

## **MAJOR COASTAL ZONE MANAGEMENT PERMIT NO. CZJ-04-14(W)**

1. **AUTHORITY** This permit is issued by the St. Thomas Committee of the Virgin Islands Coastal Zone Management (CZM) Commission and is administered and monitored by the Department of Planning and Natural Resources (the "Department") on behalf of the Coastal Zone Management Commission pursuant to Virgin Islands Code, Title 12, Sections 904, and any other provisions of THE CZM Act. As herein, "**Permitter**" is the **ST. JOHN COMMITTEE OF THE VIRGIN ISLANDS COASTAL ZONE MANAGEMENT COMMISSION** and "**Permittee**" is **THE SUMMER'S END GROUP, LLC**.

2. **SCOPE** (a) This permit allows the construction of a 145 slip marina, a designated mooring field of up to 75 moorings, a pump-out station and a fuel station at and seaward of Plot Nos. 10-17, 10-18, 10-19, 10-41 Rem., 13A, 13B and 13 Rem. Estate Carolina, St. John, U. S. Virgin Islands.

(b) This permit also allows the use and occupancy of the structures described in Section 2 (a) of this permit including 27.5 acres of submerged land areas surrounding the structures described in Section 2, (a) of this permit.

3. **TERM** This permit is effective upon its signing by the Chairman of the St. John Committee of the Virgin Islands CZM Commission, approval by the Governor of the Virgin Islands, and ratification by the Legislature of the Virgin Islands. As used herein, the "Effective Date" or "the date hereof" means the date of such approval. This permit will expire twenty (20) years after the Effective Date. This permit is issued for a definite term of 20 years and shall not constitute a property right. This Permit shall be renewed only if the requirements of Title 12 of the Virgin Islands Code, Section 911, are met.

#### 4. **DOCUMENTS INCORPORATED BY REFERENCE**

Exhibit A: CZM Permit Application dated April 4, 2014.

Exhibit B: Site Plan and Drawings dated July 11, 2014.

Exhibit C: Environmental Assessment Report dated April 4, 2014.

Exhibit D: Water Quality Certificate dated October 16, 2014

#### 5. **GENERAL CONDITIONS**

A. **Liability** The Permittee agrees to assume full and complete responsibility for all liability to any person or persons, including employees, as a result of its control of the area described in Paragraph 2 of this permit, and all improvements thereon (which area and improvements are hereinafter

referred to as "the premises"), and to hold the Permitter free and harmless for civil or other liabilities of any kind during the time the Permittee is in control of the premises pursuant to this permit.

- B. Personal Property and Damage All personal property of any kind or description whatsoever located on the premises shall be there at the Permittee's sole risk.
- C. Assignment or Transfer This permit may not be transferred or assigned except as provided in Section 910-15 of the Virgin Islands Rules and regulations.
- D. Permit to be Displayed A placard evidencing the permit shall be posted in a conspicuous place at the project site during the entire work period.
- E. Reliance on Information and Data The Permittee affirms that the information and data which it provided in connection with its permit application are true and accurate, and acknowledges that if subsequent to the effective date of this permit such information and data prove to be false or inaccurate, the permit may be modified, suspended or revoked in whole or in part, and that the Commissioner or the Committee may, in addition, institute appropriate legal action.
- F. Development to be Commenced Any and all development approved by this Coastal Zone Permit shall begin within twelve (12) months from the date this permit becomes effective and shall be continuous until completion. Failure to perform at least fifty (50%) percent of the work within such period and continuously construct thereafter until the completion of construction shall cause the permit to terminate automatically and render it null and void, unless the Permittee requests an extension in writing and demonstrates to the satisfaction of the Committee that good cause exists for granting such extension.
- G. Notification of Completion Upon completion of any activity authorized or required by this CZM Permit, the Permittee shall promptly so notify the Director of the Division of CZM and where the services of a professional engineer were required in undertaking the activity, a certification of compliance provided by the project engineer that the plans and specifications of the project and all applicable Virgin Islands Code requirements have been met, shall be filed with said Director.
- H. Inspection The Commission, its Committee, the Commissioner or their authorized agents or representatives shall have the power to enter at reasonable times during project working hours upon any lands or waters in the coastal zone for which this Coastal Zone Permit has been issued. The Permittee shall permit such entry for the purpose of inspection and

ascertaining compliance with the terms and conditions of said Coastal Zone Permit. The Permittee shall provide access to such records as the Commission, its Committee, or the Commissioner in the performance of it or his duties under the CZM Act may require the Permittee to maintain. Such records may be examined and copies shall be submitted to the Commission, its Committee or the Commissioner upon request.

- I. Conditions of Premises The Development authorized by this permit shall be maintained in a safe condition and in accordance with the description, plans, or drawings approved by the Commissioner or by the Committee, and all applicable Virgin Islands Laws.
- J. Public Access to Shoreline The development shall be operated so as to assure optimum public access to the shoreline.
- K. Restoration of Area The Permittee, upon renovation or expiration of the permit, shall upon order of the Committee, or the Commissioner, and in their sole discretion, remove all structures authorized by the permit and restore the area to its original condition, and/or modify such structures or site, and/or comply with any directive of the Committee, or the Commissioner in satisfying the original permit conditions in such time and manner as the Committee, or the Commissioner may direct.
- L. Notices All notices sent or required to be sent hereunder must be by certified mail, return receipt requested. If addressed to the Permitter, same shall be sent to the Commissioner of the Department of Planning and Natural Resources, Charles Wesley Turnbull Regional Public Library, 4607 Tutu Park Mall, St. Thomas, Virgin Islands 00802, or to such other place as the Permitter may hereinafter designate. If addressed to the Permittee, same shall be sent to Chalièse Summers, Managing Member, The Yacht Club at Summer's End, LLC, 5000 Estate Enighed, Suite 63, St. John, Virgin Islands, 00803, or to such place as the Permittee may hereinafter designate by certified mail, return receipt requested.
- M. Non Waiver One or more waivers by the Permitter of any covenant or condition of this permit shall not be construed as a waiver of a further breach of the covenant or condition. The consent or approval of the Permitter to or of any acts by either the Permittee requiring the Permitter's consent or approval shall not be construed as approval of any subsequent similar act by the Permittee.
- N. Revocation It is specifically understood that all the foregoing covenants and agreements, as well as other terms and special conditions hereby agreed to by the Permittee, are to be well and faithfully kept by Permittee and that any failure by the Permittee to keep same will result in revocation of this permit.

- O. Other Approval If the development covered under this permit requires separate and distinct approval from the United States Government or the Government of the Virgin Islands, or any agency, department, commission or bureau thereof, then no development or occupancy is allowed under this permit until such permits or approvals have been obtained.
- P. Abandonment If the Permittee abandon, deserts or vacates the premises or discontinues its operation at the premises for a period totaling six (6) consecutive months, the permit will terminate automatically and be rendered null or void.
- Q. Signatures on the Permit Document The Permittee shall sign and return the permit document to the Department within sixty (60) days of receipt thereof. Failure to return the signed permit within the time period specified herein will be considered a rejection of the terms and conditions of the permit and will render the offer of the permit null and void, unless the Permittee requests a written extension and the Department grants the written extension.
- R. Damage and Repair of Premises Described in Paragraph 2 In the event of damage to or destruction of the premises, described in paragraph 2 hereof, repair work may be done only after a request to do so has been submitted in writing to the Department and written permission has been granted by the Department.

## 6. FEES

- 1. A rental fee of **One Hundred Ninety Four Thousand, Twenty Six Dollars and Forty Six Cents (\$194,026.46)**, per year shall be charged for the use and occupancy of the submerged land area occupied under this permit. Prior to the completion of construction of the permitted marina described in Section "2" of this permit, the Permittee shall pay an annual rental fee of **Sixty Four Thousand Twenty Seven Dollars and Eight Cents (\$64,027.08)**, per year for the use and occupancy of the submerged lands as described in Section "2" of this permit. The fees are assessed pursuant to 12 VIC §911(f) and have been negotiated with the Permittee pursuant to 12 VIRR §910-5(e). The initial payment under this permit is due upon receipt of the effective permit, and subsequent payments are due on the anniversary of the effective date. Payments are to be made to the Department of Planning and Natural Resources.
- A. The rental fees payable under this permit shall be adjusted at the commencement of the fifth (5<sup>th</sup>) year of the permit term, in accordance with the increase of the Consumer Price Index as established by the United States Department of Labor, Bureau of Labor Statistics, For "All Items, All urban

Consumers (1984-100 percent)" (the "CPI"), as follows:

- i. The CPI as of the month of the initial term (5<sup>th</sup> year), and as of the first month of each subsequent year, shall be the base price index and CPI as of the month immediately preceding the first of any year after the initial term shall be the current price index.
- ii. The current price index shall be divided by the base price index and the quotient thereof shall be multiplied by the sum of the annual rent of the prior year.
- iii. The resulting product shall be the annual base rent for the current year.

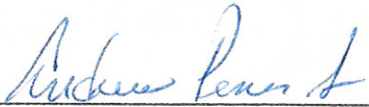
## 7. SPECIAL CONDITIONS

1. *All applicable Territorial and Federal permits or other necessary approvals must be obtained, prior to commencement of development activities.*
2. *The Permittee shall notify the Division of Coastal Zone Management (CZM) 72 hours prior to the commencement of development activities.*
3. *Turbidity curtains shall be installed at an adequate depth in order to prevent suspended sediment from migrating outside the work area.*
4. *This permit does not allow the removal of mangroves. If trimming of mangroves are required the Permittee must obtain a permit from Department of Planning and Natural Resources/Division of Fish and Wildlife.*
5. *Water quality monitoring shall be as out lined in the Water Quality Monitoring Plan and as approved by the Division of Environmental Protection.*
6. *Permittee shall include language in slip lease agreement mandating the use of pump-out facilities.*
7. *Automatic shut-off nozzles must be used when fueling vessels.*
8. *The Permittee must install signage to inform boaters of the availability and proper usage of pump-out facilities.*
9. *The Permittee shall maintain on site, a log for pump-out activities. The log must be available for inspection by DPNR at all times.*

10. *During construction of the permitted development, temporary restroom facilities must be located onsite and available to workers employed for the development.*
11. *Prior to start of work, Permittee shall submit to CZM, a performance bond in the amount of 20 percent, up to \$5M, of the estimated construction cost of the development.*
12. *Following the completion of the development, the Permittee shall be required to maintain a bond in the amount of \$2M such that in the event of a default, the Permittee may return the area to its original state.*
13. *During installation of the pilings, construction activities associated with this phase is limited to the hours between 8:00 am to 4:00 pm daily except that on Sundays, construction activities are not permitted.*

**IN TESTIMONY WHEREOF**, the parties herein have hereunto set their hands and seals on the days and years appearing herein below.

**ST. JOHN COMMITTEE OF THE VIRGIN ISLANDS CZM COMMISSION**  
Permitter

  
\_\_\_\_\_  
Andrew Penn, Sr.  
Chairman


March 27, 2019  
\_\_\_\_\_  
Date

**THE SUMMER'S END GROUP, LLC**  
Permittee

  
\_\_\_\_\_  
Chaliese Summers, Managing Member  
The Summer's End Group, LLC

March 26, 2019  
\_\_\_\_\_  
Date

**APPROVED**  
Governor of the U.S. Virgin Islands

  
\_\_\_\_\_  
Governor

7/4/19  
\_\_\_\_\_  
Date

**RATIFIED**  
Legislature of the U.S. Virgin Islands


\_\_\_\_\_  
President

\_\_\_\_\_  
Date



CZJ-04-14(W)  
The Summer's End Group  
St. John, Virgin Islands

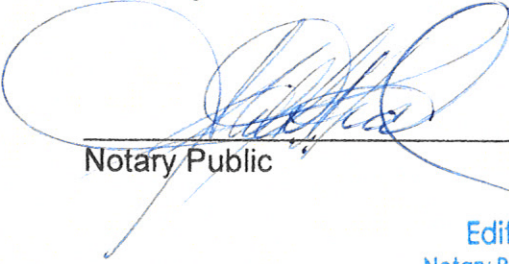
I, Chaliase Summers, do hereby certify that as Managing Member, The Summer's End Group, LLC, I am duly authorized and empowered to sign this Permit on behalf of The Summer's End Group, LLC.

  
Chaliase Summers,  
Managing Member

March 28, 2019  
Date

SWORN AND SUBSCRIBED before me

this 28<sup>th</sup> day of March 2019

  
Notary Public

Edith R. Principaal  
Notary Public, U.S. Virgin Islands  
My Commission Expires September 8, 2020  
NP-63-16





GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

**Division of Coastal Zone Management**

Charles Wesley Turnbull Regional Public Library

4607 Tutu Park Mall

St. Thomas, Virgin Islands 00802

Telephone: (340) 773-1082

FAX: (340) 773-3343

**Basis For Negotiations**  
**The Summer's End Group, LLC**

I. General Information

Permit No. CZJ-4-14(W)  
Applicant: The Summer' End Group, LLC  
Location: Seaward of No. 12 Carolina, St. John  
Action: Construction of a marina, a designated mooring area of up to 75 moorings and the use and occupancy of submerged land area surrounding the marina.

II. Activity

Permittee proposes to construct a marina and designated mooring field, and the use and occupancy of approximately 1.7 acres or 74,900 sq. ft. of structures occupying submerged land, and 25.8 acres or 1,123,848 sq. ft. of submerged lands surrounding the structures. Permittee will also install a total of 75 boat moorings for boats of various sizes.

III. FMV Plot No. 12, Carolina - \$336,500.00/1.7 acres = \$197,941.17/acre (Tax Assessors Office)

Calculations

Total square footage of structures = 1.7 acres:  
 $\$197,941.17/\text{per acre} \times 1.7 \text{ acres} = \$336,500.00 \times 6\% = \underline{\underline{\$20,190.00}}$

Total square footage for submerged area surrounding the structures  
1,123,848.0 or 25.8 acres

$\$197,941.17/ \text{per acre} \times 25.8 \text{ acres} = \$5,106,882.18 \times 3\% = \underline{\underline{\$153,206.46}}$   
(Structures)

75 total boat moorings at an average boat length of 27.5 feet per mooring and a fee of \$10.00 per foot = **\$20,625.00.**

IV. Fees

**Annual fee = \$194,021.46 per year**

Until such time that construction of the marina is completed, the Permittee shall pay 33% of the total annual fee (**\$194,021.46**). Therefore, the annual submerged land fee to be paid until such time that construction of the marina is completed is **\$64,027.08.**