



**BAIRD  
MANDALAS  
BROCKSTEDT LLC**

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September 14, 2021

**VIA EMAIL AND REGULAR MAIL**

Dewey Beach Mayor and Town Council  
c/o Bill Zolper, Town Manager  
Town of Dewey Beach  
105 Rodney Ave.  
Dewey Beach, DE 19971

**RE: Starboard Claw  
Application for Combining of Lots, Extension of Conditional Use, and  
Parking Waiver  
TMP 334-20.18-149.00  
TMP 334-20.18-150.00**

Dear Mayor Cooke and Town Council:

Thank you for approving Starboard Claw Land Company, LLC's request for a Comprehensive Plan amendment and change in zoning designation during Town Council's meeting on September 10, 2021. Having that step completed and based upon correspondence from Town Manager Bill Zolper and Building Official Daune Hinks, this correspondence is intended to capture in one place the approvals still needed from the Town (excluding building permit approvals) to operate a restaurant on the subject parcels, and to request such approvals.

***Request #1: Combining of Lots***

Now that the change in zoning designation has been approved, both subject parcels have a Resort Business (RB2) zoning designation. ***We request that 1816 Coastal Highway, where Hammerheads is located, (TMP 334-20.18-149.00) be administratively combined with the adjacent property located at 26 Bellevue Street (TMP 334-20.18-150.00).*** Earlier today Scaled Engineering delivered to the Town 3 copies of sealed site surveys illustrating the lots prior to being combined and the resulting parcel after they are combined. When combined, the total square footage of the combined lots will be 6,078 sf.

***Request #2: Extension of Hammerheads Conditional Use Restaurant Approval***

Table 3 in the Zoning Code provides that restaurants are permitted as a Conditional Use, subject to the requirements in Section 185-25D(1). A restaurant conditional use was previously granted for TMP 334-20.18-149.00 (Hammerheads), and that conditional use approval continues

to be valid. However, because Starboard Claw will extend onto 26 Bellevue Street (TMP 334-20.18-150.00), ***we request that the existing conditional use be extended to cover the entirety of the parcel after the lots are combined.***

On September 13, 2021, we completed the Town's online Conditional Use Application and paid the \$750 application fee.

Earlier today Scaled Engineering delivered to the Town a preliminary site plan in compliance with the size any copy requirements of Section 185-74(B).

According to the Town's website, so long as materials are received by the Town by the 15<sup>th</sup> of the month, conditional use applications will be heard the following month. It is our understanding that all required materials have been submitted to the Town.

***Request #3: Waiver of Off-Street Parking Requirement***

Section 185-35(6)(a) provides that while restaurants with a patron area of 2,000 sf or less have no off-street parking requirement, "[r]estaurants with more than 2,000 square feet assigned for patron use shall have one space for each 200 square feet assigned for patron use, including open decking." This Section has previously been interpreted to mean that in addition to the parking required for patron area in excess of 2,000 sf, off-street parking is also required for the initial 2,000 sf. That interpretation yields 19 required off-street parking spaces.

While the current site plan includes 8 off-street parking spaces and one van-accessible off-street parking space, our view (supported by public testimony at the September 10 zoning hearing) is that the surrounding area is better served with bicycle parking, scooter parking, and two accessible spaces on the site. Consequently, pursuant to Section 185-76(B), which permits the Mayor and Town Council to waive off-street parking requirements, ***we request a waiver of 17 of the required off-street parking spaces.***

In support of this position, Starboard Claw, LLC provides the following rationale why the inclusion of the off-street parking requirement will not be essential in this location and may enhance safety at the intersection of Coastal Highway and Bellevue Street.

First, during the rezoning hearing members of the public testified about the potentially dangerous intersection of Coastal Highway and Bellevue Street created by several parking spaces near the intersection at the Hammerheads property and lingering pedestrians enjoying Vanderwendes ice cream. Opening this area up with benches or other accommodations to give pedestrians an off-street area to assemble would enhance the safety at this location.

Second, the current parking requirement is arduous, particularly for restaurants not exceeding the 2,000 sf patron use area threshold by an excessive amount. That is, having no off-street parking requirement for a restaurant with 2,000 sf of patron area, but requiring 11 off-street spots for a restaurant with 2,001 sf of patron area seems overly demanding. While that is the way Section 185-35(6)(a) has been previously interpreted, an equally compelling interpretation is that the Section only requires off-street parking at a rate of one space for every

200 sf of patron area over 2,000 sf. As noted, while our view is that two accessible spots are appropriate, 19 off-street parking spots is excessive for a restaurant of this size and in this location.

Third, the Town, especially in this area, is a walkable Town and parking is not needed at the subject location. Of note, three blocks away from the Starboard Claw location, Grottos has considerable parking that is rarely full.

Fourth, House Bill 1, which was signed by Governor Carney in March 2021, extends outdoor dining privileges until March 31, 2022. This allows for greater flexibility to convert parking areas into outdoor dining areas. This approach has worked in the Town over the past year, without the Town experiencing any serious parking issues caused by outdoor dining expanding into the off-street parking areas.

For all of the above reasons, a waiver of the off-street parking requirements, as requested above, is reasonable.

***Request #4: Permit of Compliance***

We are aware that Starboard Claw will need a permit of compliance to operate a restaurant serving alcoholic beverages. As we move through the other various approvals, we will submit a permit of compliance application along with the plan required by Section 144-2(D) of the Code.

Finally, we request that the Town proceed as promptly as possible to consider this application. We are enthusiastic about the prospect of bringing another Starboard property to Dewey Beach and look forward to presenting this application at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn C. Mandalas". The signature is stylized and cursive.

Glenn C. Mandalas, Esq.

cc: Mayor Dale Cooke  
Mr. Fred Townsend, Esq  
Mr. Steve Montgomery  
Mr. Chris Schell  
Mr. Tim Tice