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Attorneys for the Ocean City Planning Board

IN THE MATTER OF THE APPLICATION
OF WHALE BEACH BUILDERS, LLC
FOR PRELIMINARY AND FINAL
MAJOR SITE PLAN APPROVAL,
CONDITIONAL USE APPROVAL,
VARIANCES AND WAIVERS
FOR BLOCK 807, Lot 12

OCEAN CITY PLANNING BOARD
APPLICATION NO. PBA 25-006
DECISION AND RESOLUTION

BACKGROUND OF DECISION AND RESOLUTION

1. WHALE BEACH BUILDERS, LLC, ["Applicant"] is the owner of certain lands and premises located in the City of Ocean City known as Block 807, Lot 12 as shown on the current official tax map for the City of Ocean City, New Jersey, commonly known as 858 Asbury Avenue, Ocean City, New Jersey ["Property"].

2. The Applicant has made application to the Ocean City Planning Board for (i) **preliminary and final major site plan approval** to construct a new three-story mixed-use building consisting of a commercial use on the first floor and two (2) residential units on the second floor and third floor together with four (4) parking spaces at the Property which is located in the CB, Central Business Zone; (ii) **conditional use approval** for the second and third floor residential units; (iii) **variances** for (a) minimum lot area because 6,000 square feet is required and 2,700 feet is proposed; (b) minimum lot width because 60 feet is required and 30 feet is proposed; (c) minimum commercial floor area because 1,500 square feet is required and 965 square feet is proposed; (d)

parking spaces because five (5) are required and four (4) are proposed; (e) a side yard setback to permit construction of an architectural projection on the south side of the proposed building because 3 feet is required and two feet is proposed; (f) to permit construction of front porches and decks because they are not permitted; (g) to permit construction without a required truck berth; and (iv) completeness waivers.

3. The application to the Ocean City Planning Board as aforesaid was deemed complete and a public hearing in respect of the aforesaid application was held before the Ocean City Planning Board on February 11, 2026.

WITNESSETH

NOW, THEREFORE, the Ocean City Planning Board based upon the exhibits submitted and the analysis by the Planner for the Ocean City Planning Board, Randall E. Scheule, A.I.C.P. & P.P. [“Planner”] and the Engineer for the Ocean City Planning Board, David S. Scheidegg, P.E., P.P., C.M.E. [“Engineer”] and the testimony presented makes the following findings of fact:

1. Paragraphs 1 through 3 set forth above in the Background of Decision and Resolution are incorporated by this reference as if specifically set forth herein at length; all appropriate applications have been filed; all required application fees have been paid; and, all notices required by law have been given.

2. The Applicant has submitted and the Planner and Engineer have reviewed the plans and documents identified and delineated by the Planner in the Planner’s Report dated January 2, 2026 [“Planner’s Report”] all of which are incorporated by this reference as if specifically listed herein at this place and documents identified and delineated by the Engineer in the Engineer’s Report dated December 29, 2025

["Engineer's Report"] all of which are incorporated by this reference as if specifically listed herein at this place. The Planner's Report is attached to this Decision and Resolution as Exhibit A and expressly made a part hereof and the Engineer's Report is attached to this Decision and Resolution as Exhibit B and expressly made a part hereof.

3. The Applicant was represented by Avery S. Teitler, Esquire at the time of public hearing. Mr. Teitler presented the Applicant's application for preliminary and final major site plan approval, conditional use approval, variances and completeness waivers in respect of the Property. The Property is located in the CB, Central Business Zone and is identified as Block 807, Lot 12 as shown on the current official tax map of the City of Ocean City, New Jersey. The street address of the Property is 858 Asbury Avenue, Ocean City, New Jersey. Mr. Teitler indicated that it was the Applicant's intent to construct a new three story building on what is currently an undersized vacant lot. The new building will have retail commercial space on the first floor and one three-bedroom residential unit on the second and third floors. In order to construct a new building, variances are needed for minimum lot area, minimum lot width, minimum commercial floor area, parking, front porches and decks, a required truck berth and an architectural projection on the south side of the proposed building. The Applicant also seeks conditional use approval and completeness waivers. He stated that the Applicant was seeking variances under both the c. (1) criteria of N.J.S. 40:55D-70 as an undue hardship exists due to pre-existing non-conforming lot size and the c. (2) criteria of N.J.S. 40:55D-70 as the new building will be an aesthetic improvement for the Commercial Business Zone, is an appropriate location for a mixed use building consisting of commercial space on the first floor and residential use on the second and

third floors in order to meet the needs of New Jersey citizens, will be handicap accessible pursuant to the Americans with Disabilities Act (ADA), and the proposed new building will be consistent with other buildings in the Commercial Business Zone.

4. Christopher Halliday, R.A. was the first witness to testify in respect of the application. Mr. Halliday is a registered architect and was recognized by the Ocean City Planning Board as an expert. Mr. Halliday is the registered architect engaged by the Applicant in respect of the preliminary and final site plan approval, conditional use approval, variances and completeness waivers. Mr. Halliday provided a general description of the size of the Property and a general description of the proposed new building. He testified that it is impossible to comply with the minimum lot area, minimum lot width and minimum commercial floor area requirements of the Commercial Business Zone. There will be a ramp on the side of the building allowing for handicap access. The proposed new construction will be consistent with other commercial properties on 30 foot lots found in the Commercial Business Zone on Asbury Avenue. He testified that the Applicant does not anticipate large trucks making deliveries which would necessitate the need for a truck berth. It is anticipated that the first floor will be retail space. All bulk variances are needed due to the undersized nature of the lot. Conditional use approval is required due to the residential units on the second and third floor. Mr. Halliday testified concerning the conditional use standards applicable for the project development and opined that the project as proposed satisfied the conditional use standards to permit residential dwellings on the second floor and third floor of the new building. He further testified that there are no other adjacent properties available to purchase. He testified that 30 foot lots are more typical on

Asbury Avenue than 60 foot lots. He opined that an undue hardship exists under the c. (1) criteria of N.J.S. 40:55D-70 due to the undersized nature of the existing lot. He further opined that under the c. (2) criteria of N.J.S. 40:55D-70 the proposed new building will satisfy several purposes of zoning as detailed in N.J.S. 40:55D-2. The new building will improve safety from flood, will be handicap accessible, will be an attractive building, is appropriately located for a mixed use building and will be consistent with other buildings on Asbury Avenue in the Commercial Business Zone. Mr. Halliday further opined that the benefits of any deviation permitting the variance relief would substantially outweigh any detriment and the negative criteria consistent with the standards required in N.J.S. 40:55D-70 were likewise satisfied, indicating that the relief requested by the Applicant, could, in his professional opinions, be granted without any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.

During and upon completion of Mr. Halliday's testimony, he addressed questions from Ocean City Planning Board Members.

5. Comments from the Planner were received consistent with the Planner's Report. The Planner's Report was received by the Ocean City Planning Board. Comments from the Engineer were received consistent with the Engineer's Report. The Engineer's Report was received by the Ocean City Planning Board. The Applicant will comply with (i) the Planner's Report and (ii) the Engineer's Report, as agreed by Applicant's counsel, Mr. Teitler. If necessary, the site plan will be revised to show all changes thereto consistent with the foregoing and all the representations and agreements placed on the record by the Applicant's counsel at the public hearing on

February 11, 2026.

6. Upon completion of Mr. Teitler's presentation on behalf of the Applicant, receipt of the Planner's Report and the Engineer's Report, and receipt of comments by the Planner and Engineer, the meeting was then opened to the public. There was public comment. The following members of the public testified in respect of the application as follows:

1. Alan Richter, 1023 Wesley Avenue—In Opposition: parking waivers should not be granted.

2. Nancy Notero, 11th and Central Avenue—Comment. Efforts should be made for preservation of existing "John Stones" sidewalk lettering for its historical significance.

7. Upon conclusion and closing of the public portion of the meeting, there was further discussion and deliberation by the Ocean City Planning Board.

NOW, THEREFORE, the Ocean City Planning Board hereby makes the following conclusions of law based upon the foregoing findings of fact. The Applicant has made application to the Ocean City Planning Board for **(i) preliminary and final major site plan approval** to construct a new three-story mixed-use building consisting of a commercial use on the first floor and two (2) residential units on the second floor and third floor together with four (4) parking spaces at the Property which is located in the CB, Central Business Zone; **(ii) conditional use approval** for the second and third floor residential units.; **(iii) variances** for (a) minimum lot area because 6,000 square feet is required and 2,700 square feet is proposed; (b) minimum lot width because 60 feet is required and 30 feet is proposed; (c) minimum commercial floor area because

1,500 square feet is required and 965 square feet is proposed; (d) parking spaces because five (5) are required and four (4) are proposed; (e) to permit construction of front porches and decks because they are not permitted; (f) to permit construction without a required truck berth; (g) to permit construction of an architectural projection on the south side of the proposed building because 3 feet is required and 2 feet is proposed; and (iv) completeness waivers.

Under the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq* and particularly, N.J.S. 40:55D-60, a Planning Board, when considering a site plan, as in this case, may grant variances as provided for in N.J.S 40:55D-70 c. The Applicant has the burden of proof to satisfy both the positive and negative criteria necessary to grant the variance relief requested. The Applicant must satisfy certain specific proofs which are enunciated in N.J.S 40:55D-70 c. Specifically, pursuant to N.J.S 40:55D-70 c. (1) c. the Applicant may be entitled to relief if the Applicant can demonstrate that strict application of any regulation pursuant to 40:55D-62 *et seq.* would result in exceptional practical difficulties or exceptional and undue hardship. In addition, pursuant to N.J.S. 40:55D-70 c. (2), the Applicant may be entitled to relief, if the Applicant can demonstrate that in a particular circumstance relating specifically to the Property, the purposes of the Municipal Land Use Law would be advanced by allowing a deviation from the Ocean City Zoning and Land Development Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, variance relief may be legally granted. The category specifically enumerated above constitutes the affirmative proofs necessary in order to obtain “bulk” or c. variance relief. Finally, the Applicant must also show that the variance relief requested can be granted without any substantial detriment

to the public good and without substantially impairing the intent and purpose of the zone plan and Ocean City Zoning and Land Development Ordinance. It is only in those instances when an applicant has satisfied the statutory criteria, that a Planning Board acting pursuant to statutory and case law can grant relief. The burden of proof is upon the Applicant to establish these criteria.

Based upon the application, plans and documents, reports, and testimony, including the expert opinions furnished by Mr. Halliday, the Ocean City Planning Board finds that the Applicant **has met** the minimum requirements of the Municipal Land Use Law, case law and the Ocean City Zoning and Land Development Ordinance so as to grant the relief requested. Specifically, as it pertains to the c. variance relief sought by the Applicant, the Ocean City Planning Board finds that: : I. The c. (1) criteria and the c. (2) criteria to grant the variances for: (a) a side yard setback to permit construction of an architectural projection because a minimum side yard setback of three (3) feet is required and a side yard setback of two (2) feet is proposed; (b) minimum lot area because 6,000 square feet is required and 2,700 square feet is proposed; (c) minimum lot width because 60 feet is required and 30 feet is proposed; (d) minimum commercial floor area because 1,500 square feet is required and 965 square feet is proposed; (e) parking spaces because five (5) are required and four (4) are proposed; and (f) to permit construction of a new three story building without installation of a required truck berth has been satisfied and, specifically as to the c. (2) criteria, the purposes of the Municipal Land Use Law would be advanced by a deviation from the Ocean City Zoning and Land Development Ordinance and the benefits of the deviation would substantially outweigh any detriment, taking into consideration the purposes of zoning detailed in N.J.S.

40:55D-2 a. (appropriate use of land which will promote the public safety and general welfare) b. (to secure safety from flood) and i. (promotion of a desirable visual environment), the permitted uses of the Property, including the conditional use proposed by the Applicant, the aesthetic quality of the proposed new building, the enhanced visual environment offered by the proposed project, the intent of the CB, Commercial Business Zone, and the nature of the variances requested by the Applicant; and 2. There is no evidence whatsoever before the Ocean City Planning Board that the preliminary and final site plan, conditional use approval, variances, and checklist waivers as requested, if approved and granted, would have a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and the Ocean City Zoning and Land Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Ocean City Planning Board on February 11, 2026 that the application made by the Applicant, WHALE BEACH BUILDERS LLC is **APPROVED AND GRANTED**. The Applicant shall comply with the Planner's Report and the Engineer's Report.

IT IS FURTHER RESOLVED that the above approval embodied in this Decision and Resolution is subject to all the following terms and conditions:

A. Prior to the issuance of any construction permit, reimburse the City of Ocean City for all professional fees and other expenses incurred by the City of Ocean City as a result of processing Applicant's application in accordance with the Ocean City Zoning and Land Development Ordinance.

B. The Applicant will comply with the Planner's Report and the Engineer's Report.

C. The Applicant shall comply with all the representations and agreements placed on the record by the Applicant's counsel, professionals, and/or other representatives at the time of public hearing on February 11, 2026 including using its best efforts to preserve existing sidewalk containing the words "John Stones".

D. The Applicant shall obtain the approval of all other municipal, county, state or federal agencies or boards having jurisdiction over the proposed site plan in respect of the Property, including but not limited to approval from the Cape-Atlantic Soil Conservation District, if necessary.

E. The Applicant shall cause all plans and documents to be revised consistent with the above referenced conditions and all of the representations and agreements placed on the record by the Applicant's counsel, professionals, and/or other representatives at the time of public hearing on February 11, 2026.

F. The Applicant shall comply with Article 1600 of the Ocean City Zoning and Land Development Ordinance in respect of Guarantees and Improvement Procedures.

G. The checklist waivers identified in the Planner's Report and the Engineer's Report are granted and conditional use approval is likewise granted.


H. The Applicant shall comply with all provisions of the Ocean City Zoning and Land Development Ordinance, including **without limitation § 25-1500.10.3** thereof, and any and all other municipal, county, state, or federal laws or regulations relating or applicable to the proposed project development at the Property.

This Decision and Resolution was adopted upon a motion, to be considered in the affirmative to approve the Applicant's request for land use approvals with the conditions aforesaid, made by Ocean City Planning Board Member Adams and seconded by Ocean

City Planning Board Member Sheppard on February 11, 2026 [“Adams Motion”]. The vote on the Adams Motion was six (6) in favor of and zero (0) against with Ocean City Planning Board Members, Adams, Bekier, Allegretto, Barnes, Sheppard and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

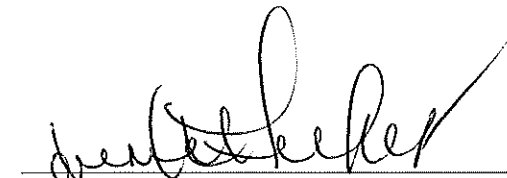
Dated: 3/11/26



JOHN LOEPER, CHAIRPERSON

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Decision and Resolution was duly adopted at the meeting of the Ocean City Planning Board held on February 11, 2026 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on March 11, 2026. This Decision and Resolution has been filed in the Office of the Ocean City Planning Board and is available for inspection upon request.



JAIME M. FELKER,
Secretary, Ocean City Planning Board

December 29, 2025

Mr. John Loeper, Chairman
and Planning Board Members
c/o Mrs. Jaime Felker, Secretary
Ocean City Planning Board
115 12th Street
Ocean City, NJ 08226

Re: **Preliminary and Final Major Site Plan, Conditional Use with "C" Variances (R1)
Whale Beach Builders, LLC
Block 807, Lot 12
858 Asbury Ave
City of Ocean City, Cape May County, NJ
PBA25-006 (Our File No. OC16-228)**

Dear Chairman Loeper and Planning Board Members:

The following plans and documents have been reviewed for this application:

1. Survey of Premises, as prepared by Paul Koelling, PLS, dated 02/04/25, **last revised 12/05/25**
2. **Preliminary Site Plan**, as prepared by Halliday Architects, consisting of the following pages:
 - G0.01 Site Plan, Project Data, Maps, Schedule, dated 07/17/25, **last revised 12/03/25**
 - A1.00 Ground Floor and First Floor Plans, dated 07/17/25, **last revised 12/03/25**
 - A1.01 Second Floor and Roof Plan, dated 07/17/25, **last revised 12/03/25**
 - A1.02 Exterior Elevations, dated 07/17/25, **last revised 12/03/25**
 - A1.03 Exterior Elevations, dated 07/17/25, **last revised 12/03/25**
3. City of Ocean City Development Application
4. City of Ocean City Administrative Completeness Checklist
5. Explanation of variances
6. City of Ocean City Confirmation of Paid Taxes, dated 07/22/25- *Not current*
7. Transmittal from Avery Teitler to Jaime Felker, dated 08/19/25
8. City of Ocean City 200-foot property owners list, dated 07/22/25
9. Ocean City Police- Traffic Memo
10. **Transmittal from Avery Teitler to Jaime Felker, dated 12/08/25**

I. Description:

The applicant requests major site plan and conditional use approval and variance relief from the planning board to construct a new mixed use commercial / residential building. The undersized lot (30' x 100') contains several existing non-conformities. The structure is to contain commercial use on the first floor with two (4 bedroom) residential units above. The existing structure has been demolished.

This parcel is located within the Central Business Zone (CB).

II. Completeness:

The application was submitted as a Major Site Plan. The application does not address the following checklist items:

§ 25-1500.8.2. Preliminary Plat Site Plan Requirements.

e. The tops of the banks and boundaries of the floodways and flood hazard areas of all existing watercourses, where such have been delineated or the limits of alluvial soils where the boundaries of floodways and flood hazard areas have not been determined, and/or such other information as may assist the Board in the determination of floodway and flood hazard area limits. NOT PROVIDED-waiver requested

k. A grading plan showing existing and proposed grading contours at one foot (1') intervals throughout the tract, or spot elevations if acceptable to the Board Engineer. Datum shall be National Geodetic Vertical Datum (N.G.V.D.) and source of datum shall be noted. In addition to proposed grading contours, sufficient additional spot elevations shall be shown to clearly delineate proposed grading. Also, a site bench mark shall be labeled on the plan. NOT PROVIDED-waiver requested

l. On-Site Drainage Plan:

1. The drainage plan shall be presented in graphic form which shall clearly show the street and lot layout and those items which are pertinent to drainage including existing and proposed contours and spot elevations as previously required.
2. The plan shall outline each area contributing to each inlet.
3. All proposed drainage shall be shown with pipe type and sizes, invert and grate or rim elevations, grades and direction of flow. The direction of flow of all surface waters and of all streams shall be shown.
4. The drainage plan shall be accompanied by complete drainage calculations made in accordance with the standards set forth in this Ordinance.

NOT PROVIDED-waiver requested

m. Off-Site Drainage Plan. The plat shall also be accompanied by an off-site drainage plan prepared in accordance with the following standards:

1. The plan shall consist of an outline of the entire drainage basin in which the site is located. The terminus of the basin and existing ground contours or other basis for determining basin limits shall be shown.
2. The pertinent off-site existing drainage shall be shown with elevations of inverts and grates to the nearest one-hundredth of a foot (.01').
3. To the extent that information is available and may be obtained from the County or Municipal Engineer, any existing plans or drainage improvements shall be shown.
4. In the event a temporary drainage system is proposed, full plans of that system shall be shown.
5. The off-site drainage plans shall be accomplished by profiles of all proposed drainage, showing existing details, pipe sizes, type, inverts, crowns, slopes; all proposed structures and connections and design hydraulic grade lines for all conduits designed to carry forty (40) or more cubic feet per second. Cross-sections at intervals not exceeding one hundred feet (100') shall be shown for all open channels.

NOT PROVIDED-waiver requested

o. Boring Logs. A Soils Engineer's Report shall conform to § 25-1500.7.2x of this Ordinance.

1. Borings shall be spaced evenly throughout the site.

2. One (1) boring shall be made per acre (or portion thereof) in those areas where the water table is found to be less than ten feet (10') below proposed or existing grade.
3. In addition to the above, in those areas where the water table is found to be five feet (5') or less below existing or proposed grade, two (2) additional borings per acre (or portion thereof) will be required if construction of basements is contemplated. Borings shall be located where such basements are proposed.
4. Boring logs shall show soil types and characteristics encountered, groundwater depths, the methods and equipment used, the name of the firm, if any, making the borings and the name of the person in charge of the boring operation. The boring logs shall also show surface elevations to the nearest one-tenth of a foot (.1').
5. Based on the borings, the site plan shall clearly indicate all areas having a water table within two feet (2') of the existing surface of the land, or within two feet (2') of proposed grade; or all areas within which two feet (2') or more of fill is contemplated or has previously been placed.

NOT PROVIDED-waiver requested

25-1500.10.2 Final Plat Major Site Plan Requirements.

The final plat shall include all data required for the preliminary plat of the site plan and shall be drawn to incorporate all changes required as a condition of preliminary approval and shall be drawn by persons and to specifications as required for a preliminary plat and shall be titled "Final Plat - Site Plan."

Based upon the information as submitted and the requested waivers, the application is complete.

III. Zoning:

Based upon our initial review, we offer the following comments:

This parcel is located within the Central Business Zone (CB).

The applicant proposes a first floor commercial/retail use. Retail sales and services, banks, professional offices, restaurants, essential services and contractors' offices are permitted commercial uses in this zone.

The application also proposes a residential component of the development. Residential units are a Conditional Use in this zone (25-208.2.5).

Zoning Compliance - Central Business Zone

Zoning Criteria	Required/ Permitted	Existing	Proposed	Variance Required
Use	Commercial & Residential	Commercial & Residential	Commercial & Residential	No
Minimum Lot Area	6,000 sf	3,000 sf	3,000 sf	Yes/ENC
Minimum Lot Depth	100'	100'	100'	No
Minimum Lot Width	60'	30'	30'	Yes/ENC
Minimum Lot Frontage	60'	30'	30'	ENC
Front Yard Setback	4'	N/A	10' 1"	No

Minimum Side Yard Setback	0'/0' Commercial 4'/8' Residential	N/A N/A	2'/6' 4'/8'	No No
Arch Projection	3'		3'	No
Rear Yard Setback	4'	N/A	10' 6"	No
Habitable Stories	3	N/A	3	No
Max Building Coverage	90%	N/A	61.6%	No
Max Impervious Cover	90%	100%	82.4%	No
Parking				
* Retail	see comment 15	N/A	0	TBD
* Residential	5		4	YES
Parking Setbacks	4'		4'	No
Max Building Height	38' (above BFE +1')	N/A	38' (above BFE +1')	No
1 st FI Commercial	1,500 SF	N/A	965 SF	YES

IV. Technical Comments:

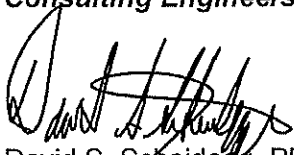
1. The applicant shall provide testimony in conformance with the Conditional Use standards in support of the proposed residential use.
2. The minimum permitted lot area in the zone is 6,000 sf. The lot contains 3,000 sf. Variance relief is required. This is an existing non-conforming lot area.
3. The minimum permitted lot width and frontage in this zone is 60 feet. The lot contains 30 feet. This is an existing non-conforming lot width/frontage. Variance relief for lot width is required.
4. Variance relief is required for architectural projection on the south side, 3 feet is permitted and the plans indicate that 2 feet is proposed.
5. 2.5 parking spaces are required for each 4-bedroom dwelling for a total of 5 parking spaces. 4 parking spaces are proposed. Relief is required.
6. Front porches and decks are not permitted. Relief is required.
7. The CB zone permits a maximum residential density of 30 Units per acre. This application proposes a density of 29.04 units per acre.
8. The parcel is located within the Special Improvement District (SID).
9. Per the architectural plans, the BFE for this site is 9. The non-residential finish floor is proposed at elevation 7.0. The plans identify the limits of the proposed flood proofing at elevation 11.
10. The plans do not propose any street trees for this application. Street trees exist on adjoining parcels.

11. The replacement of the *curb* for the entire frontage, and any required transition, shall be identified on the plans along with existing and proposed grades.
12. The plans shall identify the front yard setbacks of the adjoining structures.
13. Existing and proposed elevations shall be provided for the front and rear portion of the lot and the curb/gutter within the right of way.
14. Since this project is within the Special Improvement District, the provisions of § 25-205.1.9, Streetscape Design Standards apply. All sidewalk areas and curbs (public and private) on Asbury Avenue between 6th Street and 11th Street, and from Asbury Avenue to the alley on corners between 6th Street and 11th Street, inclusive, shall be French Gray, with no pavers, and installed in compliance with Standard Specifications, as amended. The pattern and color of the proposed sidewalk shall match existing. Concrete from the face of curb to the face of the building shall be colored French Gray. The applicant should identify if a waiver is requested from the concrete color requirements.
15. Testimony as to the proposed use for the retail space shall be provided. Section 25-205.1.8 requires off-street parking for some uses. The plans do not propose any parking for the commercial space. If the use is Bank or professional office space, on-site parking spaces would be required.
16. Per RSIS, each of the proposed 4-bedroom dwellings must provide a minimum of 2.5 on-site parking spaces for a total of 5 on-site parking spaces. The plans propose 4 parking spaces. Variance relief is required.
17. The plans depict a thru-roof venting system for the commercial first floor space. The plans indicate that the vent chase will be constructed initially with the full vent system to be constructed if a restaurant is constructed in the future.
18. The exiting parking meters, street signs and street furniture (bench and trash receptacles) are to be reset as a condition of any approval.
19. The plans shall identify the proposed water and sewer laterals for each unit. A water meter vault is to be located outside of the municipal right of way.
20. The applicant shall address any/all comments from the zoning memo.
21. If available, the applicant shall identify the height of the adjoining structures.
22. As a condition of any approval, the applicant shall submit letters to the City from the water and sewer utility company indicating availability/adequacy of services.
23. The applicant shall provide an Engineer's cost estimate, performance and maintenance guarantee as required by the City Code.
24. All mechanical equipment shall conform with the applicable flood elevation requirements.
25. Landscaping, Lighting and Signage items are deferred to the Planning Board Planner.
26. The applicant shall obtain all permits and or approvals from the City of Ocean City and other entities having jurisdiction, as applicable.

Any Planning Board approval should be contingent upon approval from all other governmental agencies having jurisdiction. We reserve the right to review any additional information submitted for this matter.

Should you have any questions or require any additional information, please do not hesitate to contact our office.

Sincerely,
Schaeffer Nassar Scheidegg
Consulting Engineers, LLC



David S. Scheidegg, PE, PP, CME, CPWM, CFM
Planning Board Engineer

Cc: *Jaime M. Felker, (via e-mail)*
Gary Griffith, Esq. (via e-mail)
Randall Scheule, PPAICP (via e-mail)
Gary Griffith, Solicitor (via e-mail)
Avery Teitler, Clients Attorney (via e-mail)
Chris Halliday, RA, (via e-mail)
Paul Koelling PLS, (via e-mail)
Whale Beach Builders, LLC, Applicant (via e-mail)





SCHEULE

PLANNING SOLUTIONS, LLC

Community Development

Municipal Planning

Master Plans

Zoning Codes

Redevelopment

PLANNER'S REPORT

To: City of Ocean City
Planning Board Members

From: Randall Scheule, PP/AICP
Planning Board Planner

Date: January 2, 2026
Revised: January 13, 2026

Zone: Central Business Zone

RE: **PBA 25-006, Whale Beach Builders, LLC (R1.2)**
Block 807, Lot 12; 858 Asbury Avenue
Public Hearing – Preliminary & Final Site Plan, Conditional Use

Introduction.

This report is provided to assist the Planning Board in its consideration of the above referenced application and is limited to planning issues. Engineering and legal issues shall be reviewed by the Board Engineer and Board Solicitor, respectively. The comments and recommendations contained herein are based on my review of the information provided to date including the development application, the Ocean City Master Plan, the Zoning and Development Code and such other sources as may be noted.

Any resubmission addressing the issues identified in this report shall be accompanied by a point-by-point letter responding to all items, with revisions on the plans *clouded or highlighted* to indicate changes.

Plans and Documents.

The following plans and documents constituting the above development application have been reviewed and provide the basis for the comments and recommendations which follow.

- Letter of transmittal to Jaime Felker from Avery Teitler, December 8, 2025
- Letter of transmittal to Jaime Felker from Avery Teitler, August 19, 2025
- City of Ocean City Development Application w/ attachments, August 18, 2025

PBA 25-006, Whale Beach Builders, LLC

Block 807, Lot 12; 858 Asbury Avenue

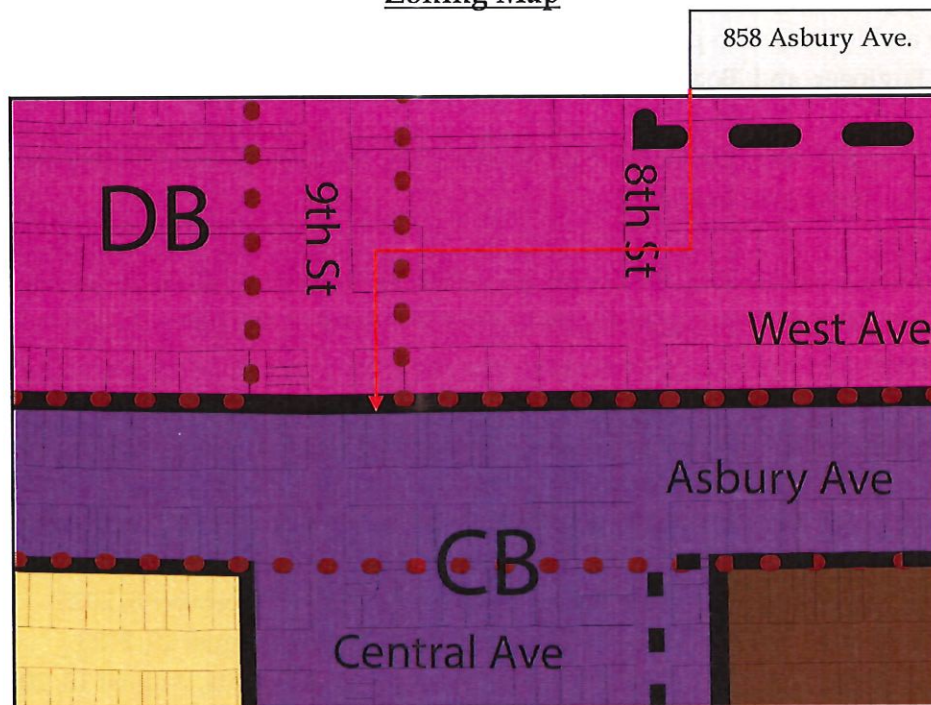
- Survey of Premises, Paul Koelling & Associates, LLC, February 4, 2025, last revised December 5, 2025
- Site Plan, Halliday Architects (5 sheets), July 17, 2025, last revised December 3, 2025
- Ocean City Police report, August 26, 2025
- Confirmation of Paid Taxes, July 22, 2025 - Not current
- Ocean City Zoning Officer's report, September 15, 2025
- Ocean City Construction Office report, September 17, 2025
- Ocean City Engineer's Office report, September 18, 2025
- Ocean City Shade Tree Committee report, September 24, 2025

Development Proposal.

Applicant is requesting Preliminary and Final Site Plan and Conditional Use approvals to construct a 3-story mixed-use building with 965 SF of retail space on the first floor, one 3-bedroom residential unit on each the second and third floors, and four off-street parking spaces.

The survey indicates the subject 30' x 100' property is improved with a mixed-use building. As indicated on the Zoning Map below, the site is located in the Central Business Zone. Information regarding the dimensional aspects of the proposed building and site improvements is included in the Zoning Conformance section of this report.

Zoning Map



Completeness.

25-1500.8.2 Preliminary Plat Requirements

a. *General Requirements.*

2. Site plans shall not be drawn with North oriented to the top of the page, at a scale smaller than one-inch equals fifty feet (1"=50') or larger than one inch equals ten feet (1"=10'). If the size of the site would require the use of sheets larger than thirty inches by forty-two inches (30" x 42") in order to show the entire site on one (1) sheet, the detailed information for the site plan shall be shown in sections on sheets not larger than thirty inches by forty-two inches (30" x 42"), which sheets shall be keyed to an overall plan of the site drawn at a scale of not less than one inch equals two hundred feet (1"=200').

Waiver

The site plan shall be based on a monumented, current certified boundary survey. The date of the survey and the name of the person making same shall be shown on the map. If twelve (12) months or more has passed since the date of (or date of last recertification of) the survey, it shall be recertified and if necessary, brought up to date.

X

e. The tops of the banks and boundaries of the floodways and flood hazard areas of all existing watercourses, where such have been delineated or the limits of alluvial soils where the boundaries of floodways and flood hazard areas have not been determined, and/or such other information as may assist the Board in the determination of floodway and flood hazard area limits.

Waiver

k. A grading plan showing existing and proposed grading contours at one-foot (1') intervals throughout the tract, or spot elevations if acceptable to the Board Engineer. Datum shall be National Geodetic Vertical Datum (N.G.V.D.) and source of datum shall be noted. In addition to proposed grading contours, sufficient additional spot elevations shall be shown to clearly delineate proposed grading. Also, a site benchmark shall be labeled on the plan.

Waiver

l. *On-Site Drainage Plan:*

1. The drainage plan shall be presented in graphic form, which shall clearly show the street and lot layout and those items, which are pertinent to drainage including existing and proposed contours and spot elevations as previously required.

Waiver

2. The plan shall outline each area contributing to each inlet.

Waiver

3. All proposed drainage shall be shown with pipe type and sizes, invert and grate or rim elevations, grades and direction of flow. The direction of flow of all surface waters and of all streams shall be shown.

Waiver

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4. The drainage plan shall be accompanied by complete drainage calculations made in accordance with the standards set forth in this Ordinance.

Waiver

m. *Off-Site Drainage Plan.* The plat shall also be accompanied by an off-site drainage plan prepared in accordance with the following standards:

1. The plan shall consist of an outline of the entire drainage basin in which the site is located. The terminus of the basin and existing ground contours or other basis for determining basin limits shall be shown.

Waiver

2. The pertinent off-site existing drainage shall be shown with elevations of inverts and grates to the nearest one-hundredth of a foot (.01').

Waiver

3. To the extent that information is available and may be obtained from the County or Municipal Engineer, any existing plans or drainage improvements shall be shown.

Waiver

4. In the event a temporary drainage system is proposed, full plans of that system shall be shown.

NA

5. The off-site drainage plans shall be accomplished by profiles of all proposed drainage, showing existing details, pipe sizes, type, inverts, crowns, slopes; all proposed structures and connections and design hydraulic grade lines for all conduits designed to carry forty (40) or more cubic feet per second. Cross-sections at intervals not exceeding one hundred feet (100') shall be shown for all open channels.

Waiver

n. If required by the City Engineer, centerline profiles of streets bordering the site, internal roadways, and major circulation aisles showing:

1. Existing and proposed final grades and slopes.

X

2. Pipe sizes, slope, type, inverts, and grate or rim elevation of drainage and sanitary sewage facilities.

Waiver

o. *Boring Logs.* A Soils Engineer's Report shall conform to Section 25-1500.7.2x of this Ordinance.

1. Borings shall be spaced evenly throughout the site.

Waiver

2. One (1) boring shall be made per acre (or portion thereof) in those areas where the water table is found to be less than ten feet (10') below proposed or existing grade.

Waiver

3. In addition to the above, in those areas where the water table is found to be five feet (5') or less below existing or proposed grade, two (2) additional borings per acre (or portion thereof) will be required if construction of basements is contemplated. Borings shall be located where such basements are proposed.

Waiver

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4. Boring logs shall show soil types and characteristics encountered, groundwater depths, the methods and equipment used, the name of the firm, if any, making the borings and the name of the person in charge of the boring operation. The boring logs shall also show surface elevations to the nearest one-tenth of a foot (.1').

Waiver

5. Based on the borings, the site plan shall clearly indicate all areas having a water table within two feet (2') of the existing surface of the land, or within two feet (2') of proposed grade; or all areas within which two feet (2') or more of fill is contemplated or has previously been placed.

Waiver

s. The capacity of off-street parking areas and the location and dimensions of all access drives, aisles and parking stalls. The location and treatment of existing and proposed entrances and exits to public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, additional width and any other device necessary for traffic safety and/or convenience, and the estimated average number of passenger vehicles, single unit trucks or buses, and semi-trailers that will enter the site each day.

Waiver

ee. Written description of the proposed operations in sufficient detail to indicate the effects of the use in producing traffic congestion, noise, glare, air pollution, fire hazards or safety hazards. The written description shall also include the hours of operation of the use, the number of shifts to be worked, the number of employees in each shift, the number of vehicles to be stored or parked on the site, and provisions to be made for site maintenance.

Waiver

MISCELLANEOUS REQUIREMENTS THAT MAY BE REQUIRED

1. COST OF IMPROVEMENTS ESTIMATE (SEE 25-1600.1.1A)
2. SIGHT TRIANGLE - CORNER PROPERTIES (SEE 25-1700.13.3)
3. SOIL EROSION PLAN (SEE 25-1700.32)
4. OTHER AGENCY REQUIREMENTS
 - a. County Planning Board (25-1500.8.3B)
 - b. New Jersey Water Company (25-1500.8.3C)
 - c. Waterfront Development (CAFRA)
 - d. Adequacy of Utility Service

Waiver

NA

NA

NA

Waiver

NA

Waiver

25-1500.10.2 Final Plat Requirements.

The final plat shall include all data required for the preliminary plat of the site plan and shall be drawn to incorporate all changes required as a condition of preliminary approval and shall be drawn by persons and to specifications as required for a preliminary plat and shall be titled "Final Plat - Site Plan."

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** Refer to Preliminary Site Plan Checklist

- Part D7 of the Development Application requires a photograph of the land and buildings involved in the application. Waiver requested

This application may be deemed complete subject to approval of the waivers indicated above.

Zoning Conformance

Zone Standard	Zoning Requirement	Existing Condition	Proposed Condition	Variance Required?
Use	Mixed-use	Parking lot	Mixed-use	No
Maximum Density	33 DU/Acre	NA	32 DU/Acre	No
Minimum Lot Area	6,000 SF	3,000 SF	3,000 SF	Yes
Minimum Lot Frontage	60 FT	30 FT	30 FT	No ¹
Minimum Lot Width	60 FT	30 FT	30 FT	Yes
Minimum Lot Depth	100 FT	90 FT	90 FT	No ¹
Minimum Front Setback	4 FT	NA	10.1 FT	No
Minimum Side Setback		NA		
• Residential	4 FT		4 FT	No
• Commercial	0 FT		0 FT/3 FT	No
Minimum Residential Side Yard Aggregate	8 FT	NA	8 FT	No
Minimum Rear Setback	4 FT	NA	10.5 FT	No
BFE (NAVD88)	NS	9 FT	9 FT	NA
Maximum Building Ht. (1' above BFE)	38 FT	NA	38 FT	No
Maximum Habitable Stories	3	NA	3	No
Maximum Landing Size	36 SF	NA	35.8 SF	Yes

¹ Existing lot frontage and lot depth deemed conforming by §25-105.3d.

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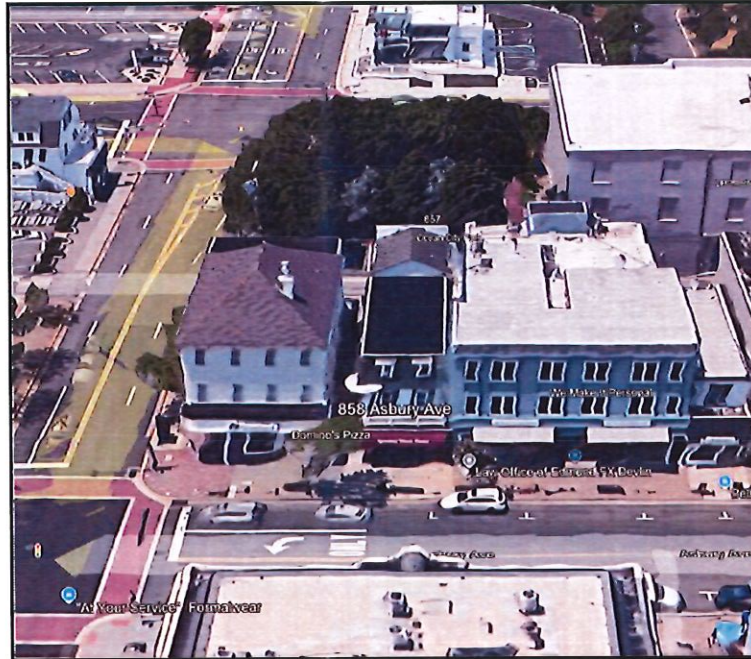
Minimum Commercial Floor Area	1,500 SF	NA	965 SF	Yes
Minimum Store Width	24 FT	NA	≥ 24 FT	No
Minimum Commercial Ceiling Height	12 FT	NA	12 FT	No
Minimum Commercial Glass	45%	NA	55%	No
Maximum Building Coverage	90%	NA	61.6%	No
Maximum Impervious Coverage	90%	100%	82.4%	No
Minimum Off-street Parking Spaces		NA		
▪ Residential	2.5/Unit		2/Unit	Yes
▪ Retail	0		0	No
Minimum Parking Setback				
• To lot line	1 FT	±20 FT	2.5 FT	No

Summary of Zoning Variances.

1. Minimum Lot Area - 6,000 square feet required; 3,000 square feet existing/proposed.
2. Minimum Lot Width - 60 feet required; 30 feet existing/proposed.
3. Minimum Commercial Floor Area - 1,500 SF required; 965 SF proposed.
4. Residential Parking Spaces - 2.5/unit required; 2/unit proposed.
5. Front porches and decks - not permitted.
6. Truck berth - required by § 25-300.12.4.1.

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Aerial Image
(prior to demo)



Review Comments.

1. Applicant is required to address both the positive and negative criteria necessary to grant the variances identified above. Applicant may be entitled to relief if he can demonstrate that the purposes of the Municipal Land Use Law would be advanced by allowing a deviation from the Ocean City Zoning Ordinance, and the benefits of the deviation will substantially outweigh any detriment. The applicant must also show that the variances can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance.
2. Residential units are permitted as a conditional use pursuant to Subsection 25-208.2.5 a, b, e and f. Applicant shall address the relevant sections of the City Code for the proposed residential units.
3. Review of site grading, stormwater, utilities and drainage is deferred to the Planning Board Engineer.

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Conditions of Approval (Preliminary Major Site Plan).

Approval of an application for development for a preliminary plat of a major site plan by the Planning Board shall be subject to the following conditions being satisfied prior to the signing of the plat.

<u>Conditions of Preliminary Site Plan Approval</u>	<u>Status</u>
Payment of any outstanding real estate taxes.	<i><u>Satisfied.</u></i>
Submission of additional prints of the plat map and attachments for distribution, if required.	<i><u>Pending</u></i>
Publication of a notice of the decision of the Board by the Administrative Officer (Planning Board or Board of Adjustment Secretary) within the time set forth in Section 25-900.7 of this Ordinance.	<i><u>Pending</u></i>
Any other conditions which may be imposed by the Board or may be required by Federal, State, County or municipal law.	<i><u>Pending</u></i>
The Board may also condition its preliminary approval upon the applicant providing for certain revisions or additions on the final plat submission.	<i><u>Pending</u></i>
Rectify any outstanding financial obligation to the City of Ocean City.	<i><u>Pending</u></i>
Provide an estimate of the cost of site improvements, performance and maintenance guarantees as required by the City Code.	<i><u>Pending</u></i>

Conditions of Approval (Final Site Plan).

Pursuant to Section 25-1500.10.3 Conditions of Approval, any approval of an application for development of a final plat of a site plan shall be subject to the following conditions being satisfied, within the time specified by the Planning Board, prior to signing of the plat or issuance of a Development Permit.

<u>Conditions of Final Site Plan Approval</u>	<u>Status</u>
Payment of any outstanding real estate taxes.	<i><u>Satisfied.</u></i>
Submission of additional prints of the plat map and attachments for distribution, if required.	<i><u>Pending</u></i>
Publication of a notice of the decision of the Board by the Administrative Officer (Planning Board or Board of Adjustment Secretary) within the time set forth in Section 25-900.7 of this Ordinance.	<i><u>Pending</u></i>
Final Cape May County Planning Board approval (if not previously obtained).	<i><u>Satisfied</u></i>
Certification of Soil Erosion and Sediment Control Plans (if not previously obtained).	<i><u>Pending</u></i>
Fire Department approval (if not previously obtained).	<i><u>Pending</u></i>
Granting of any required construction permits.	<i><u>Pending</u></i>
Posting of required performance guarantees.	<i><u>Pending</u></i>
Payment of required inspection fees.	<i><u>Pending</u></i>

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<p>Evidence of a comprehensive general liability insurance policy in an amount not less than three hundred thousand dollars (\$300,000.00) per occurrence indemnifying and saving harmless the City and its agencies, employees and agents from any liability for any acts of the developer or his agents, contractors or employees in implementing of the approved site plan. The insurance policy shall provide for ten (10) days' notice to the City prior to cancellation.</p> <p>It shall be a violation of this Ordinance for any property owner, developer or builder to carry on the construction of the site without having a current valid evidence of insurance on file.</p>	<p><i>Pending</i></p>
<p>Any other conditions, which may be imposed by the Board or may be required by Federal, State, or local law.</p>	<p><i>Pending</i></p>
<p>A condition setting forth the time within which all other conditions must be satisfied as described in Section 25-900.10.</p>	<p><i>Pending</i></p>
<p>Satisfactorily address all conditions of preliminary approval.</p>	<p><i>Pending</i></p>
<p>Rectify any outstanding financial obligation to the City of Ocean City</p>	<p><i>Pending</i></p>
<p>The two subject lots shall be consolidated under a single metes and bounds description and recorded with Cape May County.</p>	<p><i>Pending</i></p>

Street View



C: Gary Griffith
Chris Halliday

David Scheidegg
Paul Koelling

Avery Teitler
Whale Beach Builders, LLC