSON, PLS PC  
 406 NORTH THIRD STREET  
 WILMINGTON, NC 28401  
 (910) 772-9113





FOR REGISTRATION REGISTER OF DEEDS  
REBECCA P. SMITH  
NEW HANOVER COUNTY, NC  
2006 FEB 24 08:57:43 AM  
BK:49 PG:138-139 FEE:\$21.00

INSTRUMENT # 2006010367

**MAP INDEX**

Composite Map of Riverwalk Partners,  
LLC Site, Part of Lots 5, 6 & 6 1/2, Block  
138 of the Wilmington Subdivision  
Name of Map

Riverwalk Partners, LLC

Owner's Name

Type of Map:  Subdivision

Condo

Highway

Book 49 Page(s) 138

Number of Pages 1

Recorded By: Donna Horne  
Deputy/ Assistant



REBECCA P. SMITH  
REGISTER OF DEEDS, NEW HANOVER  
216 NORTH SECOND STREET

WILMINGTON, NC 28401

\*\*\*\*\*  
Filed For Registration: 02/24/2006 08:57:43 AM  
Book: PLAT 49 Page: 138-139  
Document No.: 2006010367  
PLAT 2 PGS \$21.00  
Recorder: SCOTT, NANCY A

State of North Carolina, County of New Hanover

**YELLOW PROBATE SHEET IS A VITAL PART OF YOUR RECORDED DOCUMENT.  
PLEASE RETAIN WITH ORIGINAL DOCUMENT AND SUBMIT FOR RE-RECORDING.**

**\*2006010367\***

2006010367

PARID: R05308-006-001-000  
S WATER ST LLC

128 WATER ST S

Parcel

Alt ID 311712.77.5468.000  
Address 128 S WATER ST  
Unit  
City WILMINGTON  
Zip Code -  
Neighborhood CHRX1  
Class COM-Commercial  
Land Use Code 581-Restaurant/ Bar  
Living Units  
Acres .1675  
Zoning CBD-CENTRAL BUSINESS DIS

Legal

Legal Description TRACT B RIVERWALK PARTNERS LLC SITE  
Tax District BD

Owners (On January1st)

Owner S WATER ST LLC  
City WINSTON SALEM  
State NC  
Country  
Zip 27101

THE DATA IS FROM 2024

PARID: R05308-006-001-000  
S WATER ST LLC

128 WATER ST S

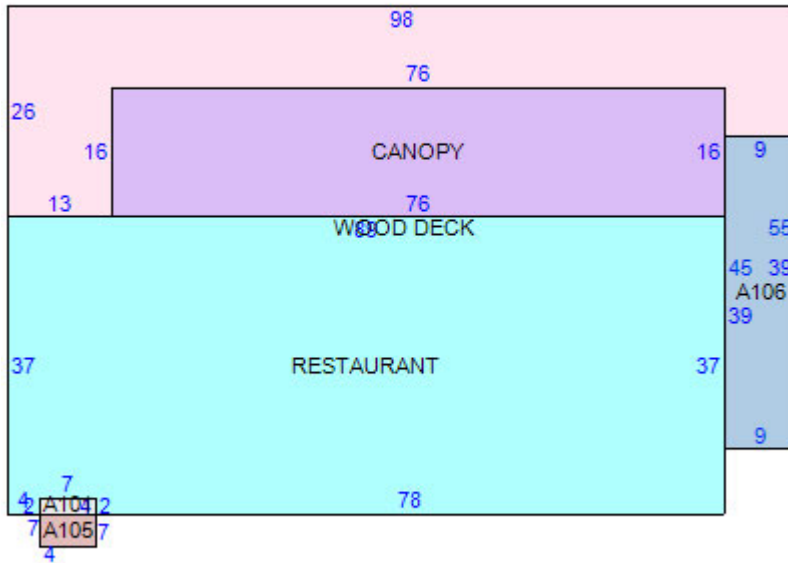
## Sales

Sale Date	Sale Price	Grantee	Grantor	Book Page	Sale Key
29-DEC-21	\$2,500,000	S WATER ST LLC	RIVERWALK PARTNERS LLC	6525 2827	634923
27-AUG-04	\$0	PROGRESS ENERGY CAROLINAS INC	RIVERWALK PARTNERS LLC	4468 0155	147737
01-MAY-03	\$0	RIVERWALK PARTNERS LLC	COFFIN GEORGE K	3768 0133	147736
24-FEB-03	\$0	WILMINGTON CITY OF	COFFIN GEORGE K	3656 0699	147734
24-FEB-03	\$0	COFFIN GEORGE K	WILMINGTON CITY OF	3656 0706	147735
17-MAR-00	\$600,000	COFFIN GEORGE K	WRIGHT CHEMICAL CORPORATION	2719 0919	147733
01-JUN-78	\$92,500	WRIGHT CHEMICAL CORP	* NOT IN SYSTEM *	1132 1683	147732

## Sale Details

1 of 7

Sale Date	29-DEC-21
Sale Key	634923
Sale Price	\$2,500,000.00
Grantee	S WATER ST LLC
Grantor	RIVERWALK PARTNERS LLC
Sale Source	Y-Deed Stamps (Sale Price Verified)
Book	6525
Page	2827
Sale Type	IMPROVED
Sale Validity	M-Mulit Parcel Qualified (add state code)
Sale Flag	
STEB	A
Instrument #	
Instrument Type	Warranty Deed
Adj. Reason	
Adj. Price	2500000
Adj. Amount	
Link	<a href="#">Click Here</a> to view the deed for this parcel



Item	Area
RESTAURANT - RES:RESTAURANT	3279
MEZZ FIN - MEZ:MEZZANINE	728
BULKHEAD - BKH:BULKHEAD	90
CANOPY - CPY:CANOPY	14
WOOD DECK - WDK:WOOD DECK COMMERCIAL	1593
CANOPY - CPY:CANOPY	1216
CANOPY - CPY:CANOPY	28
CANOPY - CPY:CANOPY	351



Profile

Sales

Residential

Commercial

Misc. Improvements

Permits

Land

Values

Agricultural

Sketch

Full Legal

Exemptions

Sub-parcel(s) Info

Original Parcel Info

Parcel Map

PARID: R05308-006-001-000  
S WATER ST LLC



- enter a parcel id -



Permit Class  
**MODIFICATION/MAJOR**

Permit Number  
**149-98**

STATE OF NORTH CAROLINA  
Department of Environment and Natural Resources  
and  
Coastal Resources Commission

# Permit

- Major Development in an Area of Environmental Concern pursuant to NCGS 113A-118
- Excavation and/or filling pursuant to NCGS 113-229

Issued to City of Wilmington, PO Box 1810, Wilmington, NC 28402

Authorizing development in New Hanover County at Cape Fear River, South Water Street, Wilmington, as requested in the permittee's application dated 4/10/02 incl. attached drawings 2-5 dated 4/10/02, sheet 6 dated 4/9/02 and sheets 7-9 dated 5/20/02.

This permit, issued on September 12, 2002, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

### George K. Coffin Property

1) This major modification authorizes the construction of a two-story building with a partially covered deck and floating dock at 128 South Water Street in downtown Wilmington. The authorized work is being undertaken in association with the City of Wilmington's Riverwalk urban waterfront redevelopment project.

### Building Construction

2) The authorized two story building shall be entirely constructed landward of the mean high water line.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

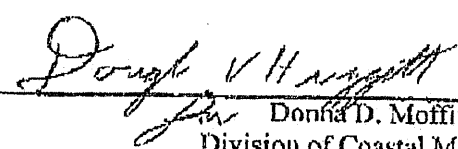
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

December 31, 2003

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



Donna D. Moffitt, Director  
Division of Coastal Management

**RECEIVED**

This permit and its conditions are hereby accepted.

MAR 11 2004

**DCM-MHD CITY**  
Signature of Permittee

City of Wilmington

Permit #149-98  
Page 2 of 3

**ADDITIONAL CONDITIONS**

**Non-Water Dependent Deck Construction**

- 3) The roofed portion of the wooden deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls.
- 4) In keeping with 15A NCAC 0711.0209(h)(4)(B)(iii)(II), which requires that non-water dependent structures built over the water be limited to a single story, the non-water dependent balcony and associated railing are hereby deleted from the authorized project.
- 5) The wooden deck shall not extend more than 20 feet waterward from the mean high water line.
- 6) All portions of the deck shall be pile-supported.

**Stormwater Management**

- 7) An approved Stormwater Management Plan will be required for this project. Stormwater Management Plan approval must be obtained from the N.C. Division of Water Quality, and a copy of this approval provided to the Division of Coastal Management, prior to the initiation of any highground development authorized by this permit.

**Sedimentation and Erosion Control**

- 8) In order to protect water quality, runoff from construction must not visibly increase the amount of suspended sediments in adjacent waters.
- 9) Appropriate sedimentation and erosion control devices, measures or structures must be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and property (e.g. silt fence, diversion swales or berms, sand fence, etc.).
- 10) All disturbed areas shall be properly graded and provided a ground cover sufficient to restrain erosion within thirty days of project completion.

**RECEIVED**

**Cultural Resource Protection**

MAR 11 2024

- 11) In order to document the presence of potentially historic artifacts at the project site, all artifacts must be mapped and recorded prior to their removal. Upon completion of the documentation efforts, copies of all such documentation must be submitted to the Division of Coastal Management and the State Historic Preservation Office.
- 12) Prior to the initiation of any construction activities on the two-story building, approval must be received from the State Historic Preservation Office that the proposed architectural design of the structure will not adversely impact the Wilmington Historic District. A copy of this approval must also be submitted to the Division of Coastal Management.

**DOMMHCITY**

City of Wilmington

Permit #149-98  
Page 3 of 3

ADDITIONAL CONDITIONS

General

- 13) No permanent structures will be placed channelward of the Harbor Line. The floating dock must be fastened to piles in a manner that facilitates easy removal. The floating dock cannot be a permanent structure.
- 14) Unless appropriate waivers are received from the two adjacent riparian property owner, and copies of the waivers provided to the Division of Coastal Management, the wooden deck, dock and associated structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent property owner's riparian access corridor, which is determined by drawing a line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the point where the upland property line meets the water's edge.
- 15) Public access between the Riverwalk and South Water Street must not be impeded during normal business hours.
- 16) This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required, including but not limited to any necessary permits from the U.S. Army Corps of Engineers or the N.C. Division of Water Quality.
- 17) No vegetated wetlands or open water areas may be excavated or filled, even temporarily.
- 18) This minor modification must be attached to the original of Permit No. 149-98, which was issued on 11/20/98, as well as all subsequent modifications and refinements and renewals, and all documents must be readily available on site when a Division representative inspects the project for compliance.
- 19) All conditions and stipulations of the active permit remaining force under this modification unless altered herein.

NOTE: The N.C. Division of Water Quality has assigned the proposed project DWQ Project No. 02-0891.

NOTE: The U.S. Army Corps of Engineers has assigned the proposed project COE Action ID No. 199900059.

RECEIVED

MAR 11 2024

DCM-MHD CITY



# WILMINGTON FIRE DEPT. BUREAU OF FIRE PREVENTION

STATE OF NORTH CAROLINA

# OCCUPANCY BY MORE THAN 112

## IS DANGEROUS AND UNLAWFUL

(NUMBER OF OCCUPANTS PERMITTED IN ACCORDANCE WITH THE  
NORTH CAROLINA FIRE PREVENTION CODE.)

ALL EXITS MUST BE FULLY ACCESSIBLE AND OPERABLE AT ALL TIMES PREMISES ARE OCCUPIED.

THIS PLACARD MUST BE DISPLAYED IN A PROMINENT PLACE ON THE PREMISES. IT IS UNLAWFUL TO ALTER OR DEFACE IT.

ESTABLISHMENT THE GEORGE RIVERWALK  
ADDRESS 128 S. WATER STREET

FIRE MARSHAL Frank Blackley  
DATE AUGUST 22, 2005

EXHIBIT D

046  
THIS CONTRACT SUBJECT TO APPROVAL OF

# Ingram Bros Inc.

Since 1948

1706 Castle Street

Wilmington, NC 28403

Phone: (910) 762-9695 Fax: (910) 762-9696

www.ingrambros.net

Date of Transaction: March 28, 2022

Job Number: 22058

Purchaser's Name(s): The George on Riverwalk, Edson Munekata

Cell: 803-394-9493

Address: 128 S. Water St

Email: edson@cowboybraziliansteakhou:

City, State and Zip: Wilmington, NC 28401

Date of Disclosure to Purchaser(s): 03/24/22

The undersigned Seller hereby sells and the undersigned Purchaser(s) hereby purchases, if one or more of them, jointly and severally, the below described goods and services for the price and upon the terms and conditions set forth herein.

Description of goods and services: **Poly-Vinyl Enclosure**

- 1.) Furnish & install approx. 119' lineal feet of (white) 4-track Custom Window System on three wall opening, Horizontal sliding panels (white) aluminum framing & clear 10 mil vinyl, speeder bar in center of each panel, no screening. The 4 Track Horizontal System allows the panels to stack up one over the other.
- 2.) Framing to be 2"x3" (White) powder coated aluminum framing installed in front of existing posts & railings going from decking up to girder.
- 3.) Maintain existing framing, posts, railings, decking, and electrical.

I.) Manufacturer's Warranty Applies.

II.) Maintain a clean work site and haul off all work related debris.

III.) Requested work not listed above will be added by written change order.

All of the above work to be done for the total sum of: Forty Thousand Dollars <u>\$40,000.00</u>	Schedule of Payments		Date	Check	Bank
	See schedule of payments in column at right.	1. Cash:.....	\$40,000.00		
	2. Down Payment:.....	\$20,000.00			
	3. Start Payment:.....	\$15,000.00			
	5. Final Balance Due:.....	\$5,000.00			<b>On or Before Completion</b>

**IMPORTANT: EACH PURCHASER MUST RECEIVE A COMPLETED COPY OF CONTRACT NOTICE TO BUYER(S) AND BUYER'S RIGHT TO CANCEL**

A. If this agreement was solicited at your residence and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight of the third business day after you sign this agreement. This notice must be mailed to: Ingram Bros Inc. - 1706 Castle St. - Wilmington, NC 28403

B. DO NOT SIGN THIS BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES.

C. YOU ARE ENTITLED TO AN EXACT COPY OF THIS CONTRACT.

D. If contract not paid per terms an interest charge of 1.33% of the total balance will be added monthly.

*Check or remove delicate items hanging from walls. On rare occasions the vibrations have caused items on the walls to fall.*

NCGC# 66480

Purchaser(s) each acknowledge receipt of a completed copy of this contract.

Ingram Bros Inc. David Dermody



*Edson Munekata*

David Dermody

Purchaser's Signature

Cell: 910-338-9122

Purchaser's Signature

RECEIVED

MAR 11 2024

DCM-MHD CITY



**PREMIUM**  
**VINYL GLAZED WINDOWS**



*Let the outside in...*



1.800.327.3086 • [www.CWS.cc](http://www.CWS.cc)



# VINYL GLAZED PRODUCTS

048

## TURN YOUR PORCH INTO A PRIVATE GETAWAY.

Convert your existing porch, gazebo, deck, pool enclosure or unused outdoor space into a versatile enclosed area with our top of the line WeatherLite™ VINYL GLAZED sliding panels. VINYL GLAZED windows are an innovative alternative to glass. They cost a fraction of the price, they are lighter weight and the durability of the vinyl is unsurpassed. **If the vinyl is stretched or dented it will return to its original shape in minutes. It is ideal if living near a golf course or in an area where children play.** ▶

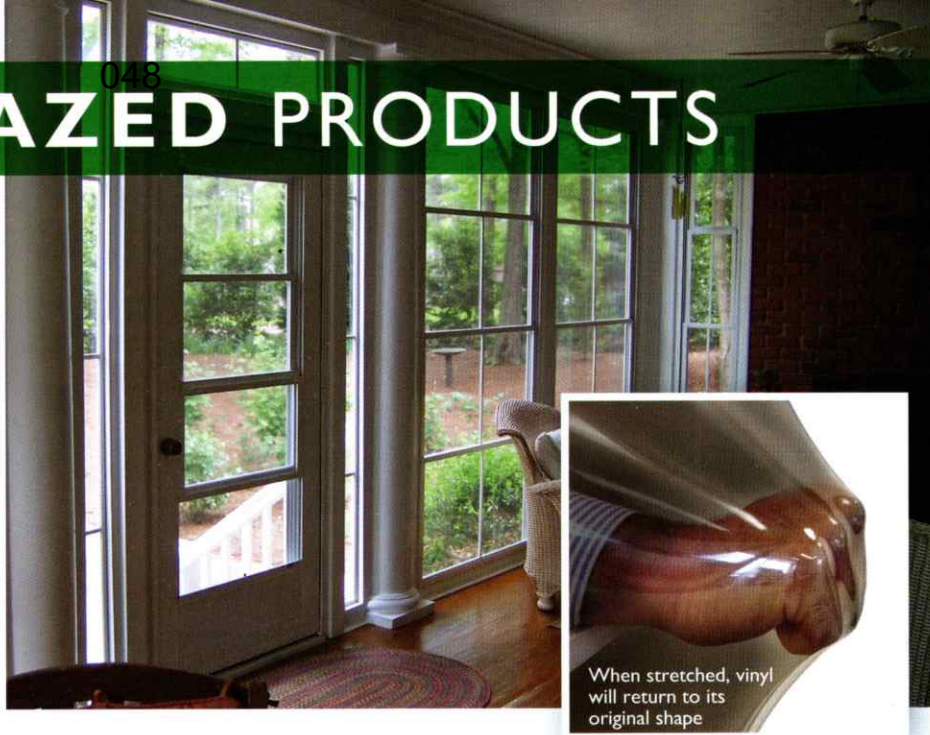


### 5100 4-Track Vertical Sliders

- Lightweight, vertical sliding panels can be raised or lowered effortlessly to ventilate up to 75% of the screened area with maximum versatility. (Push all of the panels to the top or all of the panels to the bottom)
- Easy removable sliding panel tension spring system ensures smooth operation.
- Add a Prime Door with a 4-track system for design consistency. (See top right picture for example)

### 5150 Horizontal Sliders

- Lightweight, horizontal sliding panels can be moved to the left or right for 50% ventilation.
- Vents can be removed for total ventilation.
- Designed to provide easy cleaning from inside.
- Vertical latch locks windows closed
- Available in 2-Track or 4-Track (Use our 5130 Fixed Panel, Lip Frame windows for transoms, knee-walls, or as a filler. This enables maximum versatility.)



When stretched, vinyl will return to its original shape

## BENEFITS & OPTIONS

- ✓ Powder coated aluminum frames
- ✓ Durable, weather resistant, flexible 10-mil vinyl
- ✓ Attractive, sliding panels comfortably ventilate while screening out debris and insects
- ✓ Close the panels to block out most of the elements
- ✓ Custom made to fit a large variety of openings
- ✓ Inside mount or outside mount, with or without screen installed

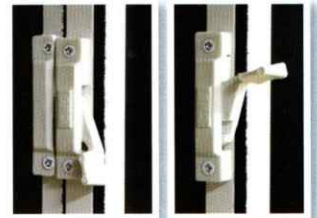
### FRAME COLORS



### VINYL COLORS



REMEMBER: Clean only with Soap and Water. Ammonia based cleaners will harm acrylic and void warranty.



VERTICAL LATCH LOCK  
Horizontal vinyl film sliding windows only



1900 SW 44TH AVENUE  
OCALA, FL 34474  
1.800.327.3086 • www.CWS.cc



**Ingram Bros. Inc.**  
1706 Castle Street  
Wilmington, NC  
28403



LS010 (May 2018)





# THE CONVERTIBLE™ ALUMINUM GARAGE SLIDERS



*Let the outside in...*



# 050 THE CONVERTIBLE™ GARAGE SLIDERS

## CONVERT ANY GARAGE TO AN EXTRA ROOM.

Add an extra room, as well as beauty to your home with THE CONVERTIBLE™. Our heavy-duty threshold assures many years of trouble-free service, and our exclusive 1" roller adds ease of operation and dependability. While this product allows for the benefits of Florida's subtropical climate by enclosing your garage with a convertible garage slider, it is a favorite in many other states as well. ▶



## 5700 Garage Slider

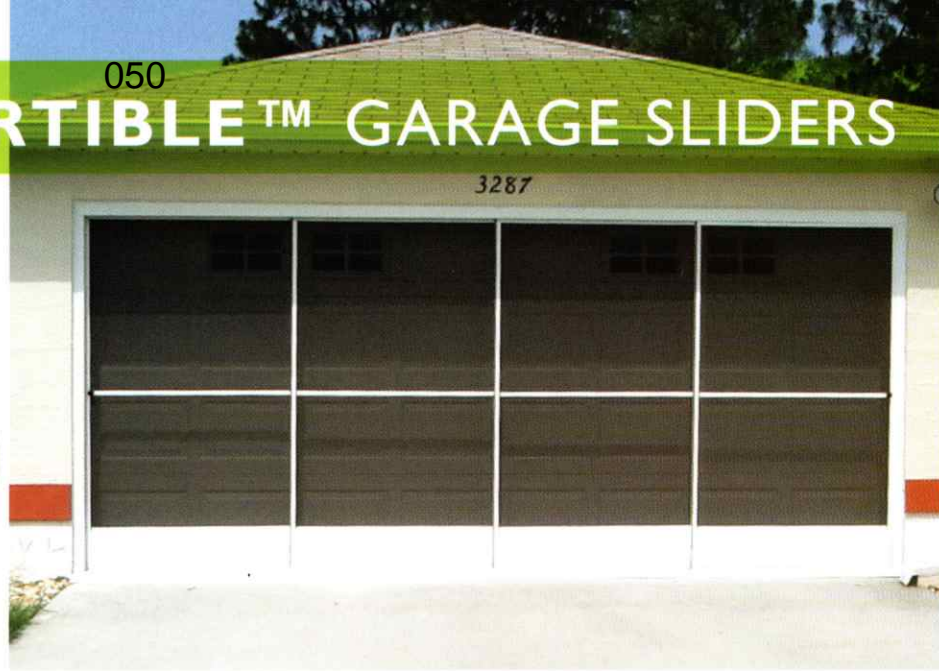
Available in many different panel options Slide all of the panels to the left or right for a nice cool breeze or shut the panels entirely Choose a thicker screen for added privacy



◀ Our exclusive 1" Neoprene Rollers assure easy operation, reducing snag and drag



◀ Reinforced threshold sills with additional legs for added strength, hold up to the heaviest of vehicles



## BENEFITS & OPTIONS

- ✔ Works with existing garage doors
- ✔ Removable sliding vents
- ✔ Integrated wood grain kick plate
- ✔ Available with screen or vinyl  
(Call for size availability on vinyl)
- ✔ Stainless steel screws provide long-lasting durability and superior construction
- ✔ Durable fiberglass screens

### FRAME COLORS



WHITE



BRONZE

### VINYL COLORS



BRONZE



SMOKE GRAY

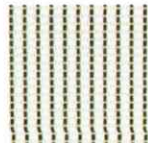


CLEAR

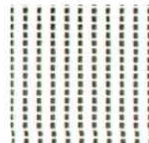
REMEMBER: Clean only with Soap and Water. Ammonia based cleaners will harm vinyl and void warranty.

### SCREEN OPTIONS

ANTIQUE WHITE  
SUNSCREEN®



WHITE  
SUNSCREEN®



CHARCOAL  
SUNSCREEN®



2020  
CHARCOAL  
(Also in Gray)



2020  
CHARCOAL  
(Also in Gray)



1900 SW 44TH AVENUE  
OCALA, FL 34474  
1.800.327.3086 • www.CWS.cc



LS017 (September 2014)



**Goebel, Christine A**

---

**From:** MacPherson, Tara  
**Sent:** Friday, December 16, 2022 8:41 AM  
**To:** Mairs, Robb L  
**Subject:** FW: [External] Permit Noncompliance  
**Attachments:** DOC102422-10242022153430.pdf

Check this out....

**Tara MacPherson**  
Wilmington Region District Manager  
North Carolina Division of Coastal Management  
Department of Environmental Quality

910 796-7266 office  
[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)

127 Cardinal Drive Ext  
Wilmington, NC 28405

[Find a Field Rep \(arcgis.com\)](https://arcgis.com)



*Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.*

---

**From:** George Coffin <g.k.coffin@gmail.com>  
**Sent:** Thursday, December 15, 2022 11:00 AM  
**To:** MacPherson, Tara <tara.macpherson@ncdenr.gov>  
**Subject:** Re: [External] Permit Noncompliance

**CAUTION:** External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Ms. MacPherson,

There is a building located at 128 South Water Street in downtown Wilmington. Construction of the building and a partially covered wooden deck was permitted by MODIFICATION/MAJOR Permit Number 149-98 issued on September 12, 2002 by the State of North Carolina Department of Environmental and Natural Resources and Coastal Resources Commission.

Last month the roof covered part of the deck was enclosed as shown in these photos.



West Wall Enclosure



South Wall Enclosure  
North Wall Enclosure Similar

This appears to be noncompliant with the Permit, Item 3 on page 2 which states "The roofed portion of the wooden deck shall not be enclosed by partions [sic], plastic sheeting, screening, netting, lattice or solid walls."

What's your opinion on this?

For your convenience this is a copy of the September 12, 2002 Permit.

Regards,  
George Coffin  
212 S Water Street, 1N  
Wilmington, NC 28401  
919-523-4380

On Dec 14, 2022, at 4:26 PM, MacPherson, Tara <[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)> wrote:

Hi Mr. Coffin,

You can send the specific complaint to me and I can get someone to look into it.

Thank you,

Tara

Tara MacPherson  
Wilmington Region District Manager  
North Carolina Division of Coastal Management  
Department of Environmental Quality

910 796-7266 office  
[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)

127 Cardinal Drive Ext  
Wilmington, NC 28405

Find a Field Rep ([arcgis.com](http://arcgis.com))

-----Original Message-----

From: George Coffin <[g.k.coffin@gmail.com](mailto:g.k.coffin@gmail.com)>  
Sent: Wednesday, December 14, 2022 10:26 AM  
To: MacPherson, Tara <[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)>  
Subject: Re: [External] Permit Noncompliance

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.<<mailto:report.spam@nc.gov>>

Ms. MacPherson,

The subject properties are located at 128, 212 and 224 South Water Street, Wilmington, NC.

Regards,  
George Coffin  
212 S Water Street, 1N  
Wilmington, NC 28401  
919-523-4380

On Dec 13, 2022, at 1:34 PM, MacPherson, Tara <[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)> wrote:

Hi Mr. Coffin,

Where is the location of the subject property? I would be happy to direct you to the proper representative.

Thank you,

Tara

Tara MacPherson  
Wilmington Region District Manager  
North Carolina Division of Coastal Management Department of  
Environmental Quality

910 796-7266 office  
[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)

127 Cardinal Drive Ext  
Wilmington, NC 28405

Find a Field Rep ([arcgis.com](http://arcgis.com))

-----Original Message-----

From: George Coffin <[g.k.coffin@gmail.com](mailto:g.k.coffin@gmail.com)>  
Sent: Monday, December 12, 2022 12:34 PM  
To: MacPherson, Tara <[tara.macpherson@ncdenr.gov](mailto:tara.macpherson@ncdenr.gov)>  
Subject: [External] Permit Noncompliance



057

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to Report Spam.<<mailto:report.spam@nc.gov>>

Ms. MacPherson,

To whom do I report a suspected noncompliance with a Permit issued by the State of North Carolina Department of Environmental and Natural Resources and Coastal Resources Commission?

Regards,

George Coffin

212 S Water Street, 1N

Wilmington, NC 28401

919-523-4380



Zoning Violation  
Planning & Development  
Zoning Division

058

Case Number: <b>ZEWWP-001094-2023</b>
Case Type: <b>ZE - Work Without Permit</b>
Date of Inspection: <b>01/24/2023</b>
Date of Next Inspection: <b>02/23/2023</b>

Violations of the provisions of Article 3, Division 3, Temporary Uses, shall subject the offender to civil penalties, the amount of which shall be determined annually as part of the city's adopted fee schedule.

5. Stormwater violations

Violations of article 4, division 1 of this chapter shall subject the offender to a civil penalty of up to the full amount of any civil penalty assessed against the city for violations of the city's NPDES phase II stormwater permit.

6. If any offender fails to pay the civil penalty set forth in this chapter within 10 business days after being cited for a violation, the city may seek to recover the penalty by filing a civil action in the nature of the debt.

**Corrective Action:** Civil penalties

Please see the following page(s) for relevant code sections to apply when taking the necessary corrective action(s). Corrective actions must be completed no later than . Land Development Code Section 18-648 sets forth a civil penalty citation of one hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) for each subsequent continuing violation. Every day the violation persists constitutes a separate offense. Should there be any circumstances that prevent you from complying within the above noted time frame, please call **Cynthia Whitfield, Zoning Enforcement Officer** as soon as possible to discuss the matter at **(910) 341-4697**.

You may appeal this determination to the Board of Adjustment pursuant to NCGS §160D-705 and Land Development Code Section 18-615 within thirty (30) days from the date of this letter. Please contact the Department of Planning and Development to inquire about the appeals process by calling (910) 254-0900, or by emailing [Zoning@wilmingtonnc.gov](mailto:Zoning@wilmingtonnc.gov)

Sincerely,

Cynthia Whitfield  
Zoning Enforcement Officer  
(910) 341-4697  
[Cynthia.Whitfield@wilmingtonnc.gov](mailto:Cynthia.Whitfield@wilmingtonnc.gov)

City of Wilmington Zoning Division  
PO Box 1810, 305 Chestnut St.  
Wilmington, NC 28402  
(910) 254-0900  
[www.wilmingtonnc.gov](http://www.wilmingtonnc.gov)  
Dial 711 TTY

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# CERTIFICATE OF APPROPRIATENESS APPLICATION

Please type or print

## Property Information

Street Address: 128 South Water Street; Wilmington, NC 28401

Tax Parcel Number(s): R05308-006-001-000

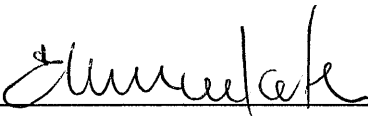
## Property Owner Information

If the applicant is not the property owner, an agent form (see page 3) is required to be signed by the property owner and submitted with an application. Application must be signed by all legal property owner's.

Owner(s) name(s): S Water St LLC - operating as The George on the Riverwalk Edson Munekata

Mailing address: 901 W 4th Street; Winston-Salem, NC 27101

Phone: (803) 394-9493 Edson Munekata Email address: edson@cowbybraziliansteakhouse.com

Signature:  Date: 3/22/2023

Date of pre-application meeting: 3/20/2023

Topics discussed: Installing polyvinyl 4-track windows in patio.

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Application Type— Please circle all that apply

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Windows or doors	Addition, including porches	Life safety and ADA alterations
Change in roofing materials	Storefront alterations	Landscaping
Major exterior alterations	Signs	Demolition, including reduction of stay
After-the-fact approval	New construction	Construction of accessory building or structure
Restoration of missing features	Moving a building or structure	Reconstruction
Fences, walls, and site features	Other (please specify): <u>Enclose covered patio with polyvinyl 4-track windows</u>	

# CERTIFICATE OF APPROPRIATENESS APPLICATION

## Agent Form

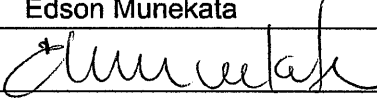
**This form is required if the applicant is anyone other than the property owner.**

I, Edson Munekata, the undersigned owner, do hereby appoint Ingram Bros., Inc. - Jeff Serens to act on my behalf for the purpose of petitioning the city of Wilmington Historic Preservation Commission for a certificate of appropriateness, as applicable to the property described in the attached petition.

I do hereby covenant and agree with the city of Wilmington that said person (agent) has the authority to do the following acts for or on behalf of the owner:

1. Submit property petition and required supplemental materials;
2. Appear at public meetings to give testimony and make commitments on behalf of the owner;
3. Accept conditions or recommendations made for the issuance of the certificate of appropriateness on the owner's property; and
4. Act on the owner's behalf without limitations with regard to any and all things directly or indirectly connected with or arising out any petition for a certificate of appropriateness.

This appointment agreement shall continue in effect until final disposition of the petition submitted in conjunction with this appointment.

Owner(s) name(s) (print): Edson Munekata  
Owner(s) signature(s):  Date: 3/22/2023

Designated agent name: Ingram Bros., Inc. - Jeff Serens  
Designated agent address: 1706 Castle Street  
Wilmington, NC 28403  
Agent phone: (910) 762-9695 Email: projects@ingrambros.net  
(910) 443-0299 cell

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# CERTIFICATE OF APPROPRIATENESS APPLICATION

## Submittal checklist

### Required Information

The applicant is responsible for supplying all information necessary to enable the Historic Preservation Commission to understand the proposal and potential impacts on the historic district or overlay. Without sufficient information, the commission may continue or deny the request.

If the required information is not included with the application, the request cannot be scheduled for review by the commission.

Signed application form	See page 2. Signed by all legal property owners
Agent form	Required if applicant is anyone other than the property owner; see page 3
Project narrative	Brief, detailed description of the project, including description of how the proposed changes are consistent with the <i>Wilmington Design Standards for Historic Districts and Landmarks</i>
Tax map	This can be found online at the New Hanover County GIS Portal at <a href="https://maps.nhcgov.com/">https://maps.nhcgov.com/</a> (or click <a href="#">here</a> )
Adjacent property owners & envelopes	<ul style="list-style-type: none"> <li>List of adjacent property owners (see page 5)</li> <li>Stamped envelopes addressed to each property owners' mailing address. Include City of Wilmington return address in upper left corner</li> <li>Any envelopes posted by meter must not be dated</li> </ul>
Proposed building materials	<ul style="list-style-type: none"> <li>May include brochures or manufacturer's specifications sheets</li> <li>Product sheet for each type of material (window, door, roof, siding, etc.)</li> <li>Physical color swatches for proposed paint colors</li> <li>Materials checklist (see page 6)</li> </ul>
Digital photos	<ul style="list-style-type: none"> <li>Keyed to a site plan or lot diagram and showing existing buildings, structures, features, and conditions and a close-up of proposed work area</li> <li>Thumb drive preferred; may be emailed</li> </ul>
Additional requirements for new construction, additions, and major alterations	<ul style="list-style-type: none"> <li>Site plan, drawn to scale, showing all existing and proposed buildings, setbacks, parking areas, driveways, trees to be removed or preserved, fences, and landscaping</li> <li>Architectural drawings, drawn to scale, showing elevations of existing and proposed buildings and structures and floor plans for new construction and additions—if drawings are larger than 11"x17", 12 paper copies are required</li> <li>Samples of significant project materials</li> <li>Other information that helps determine whether the project is consistent with the design standards</li> <li>Three dimensional models (optional)</li> </ul>

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# CERTIFICATE OF APPROPRIATENESS APPLICATION

## Adjacent Properties Information

### Determining adjacency

**Symbol Legend**

- Lot Area and Property Lines
- Property
- A** Adjacent Property Across the Street
- B** Adjacent Property to the Side
- C** Adjacent Property to the Rear
- D** Adjacent Property Diagonal from Corner

Adjacent properties are directly to the rear of the property, to the sides, across from the property, and diagonally across from the corners of the property.

Where the property abuts a street, adjacent properties include any properties that are directly across the street.

**Include the city return address on the envelopes:**

City of Wilmington  
Planning Department  
PO Box 1810  
Wilmington, NC 28402-1810

### Adjacent property owner information (attach additional sheets, if necessary)

Name: Carl B Marshburn III

Mailing address: 122 S Water Street  
Wilmington, NC 28401

Tax parcel number: R05308-006-002-000

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Tax parcel number: \_\_\_\_\_

Name: Justin W Lanasa

Mailing address: 533 Hidden Valley Road  
Wilmington, NC 28409

Tax parcel number: R05308-008-009-000

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Tax parcel number: \_\_\_\_\_

Name: ER Quiver Family Limited Partnership

Mailing address: 124 S Front Street  
Wilmington, NC 28401

Tax parcel number: R05308-005-004-000

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Tax parcel number: \_\_\_\_\_

Name: Riverwalk Condo Assoc HOA

Mailing address: 212 S Water Street  
Wilmington, NC 28401

Tax parcel number: R05308-007-002-000

Name: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

Tax parcel number: \_\_\_\_\_

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# CERTIFICATE OF APPROPRIATENESS APPLICATION

## New Construction Information

Complete one sheet for each new building or structure in order to address all of the project components.

BUILDING ELEMENT	PROPOSED MATERIALS, DIMENSIONS, COLORS
<b>Roof</b> (roof pitch / material / color)	
Main	
Front porch/Side porch/Rear porch	
Height, measured from average grade to peak of roof	
<b>Siding</b>	
Siding (body, include type, reveal, finish, mortar color)	
Accent siding and trim	
<b>Foundation</b>	
Materials (plus color and height)	
<b>Porch materials &amp; dimensions</b>	
Columns (cap and base)	
Stairs & railing, including dimensions	
Decking (floorboards)	
Balustrade/railing	
Individual balusters	
Top rail cap and bottom rail	
Ceiling (material, design, dimensions)	
<b>Screened porch</b>	
Columns (cap and base)	
Stairs & railing, including dimensions	
Decking (floorboards)	
Balustrade—top rail	
Balustrade—individual balusters	
Balustrade—top cap and bottom rail	
Screening (material and color)	
Foundation (material, height, color)	
Roof (materials, pitch, height)	
<b>Deck materials &amp; dimensions</b>	
Posts	
Balustrade (top rail/cap, balusters, bottom rail )	
Foundation (height, materials)	
Entry steps and railing	
<b>Doors</b> (material / color)	
Front entry	
Sides	
Rear	
<b>Windows</b> (material, style, SDL/GBG)	
Front	
Sides	
Rear	
<b>Drainage</b> (material, style, color)	
Gutters and downspouts	
<b>Driveway and parking</b>	
<b>Fencing</b>	
<b>Pool</b>	
<b>Landscaping</b>	

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# COA

## CERTIFICATE OF APPROPRIATENESS City of Wilmington Historic Preservation Commission

Issued to: Jeff Serens, agent  
S. Water Street LLC, owner  
Date: June 20, 2023  
Expires: June 20, 2024

Location: 128 S Water Street

Parcel ID: R05308-006-001-000  
GOA Number: MW/2306-03

### DESCRIPTION OF APPROVED PROPOSAL:

In accordance with the Historic Preservation Commission June 8, 2023 meeting and its order approving and granting a certificate of appropriateness with conditions, dated June 20, 2023 this COA is issued subject to the following:

#### COA request: Install an aluminum and vinyl enclosure.

- All construction shall comply with the regulations and requirements imposed by the Land Development Code and other applicable federal, state, or local law, ordinance, or regulation, including the North Carolina Building Code. All required permits shall be obtained.
- Changes to the project from that described in the application and submittals, shall be reviewed by the Historic Preservation Commission, or similar in nature as specified in the *Wilmington Design Standards for Historic Districts and Landmarks*, by staff through the administrative bypass process.

All work shall be completed in accordance with the drawings, plans, photographs, submittals, and narrative statement contained in the application, and supplemental materials and statements made at the June 8, 2023 meeting.

#### Applicant must secure all necessary permits and approvals before work may commence.

This COA shall become null and void if work has not commenced within one year and expires on **June 20, 2024**. An extension of time, not to exceed six months, may be granted by the commission secretary or designee, provided an application for such extension is submitted prior to its expiration. The secretary shall inform the commission of any extension. The Historic Preservation Commission may grant an extension, for any length of time deemed appropriate, provided an application for extension is submitted in writing to the commission prior to the expiration of the original COA or any extension.

## Placard Must Be Posted While Work Approved by this COA is Being Conducted

A final zoning inspection is required once work approved under this COA is completed. Separate zoning inspections are permitted for phased projects. Contact the planning division at 910-254-0900.

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STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

CITY OF WILMINGTON  
HISTORIC PRESERVATION COMMISSION  
FILE NO: 128 S WATER STREET

### ORDER GRANTING A CERTIFICATE OF APPROPRIATENESS WITH CONDITIONS

This matter came before the Wilmington Historic Preservation Commission (HPC) for evidentiary hearing on June 8, 2023 to consider an application for a Certificate of Appropriateness (COA) by **Jeff Serens**, agent for **Water St. LLC, Edson Munekata**, owner of the property located at 128 S Water Street to approve the installation an aluminum and vinyl deck enclosure.

Details as shown on the drawings, plans, photographs, submittals, and narrative statement contained in the application, and supplemental materials and statements made at the June 8, 2023 meeting are a part of this request unless otherwise noted.

#### Property Description

*The following property description is adapted from city archives.*

Constructed in 2003, 128 South Water Street is a one-story brick veneer commercial building with a 2,200 square foot deck and a 736 square foot floating dock.

The Wilmington Historic Preservation Commission, having examined the evidence and heard the testimony presented at the hearing, makes the following:

#### FINDINGS OF FACT:

1. The subject property is a noncontributing resource in the Commercial Business District - Historic District Overlay (CBD-HDO). Only that which can be seen from the public right-of-way, excluding alleys, is subject to design review.
2. The subject property is located on the west side of South Water Street between Market House Alleyway and Orange Street. Entrances to the building are located on the east and west facades. All facades are visible from the public right-of-way.
3. The applicant proposes to install an aluminum and vinyl deck enclosure.
  - a. The enclosure will be installed within the post and beam structure of the existing deck.
  - b. The enclosure will be Custom Window Systems, white aluminum frame and clear vinyl panels.
    - i. Panels are approximately 65-5/8" W x 91-5/8" H with a central muntin.
  - c. The enclosure will have an 8-inch white kick plate at the base.
  - d. Enclosure panels will be approximately 91-5/8" H with varying widths.
4. The following applicable certificates of appropriateness have been issued for the property.
  - a. March 13, 2003: (MJW-03-27): Construct an approximately 3400 square foot one story, 20-foot high, steel and wood frame, brick veneer commercial building with a 2200 square foot deck and 736 square foot floating dock.
  - b. August 18, 2004: (MJW-05-26): Extend the existing railing to 7' O" above the service deck on the north, east and west elevations, and move two existing condensers on the north wall to a location below the top of the extended railing.
  - c. September 17, 2004: (MW-05-36): Install a black canvas awning on the north façade.
5. **Staff Observations.** Staff notes the following:
  - a. The Riverwalk is considered a part of the public right-of-way.

- 1.6 Secretary of the Interior's Standards – Standards 1-10**  
**2.6 Decks and Swimming Pools – Standards 1-7**  
**3.6 Porches and Entrances – Standards 5-7**  
**4.2 Existing Buildings– Standards 3, 4**

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On the basis of the foregoing findings of fact, the Wilmington Historic Preservation Commission draws the following:

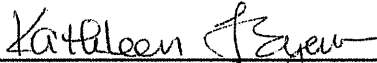
**CONCLUSIONS:**

The request to approve the installation an aluminum and vinyl deck enclosure at 128 S Water Street all as specified in the drawings, plans, photographs, and submittals in the application, and supplemental materials submitted and statements made at the June 8, 2023 meeting unless otherwise noted **does comply** with the *Wilmington Design Standards for Historic Districts and Landmarks*, **is compatible** with the materials, features, design, context, form, and character of the district in which it is located, and **is congruous** with the historic aspects and special character of the Central Business District – Historic District Overlay (CBD-HDO) as a whole.

A certificate of appropriateness (COA) is hereby granted as of the 20<sup>th</sup> day of June 2023.

**Conditions**

1. Construction shall comply with all regulations and requirements of the Land Development Code and any other applicable federal, state, and local laws, ordinances, and regulations, as well as any conditions ordered by the Historic Preservation Commission.
2. Changes to the project from that described in the application and submittals, shall be reviewed by the Historic Preservation Commission, or if minor in nature as specified in the Wilmington design standards, by staff through the administrative bypass process.

  
 \_\_\_\_\_  
 Kathleen Egan, Chairman  
 Historic Preservation Commission

Appeal Rights: You may appeal the Historic Preservation Commission's action in granting or denying a certificate of appropriateness to the Board of Adjustment within 30 days of the commission's action.

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### Narrative

As acting agent for S Water St., LLC, c/o Edson Munekata who owns The George on the Riverwalk, located at 128 S. Water St., Wilmington, NC in New Hanover County, adjacent to the Cape Fear River, I am submitting the enclosed CAMA Major Permit application to install eight (8) removable polyvinyl panels on the 3 open sides of the existing covered dining area. The dimensions of the individual panels are as follows:

- 1 @ 61" x 91<sup>5</sup>/<sub>8</sub>"
- 1 @ 79<sup>1</sup>/<sub>2</sub>" x 91<sup>5</sup>/<sub>8</sub>"
- 1 @ 166" x 91 15/16"
- 1 @ 161<sup>1</sup>/<sub>2</sub>" x 91 15/16"
- 1 @ 80<sup>1</sup>/<sub>4</sub>" x 91<sup>5</sup>/<sub>8</sub>"
- 1 @ 174<sup>1</sup>/<sub>2</sub>" x 91 15/16"
- 1 @ 173" x 91 15/16"
- 1 @ 173" x 91 15/16"

These removable panels will provide for a more enjoyable dining experience for patrons during times of inclement weather conditions. The existing restaurant was constructed by the previous owner in 2003 and Mr. Munekata bought the property on 12/29/21. Mr. Munekata states that at the time of purchase, the covered dining area had existing clear vinyl rollup windows along the 3 open sides of the covered dining area. Mr. Munekata decided to replace the rollup vinyl with these more aesthetically pleasing polyvinyl panels unaware of the CAMA Regulations and condition on the previous CAMA Major Permit #149-98 which was issued to The City of Wilmington on 11/20/98 and expired on 12/31/03 prohibiting the enclosure of the covered deck by partitions, plastic sheeting, screening, netting, lattice, or solid walls and had the panels installed. He was later notified by The City and or Coastal Management of these regulations and had the panels removed. He is now requesting authorization to replace the panels and understands that a Variance by the CRC would be required in order to do so.

*The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of my knowledge and belief.*

- *The project proponent hereby requests that the certifying authority review and take action on this CWA 401 certification request within the applicable reasonable period of time.*

Please feel free to contact me if you need any additional information or have any questions.

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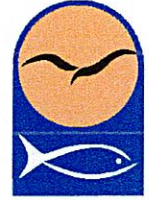
OCT 23 2023

DCM WILMINGTON, NC

DCM MP-1

# APPLICATION for Major Development Permit

(last revised 12/27/06)



North Carolina DIVISION OF COASTAL MANAGEMENT

1. Primary Applicant/ Landowner Information				
Business Name <b>S Water St., LLC</b>		Project Name (if applicable) <b>The George on the Riverwalk</b>		
Applicant 1: First Name <b>Edson</b>	MI	Last Name <b>Munekata</b>		
Applicant 2: First Name	MI	Last Name		
<i>If additional applicants, please attach an additional page(s) with names listed.</i>				
Mailing Address <b>901 W. 4th Street</b>		PO Box	City <b>Winston-Salem</b>	State <b>NC</b>
ZIP <b>27101</b>	Country <b>USA</b>	Phone No. <b>803 - 394 - 9493</b> ext.		FAX No. - -
Street Address (if different from above)		City	State	ZIP -
Email <b>edson@cowboybrailiansteakhouse.com</b>				

2. Agent/Contractor Information				
Business Name				
Agent/ Contractor 1: First Name <b>Debbie</b>	MI	Last Name <b>Wilson</b>		
Agent/ Contractor 2: First Name	MI	Last Name		
Mailing Address		PO Box <b>16275</b>	City <b>Wilmington</b>	State <b>NC</b>
ZIP <b>28408</b>		Phone No. 1 <b>910 - 612 - 0402</b> ext.		Phone No. 2 - - ext.
FAX No.	Contractor #			
Street Address (if different from above)		City	State	ZIP
Email <b>debbiew75@charter.net</b>				

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OCT 23 2003

&lt;Form continues on back&gt;

DCM WILMINGTON, NC

<b>3. Project Location</b>				
County (can be multiple)	Street Address		State Rd. #	
New Hanover	128 S. Water Street		N/A	
Subdivision Name	City	State	Zip	
N/A	Wilmington	NC	28401	
Phone No.	Lot No.(s) (if many, attach additional page with list)			
803-394-9493 ext.	Tract B			
a. In which NC river basin is the project located?	b. Name of body of water nearest to proposed project			
Cape Fear	Cape Fear River			
c. Is the water body identified in (b) above, natural or manmade? <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Manmade <input type="checkbox"/> Unknown	d. Name the closest major water body to the proposed project site.			
	Cape Fear River			
e. Is proposed work within city limits or planning jurisdiction? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	f. If applicable, list the planning jurisdiction or city limit the proposed work falls within.			
	Wilmington - New Hanover County			

<b>4. Site Description</b>	
a. Total length of shoreline on the tract (ft.)	b. Size of entire tract (sq.ft.)
99'	6,144
c. Size of individual lot(s) (if many lot sizes, please attach additional page with a list)	d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level)
0.17 acres	7' <input checked="" type="checkbox"/> NHW or <input type="checkbox"/> NWL
e. Vegetation on tract	
None	
f. Man-made features and uses now on tract	
Restaurant, open and covered decks, boardwalk, bulkhead and floating dock.	
g. Identify and describe the existing land uses <u>adjacent</u> to the proposed project site.	
Commercial.	
h. How does local government zone the tract?	i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable)
CBD - Central Business District	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	
If yes, by whom?	
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA	

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&lt;Form continues on next page&gt;

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m. (i) Are there wetlands on the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(ii) Are there coastal wetlands on the site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(iii) If yes to either (i) or (ii) above, has a delineation been conducted? (Attach documentation, if available)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
n. Describe existing wastewater treatment facilities.	<b>Municipal</b>
o. Describe existing drinking water supply source.	<b>Municipal</b>
p. Describe existing storm water management or treatment systems.	<b>Existing infiltration basin permitted by State Stormwater Permit #SW8 020422</b>

<b>5. Activities and Impacts</b>	
a. Will the project be for commercial, public, or private use?	<input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Public/Government <input type="checkbox"/> Private/Community
b. Give a brief description of purpose, use, and daily operations of the project when complete.	<b>Commercial restaurant.</b>
c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.	<b>The panels just pop into the existing frames.</b>
d. List all development activities you propose.	<b>Install removable polyvinyl panels around the existing covered deck used for seated dining.</b>
e. Are the proposed activities maintenance of an existing project, new work, or both?	<b>New</b>
f. What is the approximate total disturbed land area resulting from the proposed project?	<input checked="" type="checkbox"/> Sq.Ft or <input type="checkbox"/> Acres <b>No disturbance is proposed however, the area to be enclosed is 1,602</b>
g. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
h. Describe location and type of existing and proposed discharges to waters of the state.	<b>None</b>
i. Will wastewater or stormwater be discharged into a wetland?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA
If yes, will this discharged water be of the same salinity as the receiving water?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
j. Is there any mitigation proposed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
If yes, attach a mitigation proposal.	

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&lt;Form continues on back&gt;

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**6. Additional Information**

In addition to this completed application form, (MP-1) the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) – (f) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.

- a. A project narrative.
- b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.
- c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.
- d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.
- e. The appropriate application fee. Check or money order made payable to DENR.
- f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plats by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.
- |         |                                                     |           |
|---------|-----------------------------------------------------|-----------|
| Name    | Carl Marshburn, III                                 | Phone No. |
| Address | 101 S. Water Street, Unit 101, Wilmington, NC 28401 |           |
| Name    | City of Wilmington c/o Tony Caudle, City Manager    | Phone No. |
| Address | P. O. Box 1810, Wilmington, NC 28402-1810           |           |
| Name    |                                                     | Phone No. |
| Address |                                                     |           |
- g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.
- CAMA Major Permit #149-98 issued to The City of Wilmington on 11/20/98
- CAMA Major Permit #149-98 (Major Mod) issued to The City of Wilmington on 9/12/02
- h. Signed consultant or agent authorization form, if applicable.
- i. Wetland delineation, if necessary.
- j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner)
- k. A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10), if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

**7. Certification and Permission to Enter on Land**

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

Date 9/29/23 Print Name Debbie Wilson, Agent

Signature Debbie Wilson

Please indicate application attachments pertaining to your proposed project.

- DCM MP-2 Excavation and Fill Information
- DCM MP-3 Upland Development
- DCM MP-4 Structures Information
- DCM MP-5 Bridges and Culverts

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Form DCM MP-4

STRUCTURES

(Construction within Public Trust Areas)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

1. DOCKING FACILITY/MARINA CHARACTERISTICS

[X] This section not applicable

a. (i) Is the docking facility/marina:
[ ] Commercial [ ] Public/Government [ ] Private/Community

b. (i) Will the facility be open to the general public?
[ ] Yes [ ] No

c. (i) Dock(s) and/or pier(s)
(ii) Number
(iii) Length
(iv) Width
(v) Floating [ ] Yes [ ] No

d. (i) Are Finger Piers included? [ ] Yes [ ] No
If yes:
(ii) Number
(iii) Length
(iv) Width
(v) Floating [ ] Yes [ ] No

e. (i) Are Platforms included? [ ] Yes [ ] No
If yes:
(ii) Number
(iii) Length
(iv) Width
(v) Floating [ ] Yes [ ] No

f. (i) Are Boatlifts included? [ ] Yes [ ] No
If yes:
(ii) Number
(iii) Length
(iv) Width

Note: Roofed areas are calculated from dripline dimensions.

g. (i) Number of slips proposed
(ii) Number of slips existing

h. Check all the types of services to be provided.
[ ] Full service, including travel lift and/or rail, repair or maintenance service
[ ] Dockage, fuel, and marine supplies
[ ] Dockage ("wet slips") only, number of slips:
[ ] Dry storage; number of boats:
[ ] Boat ramp(s); number of boat ramps:
[ ] Other, please describe:

i. Check the proposed type of siting:
[ ] Land cut and access channel
[ ] Open water; dredging for basin and/or channel
[ ] Open water; no dredging required
[ ] Other; please describe:

j. Describe the typical boats to be served (e.g., open runabout, charter boats, sail boats, mixed types).

k. Typical boat length:

l. (i) Will the facility be open to the general public?
[ ] Yes [ ] No

m. (i) Will the facility have tie pilings?
[ ] Yes [ ] No
(ii) If yes number of tie pilings?

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**2. DOCKING FACILITY/MARINA OPERATIONS**

This section not applicable

a. Check each of the following sanitary facilities that will be included in the proposed project.

Office Toilets

Toilets for patrons; Number: \_\_\_\_\_; Location: \_\_\_\_\_

Showers

Boatholding tank pumpout; Give type and location: \_\_\_\_\_

b. Describe treatment type and disposal location for all sanitary wastewater.

\_\_\_\_\_  
\_\_\_\_\_

c. Describe the disposal of solid waste, fish offal and trash.

\_\_\_\_\_  
\_\_\_\_\_

d. How will overboard discharge of sewage from boats be controlled?

\_\_\_\_\_  
\_\_\_\_\_

e. (i) Give the location and number of "No Sewage Discharge" signs proposed.

\_\_\_\_\_

(ii) Give the location and number of "Pumpout Available" signs proposed.

\_\_\_\_\_

f. Describe the special design, if applicable, for containing industrial type pollutants, such as paint, sandblasting waste and petroleum products.

\_\_\_\_\_

g. Where will residue from vessel maintenance be disposed of?

\_\_\_\_\_

h. Give the number of channel markers and "No Wake" signs proposed. \_\_\_\_\_

i. Give the location of fuel-handling facilities, and describe the safety measures planned to protect area water quality.

\_\_\_\_\_

j. What will be the marina policy on overnight and live-aboard dockage?

\_\_\_\_\_  
\_\_\_\_\_

k. Describe design measures that promote boat basin flushing?

\_\_\_\_\_

l. If this project is an expansion of an existing marina, what types of services are currently provided?

\_\_\_\_\_

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- m. Is the marina/docking facility proposed within a primary or secondary nursery area?  
 Yes  No
- n. Is the marina/docking facility proposed within or adjacent to any shellfish harvesting area?  
 Yes  No
- o. Is the marina/docking facility proposed within or adjacent to coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.  
 CW \_\_\_\_\_  SAV \_\_\_\_\_  SB \_\_\_\_\_  
 WL \_\_\_\_\_  None \_\_\_\_\_
- p. Is the proposed marina/docking facility located within or within close proximity to any shellfish leases?  Yes  No  
 If yes, give the name and address of the leaseholder(s), and give the proximity to the lease.  
 \_\_\_\_\_  
 \_\_\_\_\_

**3. BOATHOUSE** (including covered lifts)  This section not applicable

- a. (i) Is the boathouse structure(s):  
 Commercial  Public/Government  Private/Community
  - (ii) Number \_\_\_\_\_
  - (iii) Length \_\_\_\_\_
  - (iv) Width \_\_\_\_\_
- Note: Roofed areas are calculated from dripline dimensions.*

**4. GROIN** (e.g., wood, sheetpile, etc. If a rock groin, use MP-2, Excavation and Fill.)  This section not applicable

- a. (i) Number \_\_\_\_\_
- (ii) Length \_\_\_\_\_
- (iii) Width \_\_\_\_\_

**5. BREAKWATER** (e.g., wood, sheetpile, etc.)  This section not applicable

- a. Length \_\_\_\_\_
- b. Average distance from NHW, NWL, or wetlands \_\_\_\_\_
- c. Maximum distance beyond NHW, NWL or wetlands \_\_\_\_\_

**6. MOORING PILINGS and BUOYS**  This section not applicable

- a. Is the structure(s):  
 Commercial  Public/Government  Private/Community
- b. Number \_\_\_\_\_
- c. Distance to be placed beyond shoreline \_\_\_\_\_  
*Note: This should be measured from marsh edge, if present.*
- d. Description of buoy (color, inscription, size, anchor, etc.)  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- e. Arc of the swing \_\_\_\_\_

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7. GENERAL

a. Proximity of structure(s) to adjacent riparian property lines

10' to the north & 0' to the south

Note: For buoy or mooring piling, use arc of swing including length of vessel.

b. Proximity of structure(s) to adjacent docking facilities.

30' to the north & 82' to the south

c. Width of water body

626'

d. Water depth at waterward end of structure at NLW or NWL

1'

e. (i) Will navigational aids be required as a result of the project?

Yes  No  NA

(ii) If yes, explain what type and how they will be implemented.

8. OTHER

This section not applicable

a. Give complete description:

Install 8 removable polyvinyl panels on 3 sides of existing covered dining deck:

1 @ 61" x 91 5/8" 1 @ 79 1/2" x 91 5/8" 1 @ 166" x 91 15/16" 1 @ 161 1/2" x 91 15/16"

1 @ 80 1/4" x 91 5/8" 1 @ 174 1/2" x 91 15/16" 1 @ 173" x 91 15/16" 1 @ 173" x 91 15/16"

9/29/23

Date

The George on the Riverwalk

Project Name

Edson Munekata / Debbie Wilson, Agent

Applicant Name

Debbie Wilson

Applicant Signature

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076

Subject: The George on the Riverwalk - 128 S. Water Street, Wilmington

Date: Tue, Sep 05 2023 07:24 PM

From: debbie75@charter.net<debbie75@charter.net>

To: 401PreFile@ncdenr.gov

Agent Name: Debbie Wilson

Owner's Name: S Water St., LLC c/o Edson Munekata

Project Name: The George on the Riverwalk

Project Address: 128 S. Water Street, Wilmington, NC 28401, New Hanover County.

The applicant proposes to install screened panels around the existing covered deck which is located waterward of NHW adjacent to the Cape Fear River.

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**AGENT AUTHORIZATION FOR CAMA PERMIT APPLICATION**

Name of Property Owner Requesting Permit: S Water St. LLC - Edson Munekata

Mailing Address: 901 W. 4th Street

Winston-Salem, NC 27101

Phone Number: (803) 394-9493

Email Address: edson@cowboybrailiansteakhouse.com

I certify that I have authorized Debbie Wilson, Agent,  
Agent / Contractor

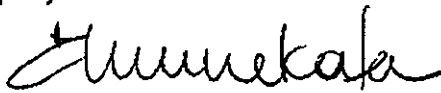
to act on my behalf, for the purpose of applying for and obtaining all CAMA permits  
necessary for the following proposed development: The George on Riverwalk

at my property located at 128 S. Water Street; Wilmington, NC 28401,

in New Hanover County.

*I furthermore certify that I am authorized to grant, and do in fact grant permission to  
Division of Coastal Management staff, the Local Permit Officer and their agents to enter  
on the aforementioned lands in connection with evaluating information related to this  
permit application.*

**Property Owner Information:**



*Signature*

Edson Munekata

*Print or Type Name*

Secretary

*Title*

08 / 21 / 2023  
*Date*

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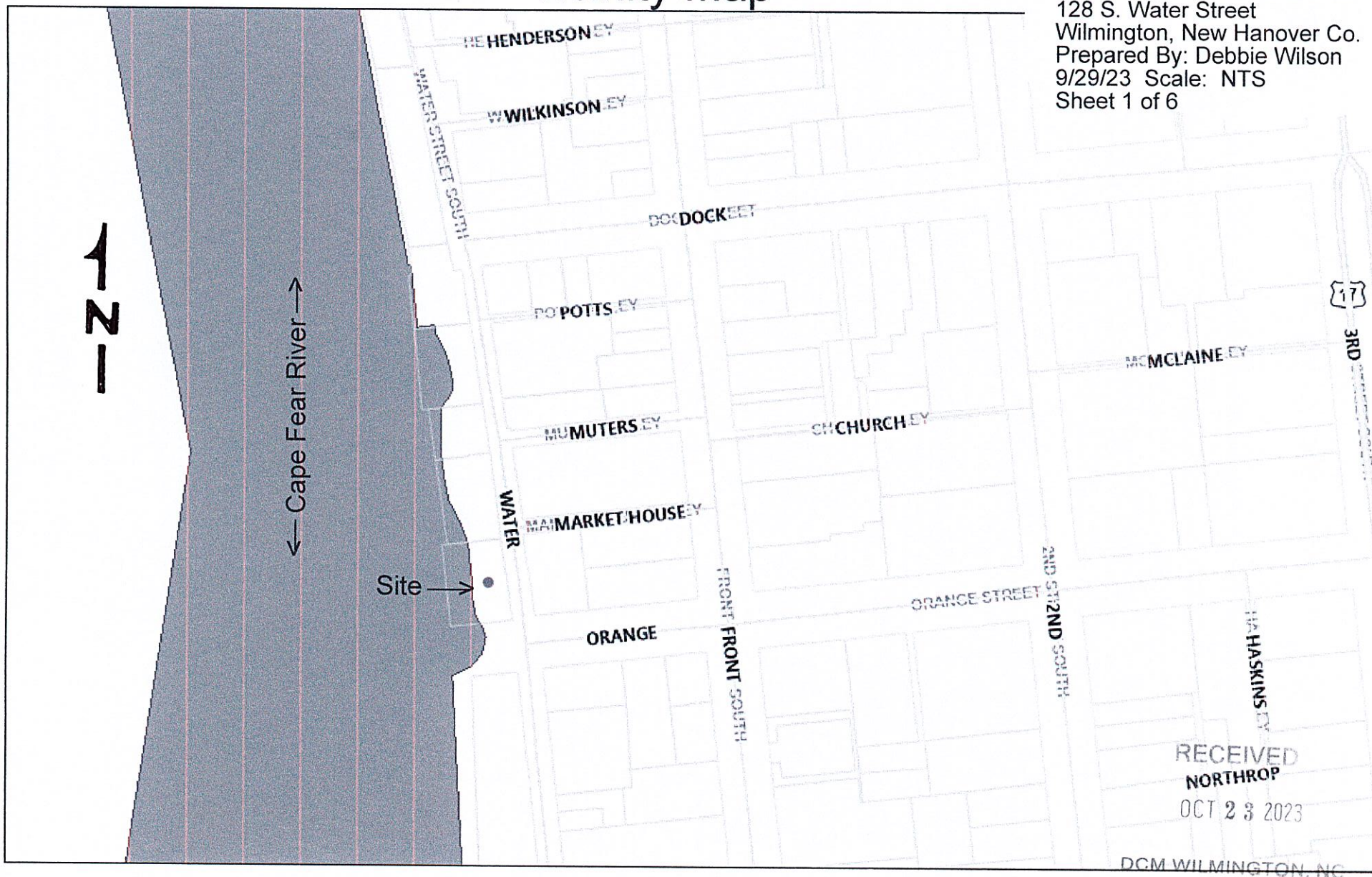
OCT 23 2023

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This certification is valid through 12 / 31 / 2023

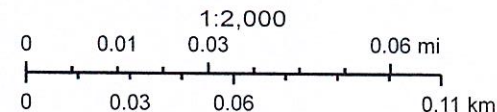
# 078 Vicinity Map

The George on the Riverwalk  
128 S. Water Street  
Wilmington, New Hanover Co.  
Prepared By: Debbie Wilson  
9/29/23 Scale: NTS  
Sheet 1 of 6



10/23/2023, 1:30:20 PM

Parcels Major Roads  
Roads

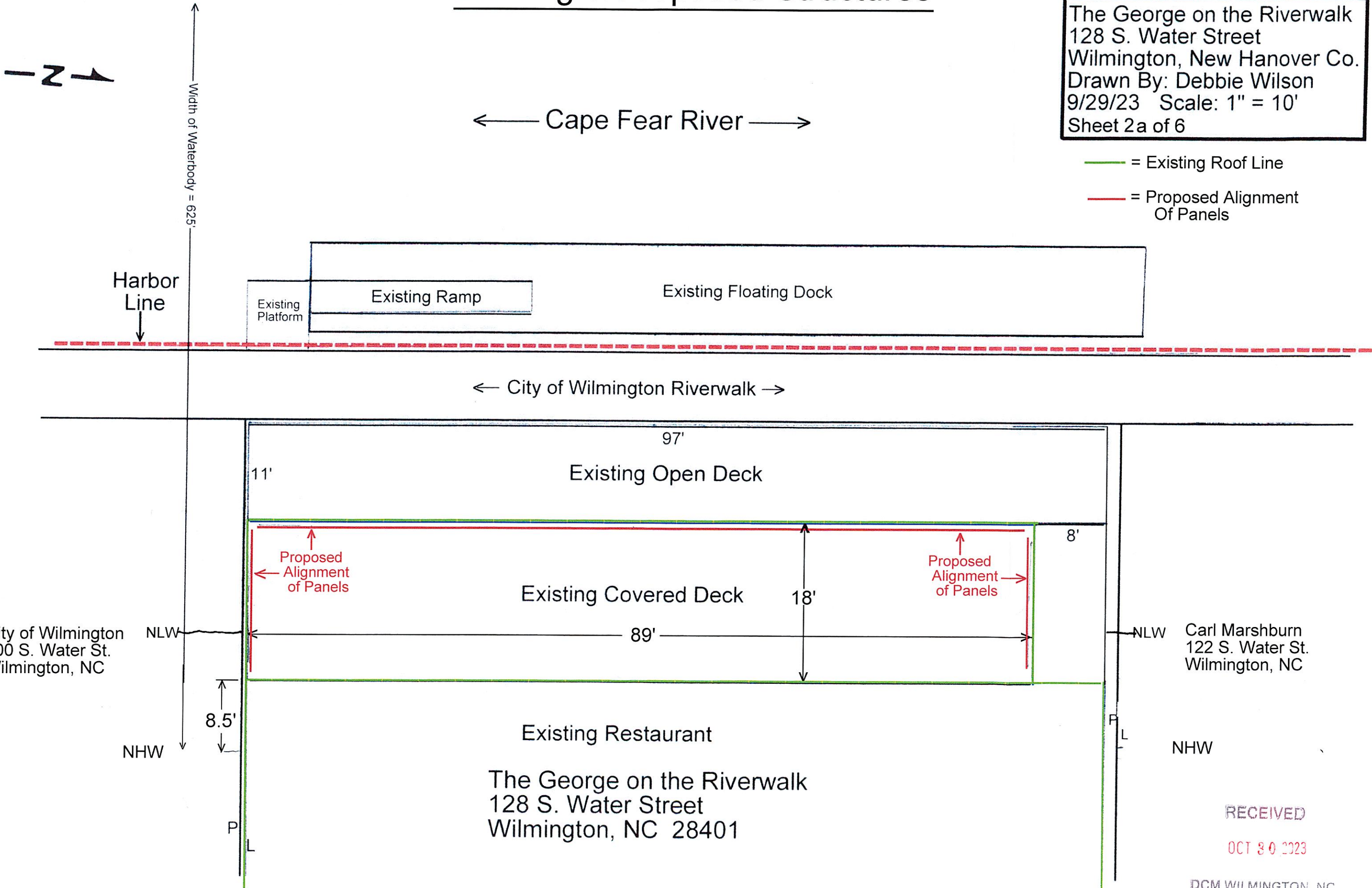


New Hanover County, NC, New Hanover County, NC

# Existing & Proposed Structures

The George on the Riverwalk  
 128 S. Water Street  
 Wilmington, New Hanover Co.  
 Drawn By: Debbie Wilson  
 9/29/23 Scale: 1" = 10'  
 Sheet 2a of 6

— = Existing Roof Line  
 — = Proposed Alignment Of Panels

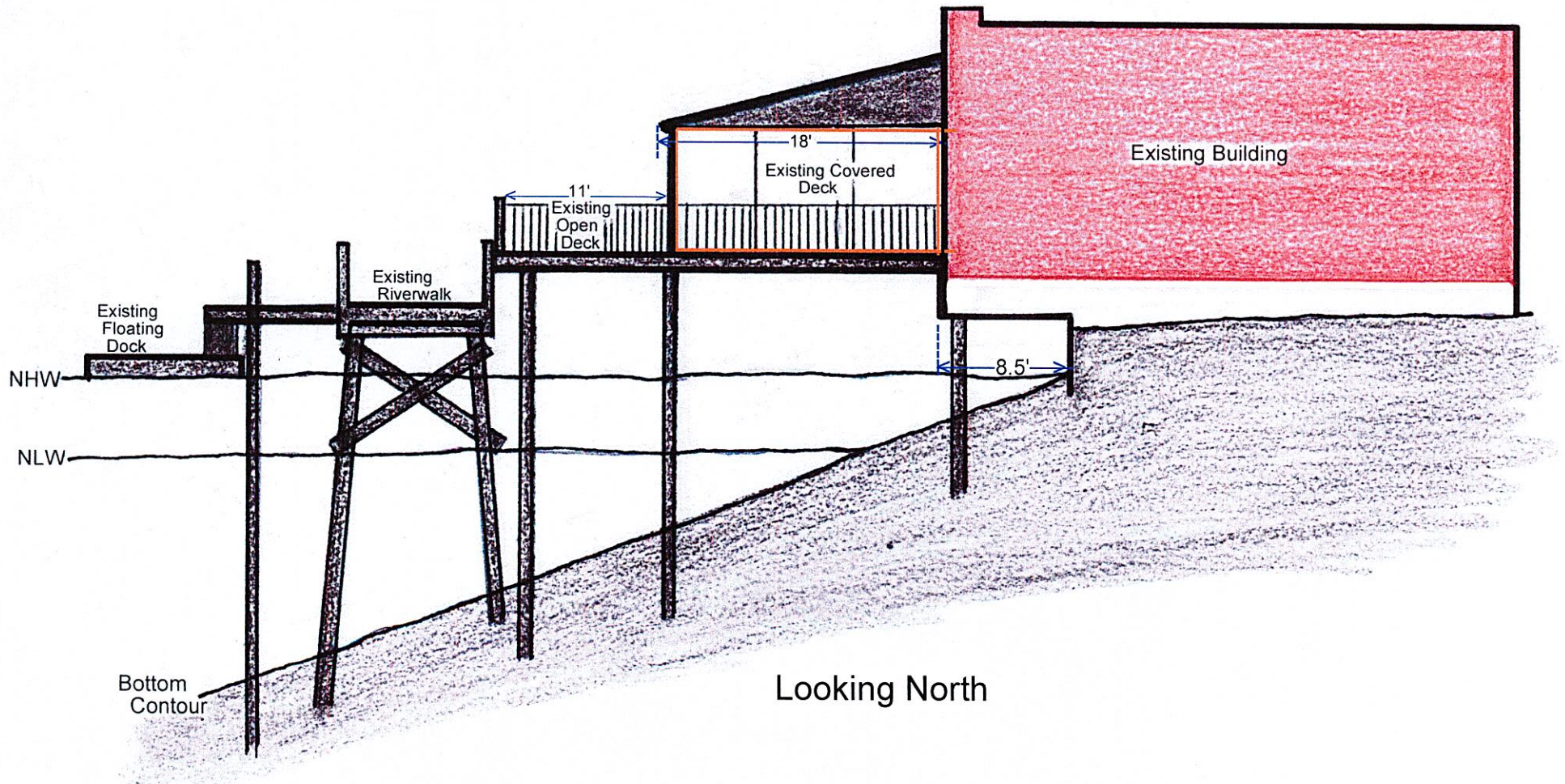


080

# Cross-Section

The George on the Riverwalk  
128 S. Water Street  
Wilmington, New Hanover Co.  
Drawn By: Debbie Wilson  
10/27/23 Scale: 1" = 10'  
Sheet 2b of 6

— = Proposed Alignment  
of Panels





**DIVISION OF COASTAL MANAGEMENT  
FIELD INVESTIGATION REPORT  
MAJOR MODIFICATION**

1. **APPLICANT'S NAME:** S. Water St., LLC. c/o Debbie Wilson
2. **LOCATION OF PROJECT SITE:** 128 S. Water St., Wilmington NC 28401, adjacent to the Cape Fear River, New Hanover County.  
  
**Latitude:** 34°13'58.63" N **Longitude:** 77°56'58.10" W
3. **INVESTIGATION TYPE:** CAMA
4. **INVESTIGATIVE PROCEDURE:** Dates of Site Visit – 4/06/2023 Was Applicant Present – No
5. **PROCESSING PROCEDURE:** Office – Wilmington

Application Received	10/23/2023	DWR WQC Pre-filing date:	09/05/2023
Application Complete	10/30/2023	Day 30 for WQC Pre-filing (no concurrence)	10/05/2023

6. **SITE DESCRIPTION:**

- (A) **Local Land Use Plan** – Wilmington/ New Hanover  
**Land Classification From LUP** – Conservation/Developed
- (B) **AEC(s) Involved:** EW - Estuarine Shoreline has Urban Waterfront Designation  
**Water Dependent:** Yes
- (D) **Intended Use:** Commercial
- (E) **Wastewater Treatment:** **Existing** – Municipal  
**Planned** – Municipal
- (F) **Type of Structures:**  
**Existing** – restaurant and bar, covered deck, open deck, city riverwalk, floating dock, and bulkhead  
**Planned** – enclose existing covered deck, located below Normal High Water (NHW), using 8 polyvinyl panels.  
**Source** - N/A

7. **HABITAT DESCRIPTION:**

	[AREA] DREDGED	FILLED	OTHER
(A) Vegetated Wetlands (Coastal)			
(B) Non-Vegetated Wetlands (Open water)			1,602 sq.ft. (enclosing previously accounted for platform shading)
(C) Other – High Ground			

- (D) **Total Area Disturbed:** 1,602 sq.ft. (~0.04 acres)
- (E) **Primary Nursery Area:** Yes
- (F) **Water Classification:** SC **Open:** Closed

8. **PROJECT SUMMARY:** The applicant proposes to enclose an existing covered deck below NHW with polyvinyl panels. The proposal is in conflict with a Condition of State Permit No. 149-98 that states that "the roofed portion of the wooden deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice, or solid walls".

128 S. Water St., S. Water St., LLC.  
Page Two

## 9. PROJECT DESCRIPTION

The project site is located at 128 S. Water. St., Wilmington, adjacent to the Cape Fear River, New Hanover County.

According to the application, the riparian parcel located at 128 S. Water Street has a maximum elevation of approximately 7' above normal high water (NHW) and is approximately 6,144 sq.ft. (0.14 acres). The lot has a restaurant and bar, open and covered decks, city riverwalk, and floating dock. The adjacent riparian parcel north has a parking lot, the city riverwalk, and a floating dock. The adjacent riparian parcel to the south is Claude-Howell Park. The project site has approximately 99' of shoreline frontage, currently stabilized by a bulkhead.

The existing covered deck is located waterward of the restaurant and is used as an outdoor dining area. The covered deck is located below the NHW line and is approximately 89' long x 18' wide. The existing restaurant, open deck, covered deck, floating dock and bulkhead were authorized under State Permit No. 148-98. State Permit No. 148-98 was originally issued on November 20, 1998 to the City of Wilmington and only included the floating dock and city riverwalk. A Major Modification was issued on September 12, 2002 that included the construction of a two story building with a non-water dependent partially covered deck. State Permit No. 149-98 expired on December 31, 2007.

There is an operational Condition (3) of State Permit No. 148-98 which states that "the roofed portion of the non-water dependent wooden deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice, or solid walls". The Division of Coastal Management and the City of Wilmington received a complaint in January of 2023 that the current property owners (the applicant) had installed panels on the existing covered deck creating an enclosed deck which is located below NHW. DCM required the panels to be removed and the applicants are now applying to permanently enclose the deck (**see Sheets 4-6 of 6**).

The Wilmington-New Hanover County Use Plan classifies the adjacent waters as Conservation, and the adjacent high ground portion of the project area as Commercial. This area has historically been designated as **Urban Waterfront**. The adjacent waters of the Cape Fear River in the project area are classified **SC** by the Division of Water Resources and this area **IS** designated as **Primary Nursery Area (PNA)** by the N.C. Division of Marine Fisheries. They are **CLOSED** to the harvest of shellfish.

**Note: This area has historically been designated as Urban Waterfront.**

## PROPOSED PROJECT

The applicant proposes to enclose an existing covered deck below NHW with panels for polyvinyl panels. The proposal is in conflict with a Condition of State Permit No. 149-98 that states that "the roofed portion of the wooden deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice, or solid walls".

The applicant proposes to enclose the existing covered deck using eight (8) removable polyvinyl panels. The existing deck measures approximately 89' long x 18' wide and has three (3) open sides that are being proposed to be permanently enclosed. Based on current site conditions, the entire covered deck is located below the NHW line and extends approximately 26.5' below NHW. (**see Sheets 2a and 2b of 6**). The approximate sizes of the proposed removable panels are as follows: 5.1' x 7.6' (1), 6.6' x 7.6' (1), 13.8' x 7.6' (2), 6.7' x 7.6' (1), 14.5' x 7.6' (1), and 14.4' x 7.6' (2) (**see Sheet 6 of 6**). The proposal is in conflict with Conditions of the original permit authorizing the non-water dependent overwater deck.

128 S. Water St., S. Water St., LLC.  
Page Three

10. **ANTICIPATED IMPACTS**

The proposed removable panels would not create any additional shading or additional incorporation within the existing footprint of the covered deck, which is located completely over public trust waters. The proposed panels would not encroach into either adjacent 15' riparian corridor setback and would not encroach into the USACE federal channel setback.

Under the use standards for Urban Waterfronts under 15A NCAC 07H.0209(g), the regulations for non-water dependent structures over open water are limited to pile-supported, single-story, unenclosed decks and boardwalks.

**Submitted by:** Kelsey Beachman

**Date:** November 3, 2023

**Office:** Wilmington

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature X <i>David Blue</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
	B. Received by (Printed Name) DAVID BLUE	C. Date of Delivery 10-10-23
1. Article Addressed to:  Tony Caudle, City Manager City of Wilmington P. O. Box 1810 Wilmington, NC 28402-1810	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No  <b>RECEIVED</b>  OCT 23 2023	
2. Article Number (Transfer from service label) 7020 3160 0002 2779 9317	3. Service Type: <b>WILMINGTON, NC</b> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature X <i>Carl Marshburn</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
	B. Received by (Printed Name) Carl Marshburn	C. Date of Delivery 10/16/23
1. Article Addressed to:  Carl Marshburn, III 101 S. Water Street Unit 101 Wilmington, NC 28401	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No  <b>RECEIVED</b>  OCT 23 2023	
2. Article Number (Transfer from service label) 7020 3160 0002 2779 9324	3. Service Type: <b>WILMINGTON, NC</b> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt



NORTH CAROLINA  
Environmental Quality

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

BRAXTON DAVIS

Director

January 24, 2024

**CERTIFIED MAIL 7016 1370 0002 3231 9973  
RETURN RECEIPT REQUESTED**

**DEN24-01**

**Electronic Delivery to:** [debbiew75@charter.net](mailto:debbiew75@charter.net)

S Water St., LLC  
901 W. 4<sup>th</sup> Street  
Winston Salem, NC 27101

RE: DENIAL OF CAMA MAJOR DEVELOPMENT PERMIT  
DEN 24-01

Dear Ms. Wilson,

This letter is in response to your application for a Major Permit under the Coastal Area Management Act (CAMA), in which authorization was requested to install eight (8) removable polyvinyl panels on the three (3) open sides of an existing covered deck and dining area, located over public trust waters. The subject property is located adjacent to the Cape Fear River, at 128 S. Water St. in Wilmington, New Hanover County. Processing of the application, which was received by the Division of Coastal Management's Wilmington Office on October 30, 2023, is now complete. Based on the state's review, the Division of Coastal Management has made the following findings:

- 1) Major Permit No. 149-98 was originally issued September 12, 2002 for the construction of a two story building, with a partially covered deck and floating dock. Condition No. 3 of the permit stated, "the roofed portion of the deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice, or solid walls". Major Permit No. 149-98 expired on December 31, 2003.
- 2) The Division received notification that panels had been installed on the existing covered deck in conflict with previous permit conditions. The applicant promptly removed the panels at the request of the Division and applied for a new Major Permit to re-install the panels.



North Carolina Department of Environmental Quality | Division of Coastal Management  
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557  
252.808.2808

- 3) The proposed project would involve development within the Estuarine Waters, Estuarine Shoreline, and Public Trust Areas of Environmental Concern by the N.C. Coastal Resources Commission. The property is located within a designated Urban Waterfront [15A NCAC 07H .0209(g)].
- 4) The applicant proposes to install eight (8) removable polyvinyl panels on the three (3) open sides of an existing covered deck/dining area that is currently situated completely waterward of Normal High Water.
- 5) Based upon the above referenced findings, the Division has determined that the proposed project is inconsistent with the following Rules of the Coastal Resources Commission:
  - a) 15A NCAC 07H .0209(g)(4)(B)(iii)(II), which states in part that “new structures built for non-water dependent purposes are limited to pile supported, single-story, unenclosed decks and boardwalks” and “may be roofed, but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind”.

Given the preceding findings, it is necessary that your request for issuance of a CAMA Major Permit under the Coastal Area Management Act be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8) which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or local land use plans.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. A copy of this petition should be filed with this office as well as with the Coastal Resources Commission's agent for service of process at the following address:

William F. Lane, General Counsel  
Dept. of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699-1601

In the alternative, you may petition the N.C. Coastal Resources Commission for a variance to undertake development that is prohibited by the Commission's rules (Note- a Commission variance cannot be granted if your project was denied due to an inconsistency with a CAMA Land Use Plan or other statutory provisions of the CAMA or NC D&F Law). Applying for a variance requires that you first stipulate that the Division of Coastal Management applied the Rules properly in issuing this denial. Applying for a variance means that you agree that the legal restrictions are valid but request an exception to the restrictions because of hardships resulting from unusual conditions of the property. In seeking a variance, you are requesting that the Commission vary the rules at issue, and you must state how you believe your request meets the four criteria found at N.C.G.S. § 113A-120.1. To apply for a variance, you must file a petition



for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time but must be filed a minimum of six weeks before a scheduled Commission meeting to be eligible to be heard at that meeting.

You may either appeal the permit decision or seek a variance. These are two separate paths and cannot be pursued simultaneously. If the appeal of the permit decision is denied, you may still seek a variance. However, you may not first seek a variance and if that is denied attempt to challenge the decision to deny the permit. Information about both a permit appeal in the Office of Administrative Hearings and the Variance process may be obtained at <https://deq.nc.gov/about/divisions/coastal-management/coastal-management-permits/variances-appeals>.

Members of my staff are available should you desire assistance in the future. If you have any questions concerning this matter, please contact Mr. Cameron Luck at (252) 515-5419 or [Cameron.Luck@deq.nc.gov](mailto:Cameron.Luck@deq.nc.gov).

Sincerely,



Braxton C. Davis  
Director, NC Division of Coastal Management

cc: Greg Curry, Project Manager, U.S. Army Corps of Engineers, Wilmington, NC  
Richard Rogers, Director, NC Division of Water Resources, Raleigh, NC  
Stephanie Goss, 401 & Buffer Permitting Branch Supervisor, NC Division of Water Resources, Raleigh, NC  
Holley Snider, Environmental Specialist, NC Division of Water Resources, NC





March 12, 2024

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Tony Caudle  
City Manager  
City of Wilmington  
P. O. Box 1810  
Wilmington, NC 28402-1810

Re.: CAMA Variance Request for 128 S Water St, Wilmington, NC 28401

Dear Tony,

CAMA denied the request to permit the use of sliding vinyl panels to enclose the deck at The George on the Riverwalk, filed on September 29, 2023.

We are writing to notify you that we are now requesting a variance hearing in the upcoming meeting in the month of April.

Please let me know if you have any questions or concerns regarding this process.

Thank you,

Edson Munekata  
Secretary  
S Water St, LLC  
dba: The George on the Riverwalk  
128 S Water St  
Wilmington, NC 28401  
(803) 394-9493  
edson@cowboybraziliansteakhouse.com





March 12, 2024

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Carl Mashburn, III  
101 S Water Street  
Unit 101  
Wilmington, NC 28401

Re.: CAMA Variance Request for 128 S Water St, Wilmington, NC 28401

Dear Carl,

CAMA denied the request to permit the use of sliding vinyl panels to enclose the deck at The George on the Riverwalk, filed on September 29, 2023.

We are writing to notify you that we are now requesting a variance hearing in the upcoming meeting in the month of April.

Please let me know if you have any questions or concerns regarding this process.

Thank you,

Edson Munekata  
Secretary  
S Water St, LLC  
dba: The George on the Riverwalk  
128 S Water St  
Wilmington, NC 28401  
(803) 394-9493  
edson@cowboybraziliansteakhouse.com

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TONY CAUDLE  
CITY MANAGER  
CITY OF WILMINGTON  
P.O. BOX 1810  
WILMINGTON, NC 28402-1810



9590 9402 8410 3156 3466 61

2. Article Number (Transfer from service label)

9589 0710 5270 1230 0304 99

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*Tim Leuck*

- Agent
- Addressee

B. Received by (Printed Name)

Tim Leuck

C. Date of Delivery

3.15.2024

- D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CARL MASHBURN, III  
101 S. WATER STREET  
UNIT 101  
WILMINGTON NC 28401



9590 9402 8410 3156 3466 78

2. Article Number (Transfer from service label)

9589 0710 5270 1230 0304 75

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

*C-11*

- Agent
- Addressee

B. Received by (Printed Name)

C-11

C. Date of Delivery

- D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery



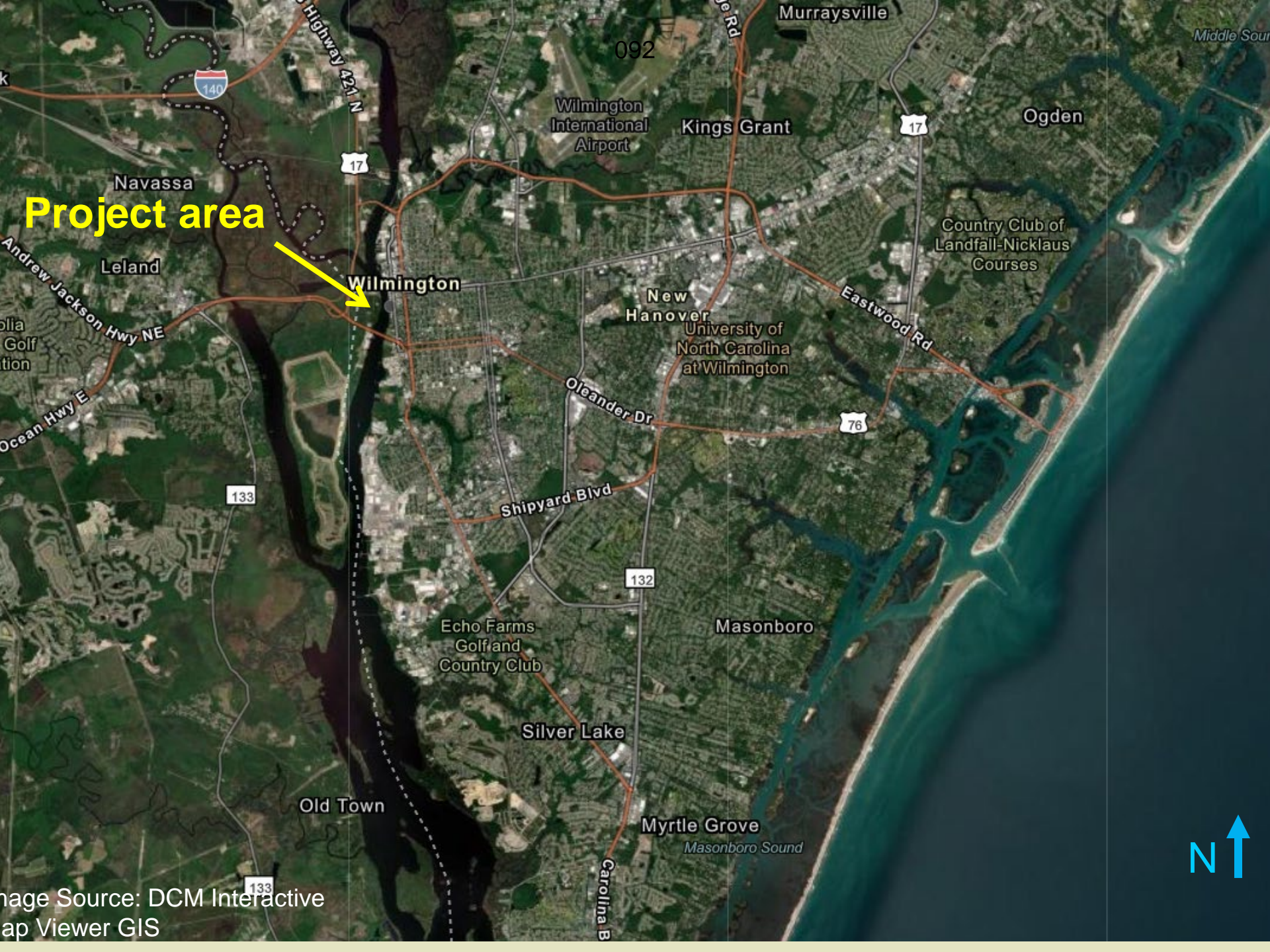
# **NC COASTAL RESOURCES COMMISSION MEETING**

**August 28, 2024**

**S. Water St., LLC  
(CRC-VR-24-02)**

**Wilmington, Urban Waterfront  
Enclosed Space over PT Waters**



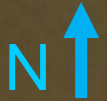


**Project area**



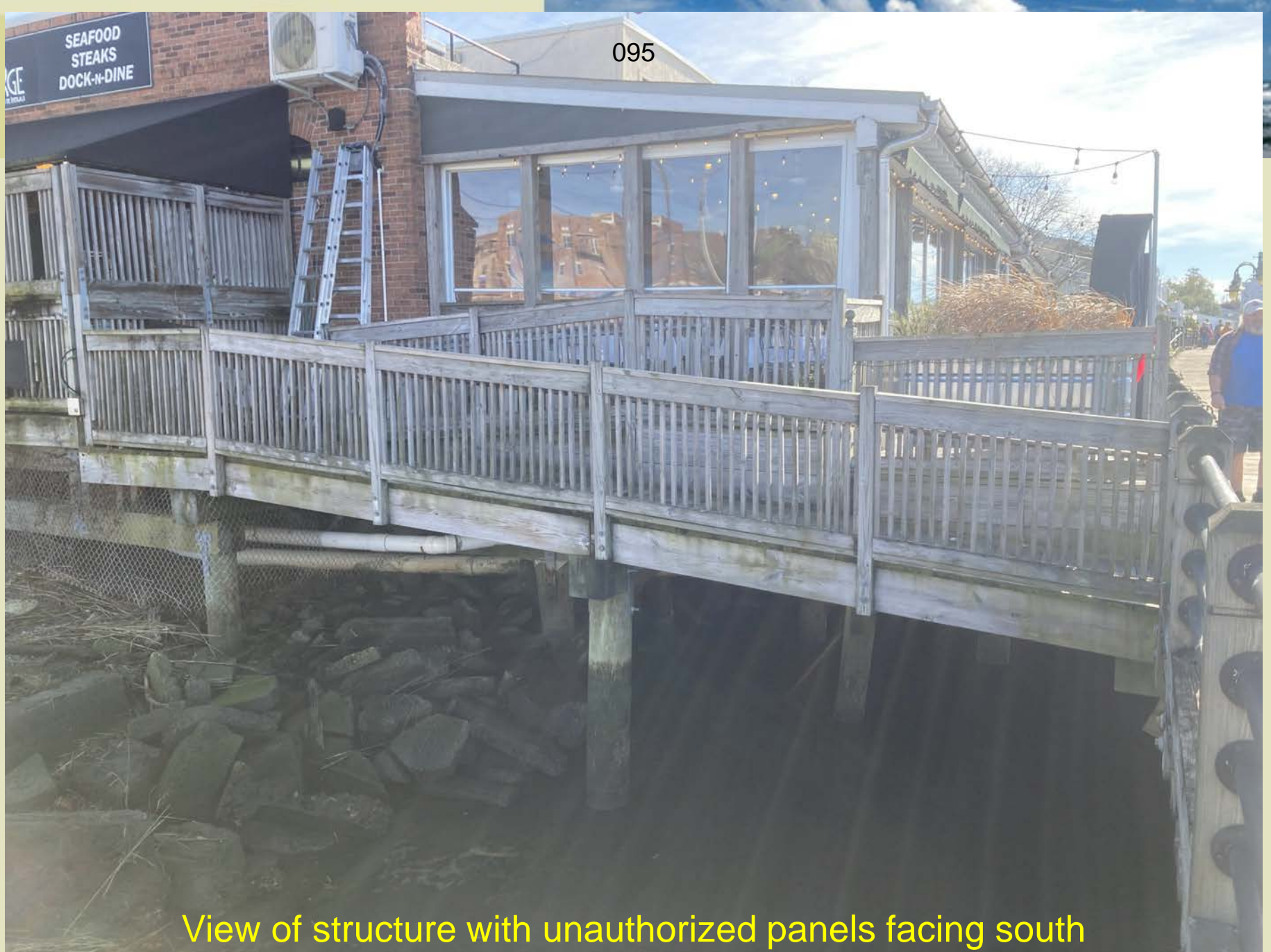


**Project Site  
128 S. Water St.**



# Project Site 128 S. Water St.





View of structure with unauthorized panels facing south

Image source: DCM 1/5/2023

The George on the Riverwalk  
096

With Panels Installed

The George on the Riverwalk  
128 S. Water Street  
Wilmington, New Hanover Co.  
Prepared By: Debbie Wilson  
9/29/23 Scale: NTS  
Sheet 6 of 6

RECEIVED

OCT 23 2023

DCM WILMINGTON, NC

OCT 23 2023

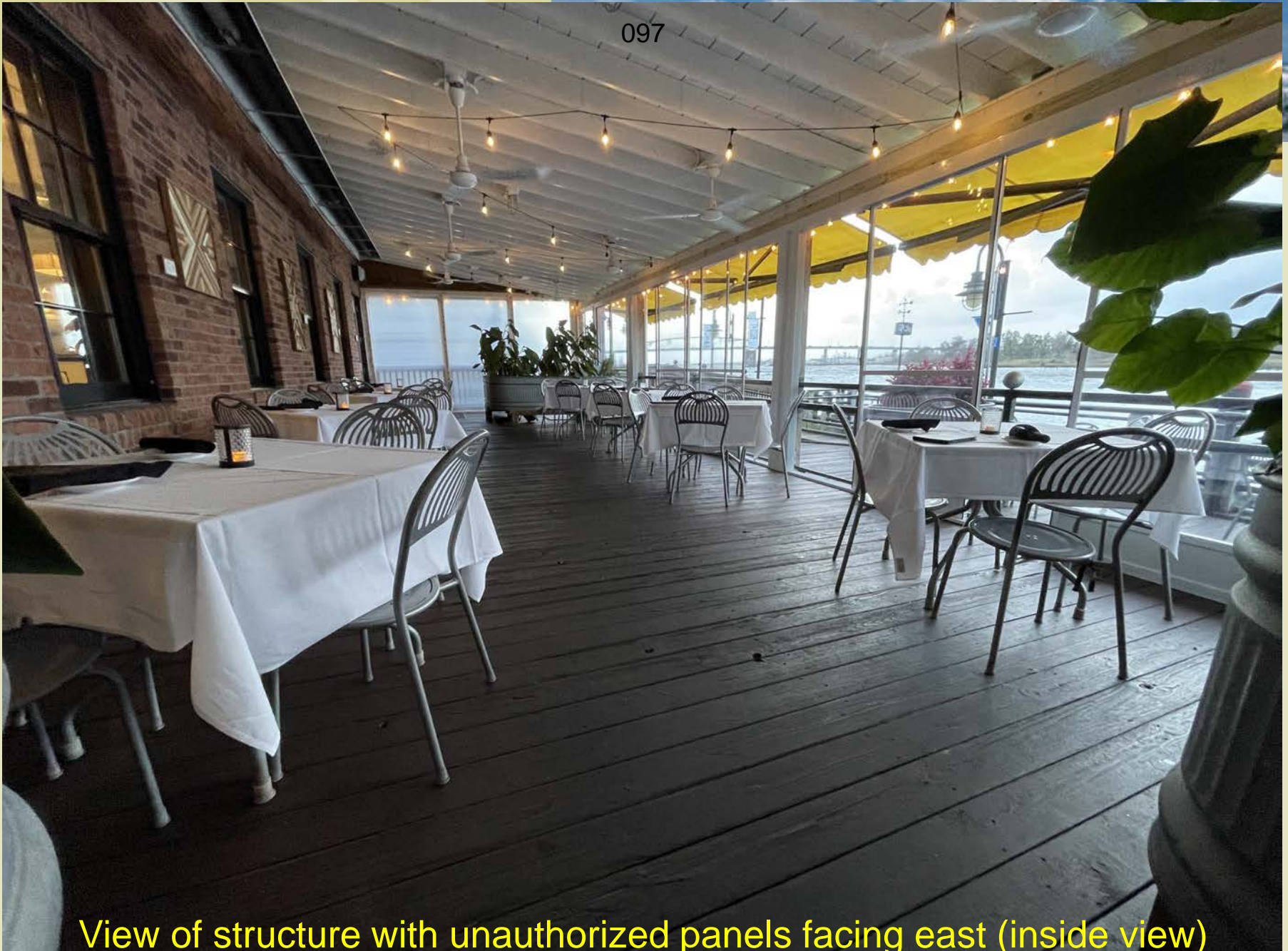
DCM WILMINGTON, NC

View of structure with unauthorized panels facing east

Image source: CAMA Major Permit Application Materials, submitted by applicant



097



**View of structure with unauthorized panels facing east (inside view)**

Image source: submitted by petitioner to DCM on 8/13/24



View of existing structure facing north

Image source: DCM 4/5/2023

099

View of existing structure facing southeast

Image source: DCM 4/5/2023





View of existing structure facing south

Image source: DCM 4/5/2023

101



View of high water below existing structure facing south

Image source: DCM 1/5/2023



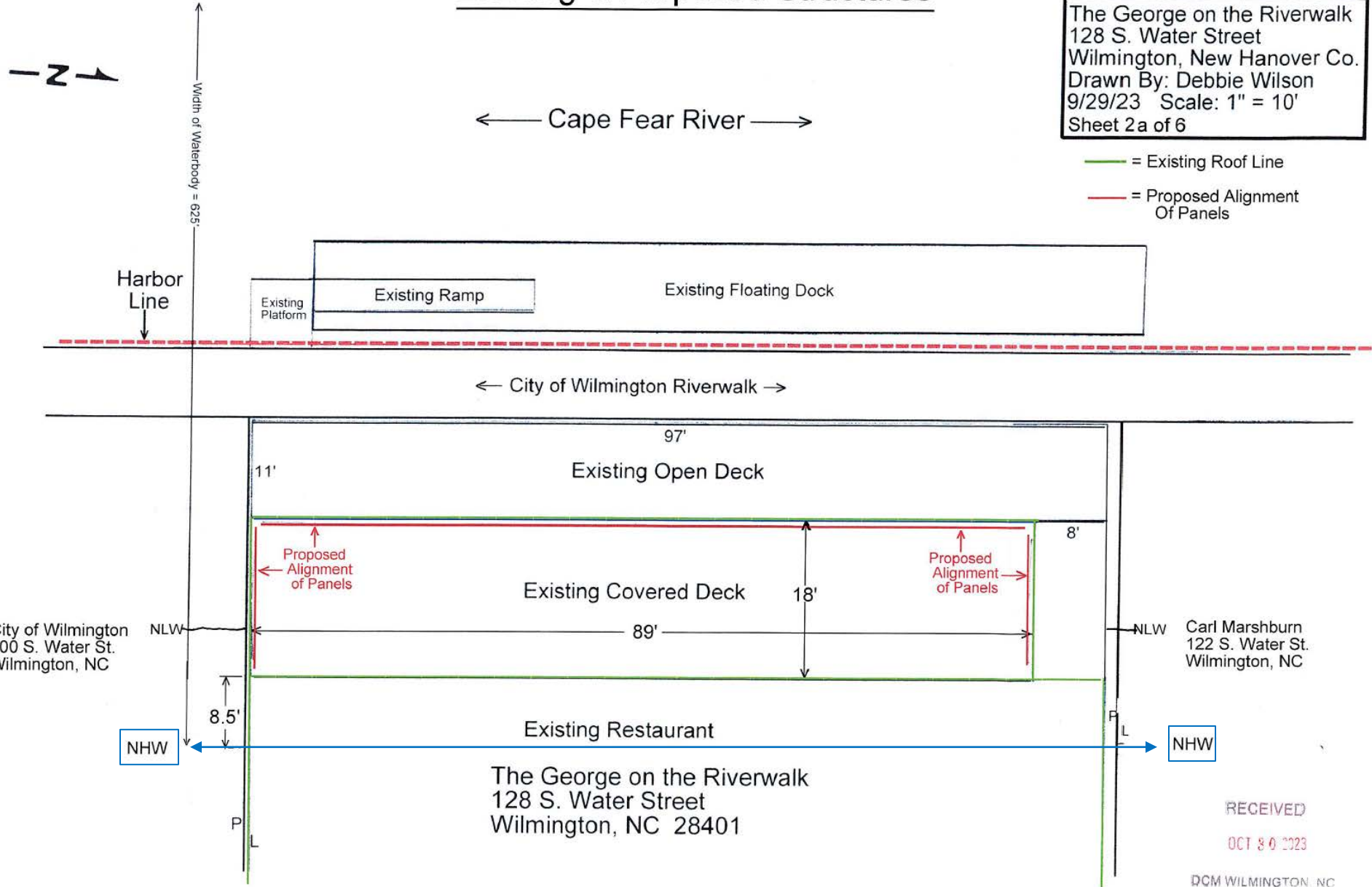
View of The George restaurant facing north depicting previously used roll up vinyl window coverings

Image source: submitted by petitioner to DCM on 8/13/24

# Existing & Proposed Structures

103

The George on the Riverwalk  
128 S. Water Street  
Wilmington, New Hanover Co.  
Drawn By: Debbie Wilson  
9/29/23 Scale: 1" = 10'  
Sheet 2a of 6



— = Existing Roof Line  
- - - = Proposed Alignment Of Panels

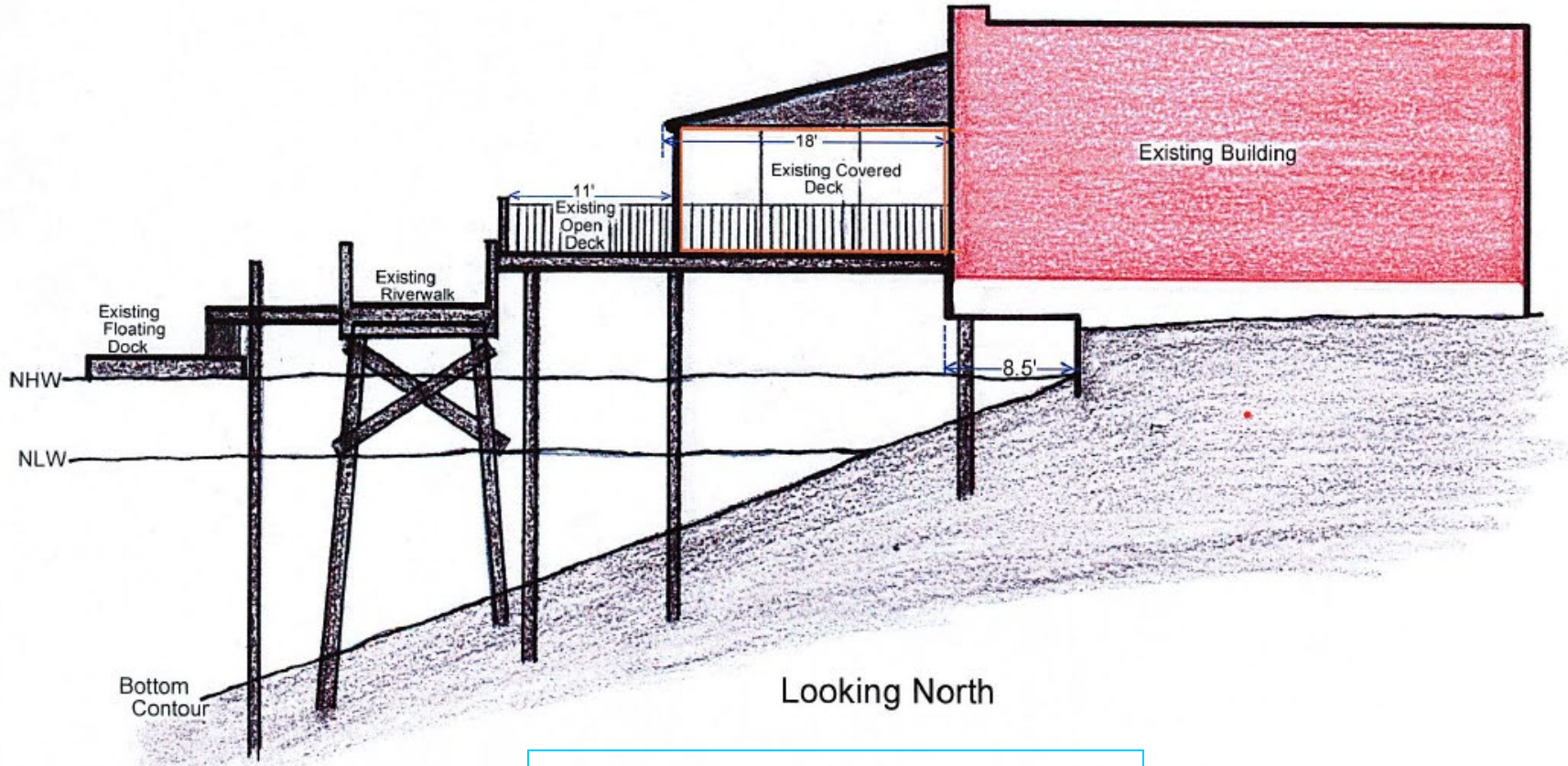
RECEIVED  
OCT 30 2023  
DCM WILMINGTON, NC

Overview drawing from submitted application (Oct. 2023)

# Cross-Section

The George on the Riverwalk  
128 S. Water Street  
Wilmington, New Hanover Co.  
Drawn By: Debbie Wilson  
10/27/23 Scale: 1" = 10'  
Sheet 2b of 6

— = Proposed Alignment of Panels



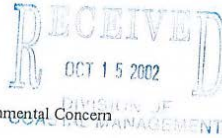
Cross-section drawing from submitted application (Oct. 2023)



STATE OF NORTH CAROLINA  
Department of Environment and Natural Resources  
and  
Coastal Resources Commission

**Permit**

for  
 Major Development in an Area of Environmental Concern  
pursuant to NCGS 113A-118



Excavation and/or filling pursuant to NCGS 113-229

Issued to City of Wilmington, PO Box 1810, Wilmington, NC 28402

Authorizing development in New Hanover County at Cape Fear River, South Water Street,

Wilmington, as requested in the permittee's application dated 4/10/02 incl. attached

drawings 2-5 dated 4/10/02, sheet 6 dated 4/9/02 and sheets 7-9 dated 5/20/02.

This permit, issued on September 12, 2002, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

**George K. Coffin Property**

1) This major modification authorizes the construction of a two-story building with a partially covered deck and floating dock at 128 South Water Street in downtown Wilmington. The authorized work is being undertaken in association with the City of Wilmington's Riverwalk urban waterfront redevelopment project.

**Building Construction**

2) The authorized two story building shall be entirely constructed landward of the mean high water line.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

\* Work must cease when the permit expires on

December 31, 2003

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.

Donna D. Moffitt, Director  
Division of Coastal Management

RECEIVED

This permit and its conditions are hereby accepted.

OCT 30 2003

DCM WILMINGTON

Signature of Permittee

105



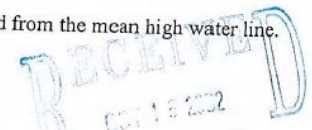
City of Wilmington

Permit #149-98  
Page 2 of 3

**ADDITIONAL CONDITIONS**

**Non-Water Dependent Deck Construction**

- 3) The roofed portion of the wooden deck shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls.
- 4) In keeping with 15A NCAC 07H.0209(h)(4)(B)(iii)(II), which requires that non-water dependent structures built over the water be limited to a single story, the non-water dependent balcony and associated railing are hereby deleted from the authorized project.
- 5) The wooden deck shall not extend more than 20 feet waterward from the mean high water line.
- 6) All portions of the deck shall be pile-supported.





**G.S. 113A-120.1**

**To grant a variance, the Commission must affirmatively find Petitioner must show each of the four factors listed in G.S. 113A-120.1(a).**

- (1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;**
- (2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;**
- (3) that such hardships did not result from actions taken by the petitioner; and**
- (4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.**

**(b) The Commission may impose reasonable and appropriate conditions and safeguards upon any variance it grants.**