



**Town of Beaufort, NC**  
701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516  
252-728-2141 - 252-728-3982 fax - [www.beaufortnc.org](http://www.beaufortnc.org)

**Board of Commissioners**  
**Regular Meeting**  
**6:00 PM Monday, September 11, 2023**  
**Train Depot, 614 Broad Street**  
**Beaufort, NC 28516**

---

---

### **Call to Order/Pledge of Allegiance**

Mayor Harker called the meeting to order at 6:00 p.m. and invited all to join in reciting the Pledge of Allegiance.

### **Patriot Day Proclamation**

Mayor Harker presented the following:

**PROCLAMATION**  
**Declaring September 11, 2023, as Stop & Remember**  
**9/11 National Moment of Remembrance**

**WHEREAS**, September 11, 2023 marks the 22nd anniversary of the ruthless terrorist attacks on our country; and

**WHEREAS**, Beaufort remembers those who lost their lives at the Pentagon, the World Trade Center and in a field in southwest Pennsylvania.

**WHEREAS**, the entire nation witnessed and shared in the tragedy, but were united under a remarkable spirit of service and compassion that inspired and helped heal the nation.

**WHEREAS**, in 2009 Congress passed the Edward M. Kennedy Serve America Act which included the authorization and federal recognition of September 11th as a "National Day of Service and Remembrance;" and

**WHEREAS**, we, as a community wish to honor the heroic service, actions, and sacrifices of first responders, law enforcement personnel, fire fighters, local officials, volunteers, and countless others who aided the innocent victims of those attacks, risking and often sacrificing their own lives; and

**WHEREAS**, the Town of Beaufort Mayor and Board of Commissioners wish to recognize the brave service and sacrifice given each day by members of our armed forces, intelligence agencies,

diplomatic services, homeland security, and Beaufort public safety departments to support the cause of freedom and defend the security of our nation;

***NOW, THEREFORE***, I Sharon Harker by virtue of the authority vested in me as Mayor of the Town of Beaufort do hereby proclaim Monday, September 11, 2023, as: Stop & Remember – 9/11 National Moment of Remembrance in Beaufort, NC.

And encourage everyone to observe one Moment of Remembrance on Thursday, September 11, 2023 to unite, reflect, remember and never forget on this 22nd Anniversary and day of remembrance in the Town of Beaufort.

## **Roll Call**

Elizabeth Lewis, Town Clerk, called the roll.

### **PRESENT:**

Mayor Harker  
Mayor Pro Tem Hagle  
Commissioner Oliver  
Commissioner Cooper  
Commissioner Terwilliger  
Commissioner Hollinshed

## **Agenda Approval**

Commissioner Hagel made a motion to approve the agenda.

The motion carried unanimously.

## **Public Comment**

### **Lynn Carraway: 114 Pollock Street (Beaufort, NC 28516)**

I just want to make a comment about the hotel project on Cedar Street. The original plan and deliberation for the Margaritaville Hotel, which is now called the Compass Hotel, came before the Town five years ago. The builder was not able to complete the project, or even start it, and asked for an extension, which was granted. But even with that, there are some things that have not been done, and yet we have been asked for another extension. What changes have been made to the plan? This is as a citizen, that I would like to know. When the name changed from Margaritaville to Compass Hotel, was there a difference? It is not reasonable to think that there have been no changes, and we would like to know what those are now that we have been asked for another extension. During the last five years, we have been in limbo, in a lot of ways, and that area of Town has remained a perpetual construction mess. We are now poised to have DOT pave Cedar Street; with all the heavy construction which will occur with this hotel, we are concerned that Cedar Street may be torn up. Is it now going to be the responsibility of the Town to fix it or the builder? Will plans need to be made and budget suggested to repair any damage that might be caused? This was not a consideration five years ago. In short, it is the opinion of many residents that the entire project should undergo a complete review by the Town staff, Planning Board and the Board of Commissioners, some of the who are departing soon. New commissioners will be coming in and should have the opportunity to participate in this process. Whatever occurs will happen during their tenure with the knowledge that we now have about the world, Beaufort, and the needs of our Town. In the last five years alone, we have seen the closing of one hotel, the beginning of the construction of another boutique hotel in the same area, and now the departure of the National Seashore services, which had added much traffic. We should deny this extension for now, and have the builder re-apply for a permit, which would enable us to review the

entire situation with the knowledge we have gained. We have negotiated in good faith; it is time for us to gain control over the project to ensure it is in the best interest of Beaufort. Thank you.

**Anna deButts: 320 Orange Street (Beaufort, NC 28516)**

I would like to address the extension of the site plan approval for the Compass Hotel. This Board first approve the site plan for the Compass Hotel on November 18, 2019. It expired, and an extension was granted two and a half years later, on May 9, 2022. It was approved with the following conditions, (#1) The parking lot at 208 Cedar Street be fenced according to BHPC standards and the Land Development Ordinance. (#2) The applicant applies for a new COA from the BHPC, as the previous one had also expired. (#3) A buffer yard of 10 feet be installed immediately on the south side of the parking lot bordering a residential property. Even though these conditions were placed on the extension in May of 2022, none of them were addressed until the spring of 2023, nine months later. The fencing began on March 1, 2023, before the applicant received its new COA on April 4, 2023. The fencing was not completed until sometime this summer. The buffer yard adjacent to the residential property was finally installed this past Friday. The BHPC has granted this applicant two COA's, and this Board has granted the site approval two times. Now the applicant is applying to the board for another extension. The lot at 208 Cedar Street is in the Beaufort Historic District and has not been in compliance with the high expectations that our residents hold for this district. The historic district is a huge draw for our tourist industry and this property has been an eyesore. The applicant has not complied in a timely manner with the numerous extensions this board and the BHPC have granted. If past performance is any indication of future expectations, this lot could be an eyesore for an extended amount of time, and it may never even be completed. Therefore, in light of the fact that one of the May 2022 conditions was not completed until this past Friday, and the site plan approved by the BHPC two times has still not been completed, I respectfully request that you not approve this extension without the condition that the 208 Cedar Street parking lot be fully completed according to the previously approved site plan, and that it be completed no later than November 1, 2023. I thank you for your consideration.

**Logan Louis: 900 Cedar Street (Beaufort, NC 28516)**

I noticed on tonight's agenda, under items for discussion consideration, was consideration of a resolution exempting the Town of Beaufort from North Carolina General Statute 14-234. I do not remember hearing anything about that during the last work session. So, I really was not sure what this was all about. So, here is a copy of the General Statute and it is entitled public officers or employees benefiting from public contracts, exceptions. A part of it reads, for the benefit of the public, no public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section or as otherwise allowed by law. A public officer or employee who will derive a direct benefit from a contract with a public agency he or she serves, but who was not involved in making or administering the contract shall not attempt to influence any other person or as involved in making or administering the contract. Also, no public officer or employee shall solicit or receive any gift favor, etcetera, etcetera. It goes on for a few pages; it sounds like pretty good stuff to me. I am sure the reason is very innocuous, and I am sure we will hear all about it shortly, but it would be good to know who the public official is that is affected, and specifically what is going on that requires us to adopt a resolution to you know, toss out the window, and have the Town of Beaufort be exempt. That is all I have to say about that. I am just looking forward to hearing more about it. Thank you very much.

**Jeffery Salter: 423 Meeting Street (Beaufort, NC 28516)**

I am here to address the problem of the river on Meeting Street. About six months ago, right after a heavy rain, the Town maintenance people came out to fix the river on Meeting Street. They shoveled the mud off the concrete ramp and cut the grass, but unfortunately that did not fix the problem. I know when Hurricane Idalia came through, it dumped a lot of rain... 6-8 inches or more in some places. Again, the river on Meeting Street reappeared and blockades were put up in place. However, on Monday, three days later, they were removed with 4-5 inches of water still standing on the street. It was just high enough so that a car could not drive through, but it would not flood out a truck. When the trucks drove through, they left a wake bigger than some that I have seen on Taylor's Creek lately. I

might also say that I have not aced physics, but I do know that water runs downhill. On Tuesday, four days after that day had passed, there was water running onto the street from the stormwater area. My request is with the pipes that are involved; roto roter them out and wherever the overflow for the stormwater pond goes, do the same. Or you could get a big backhoe and dig it deeper. The river on Meeting Street not only appears during hurricanes, but also when we have heavy rain, and thankfully so far this year, we have not had a heavy dew. About three months ago, one of the Town Commissioners came knocking on my door and started asking questions, and then asked if I had a question. So, I advised him about the problem with a river on Meeting Street. I was told that it was on the priority list. Since the problem has not been resolved, I would request that these priorities be rearranged, and the river placed a couple of rungs higher. Thank you for your time.

### **Items of Consent**

1. Meeting Minutes- August 14th and August 28th
2. 2024 Board of Commissioners Meeting Schedule

Commissioner Hagle made a motion to approve the Items of Consent.

The motion carried unanimously.

### **Items for Discussion and Consideration**

1. Consideration of a Resolution Exempting the Town of Beaufort from NCGS §14-234

Mayor Harker asked for a motion to recuse Commissioner Oliver due to a conflict of interest.

Commissioner Cooper made a motion to excuse Commissioner Oliver from participating in discussion and consideration of the proposed resolution.

The motion carried unanimously.

Todd Clark, Town Manager, shared the Town Board of Commissioners plan to hold their 2024 Board Retreat on January 30-31, 2024. The proposed venue for the Annual Retreat is the Beaufort Hotel. In consideration of Commissioner Oliver's financial interest in the Hotel, the Town Staff want to ensure compliance with North Carolina General Statute 14-234, entitled "Public officers or employees benefiting from public contracts, exceptions". He went on the share that the NCGS 14-234 (a) (1) states that no public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law. He explained, contract except as provided in this section, or as otherwise allowed by law". In accordance with NCGS § 14-234 (d1)(i), towns having a population of no more than 20,000 according to the most recent official federal census may be exempted from Subdivision (a)(1) of NCGS 14-234 if the following actions are taken:

- 1) The proposed contract(s) between the town and one of its officials must be approved by a specific resolution of the governing body adopted in an open and public meeting and the action must be recorded in the town's board minutes;
- 2) The amount does not exceed sixty thousand (\$60,000) for goods and services within a 12- month period;
- 3) The official entering into the contract with the unit or agency cannot participate in any way or vote;
- 4) The total amount of the contract(s) with each official is specifically noted in the audited annual financial statement of the town, and
- 5) The town must post in a conspicuous place in Town Hall a list of officials with whom contracts have been made, briefly describes the subject matter of the contracts, and shows the total contract amounts within the preceding 12 months; all of which must be updated on a quarterly basis.

Mr. Clark noted the request from staff was for the Board to consider Resolution #23-15, which would exempt the Town of Beaufort from NCGS 14-234 and allow usage of the Beaufort Hotel for the 2024 Board of Commissioner Retreat.

Commissioner Cooper asked if Mr. Clark knew the cost of the retreat yet.

Mr. Clark explained staff were looking to secure the venue and a price had not yet been discussed.

Commissioner Terwilliger made a motion to approve Resolution #23-15, to exempt the Town of Beaufort from NCGS 14-234, and allow usage of the Beaufort Hotel for the 2024 Board of Commissioner Retreat.

The motion carried unanimously.

Commissioner Hagle made a motion to allow Commissioner Oliver to return to the meeting.

The motion carried unanimously.

## 2. Site Plan - Compass Hotel - 18 month Extension Request

Kyle Garner, Planning Director, shared that a request for an 18 month extension for the Compass Hotel was submitted to the Town by Beaufort Partners, LLC. The request is included in the agenda meeting packet. Mr. Garner explained the site plan was re-approved by the Board of Commissioners on May 9, 2022, with conditions set to expire in November of 2023. He noted there have been no changes to the previously approved plans, and the owner was present to answer any questions from the Board.

Commissioner Oliver asked if there were any existing permits that would expire in the next 18 months, should they agree to the 18-month extension.

Mr. Garner said to his knowledge, it would only be the actual building permit.

Commissioner Hagle had questions on the financial pieces and if there was a current project schedule, specifically a project completion date.

Commissioner Terwilliger asked if there were any significant changes from the original application, and the one that was approved in 2022, or what was being proposed with the extension request.

Mr. Garner confirmed there were not.

Commissioner Terwilliger questioned why the paving of the parking lot had not been completed.

Commissioner Hollinshed said she would like to see a project schedule in writing with the proposed components and target dates for the hotel construction. She suggested if there was a problem or delay, the Board should be notified. She suggested the applicant provide a 12-month schedule with specific goals to complete or come back for a review if there is a serious problem.

Joseph Thomas, owner and applicant, said the parking lot was finished except for the paving, which would be done in two weeks.

Commissioner Cooper asked if there was a particular date for the paving.

Mr. Thomas said it would start in two weeks and it was being done by a local contractor.

Commissioner Oliver asked if there was a date of completion in the contract with Hudson Brothers.

Mr. Thomas explained they had recently been approved for the financing with USDA and the construction would take 24 months.

Commissioner Oliver asked if all of the financing was completed except for getting the letter of commitment from USDA.

Mr. Thomas confirmed that the financing was in place and the hotel closing should be within two months, with construction beginning in 2-4 months, after the loan closes. He also noted the construction period for the hotel would be 16-24 months.

Commissioner Hagle noted he would like to see the construction plan with specific target dates. He asked if the project was expected to be completed within the next three years.

Mr. Thomas confirmed it would and he did not anticipate any more hold up after the closing of the loan.

Commissioner Hagle expressed his disappointment with the delay of the project so far, with regards to the buffering and parking area.

Commissioner Terwilliger recommended the item be tabled, noting he would like to see a written timeline with start and end dates, indicating they would meet the 18-month requirement.

Commissioner Hollinshed questioned what would be reasonable as far as coming back with a scheduled timeline. She suggested a 12-month robust schedule would be more appropriate.

Mayor Harker recommended continuous updates to the Board would be beneficial as well.

Commissioner Oliver suggested the future timeline provided should also address the quality of Cedar Street before and after the construction of the hotel, in consideration of the paving project.

Mayor Harker suggested Mr. Thomas and his staff prepare the construction timeline and bring it back to the Board as soon as possible.

Commissioner Hagle made a motion to table the extension request until the next work session or the first meeting in October, pending a construction schedule is provided that includes a detailed timeline of start and completion dates, as well as financing information and a plan for updates of the progress over the course of the project.

The motion carried unanimously.

## **Public Hearing**

1. Case # 23-05 - Zoning Text Amendment - 14 Dwelling Units Per Acre as Special Use in TCA Zone

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Mr. Garner explained Case #23-05 as a request for a text amendment to the Land Development Ordinance (LDO), modifying Sections 8A Townhouse Condominiums and Apartment (TCA) Districts, and the associated Table 8-8, to allow a density of 14 dwelling units per acre as a Special Use Permit (SUP). He provided background on the topic as follows, at the Board of Commissioners June Work Session, a request was made by staff to look at other options rather than creating an affordable housing district. He noted staff looked at the Town's existing ordinance to see if there was something that could be done, rather than creating a new district just for one specific user. He explained staff provided a draft text amendment that would allow for a maximum density of 14 units per acre with a Special Use Permit as opposed to the standard 12 units per acre. He shared the text amendment did go to the Planning Board, where the majority of the members voted not to have the text amendment, and to keep the density where it was at, 12 units per acre.

Commissioner Cooper expressed concerns about using a Special Use Permit in this particular situation.

Mayor Harker opened the floor for the public to speak on the case.

**Math Chaplain: 713 Mulberry Street (Beaufort, NC 28516)**

Although I do not agree with everything she says, I am actually here on behalf of my daughter, whose disability would not allow her to be here. Thank you all for hearing what my daughter wrote:

My Dad was nice enough to read this letter for me since due to my disability, I am unable to attend. My name is Rachel Chaplain and I live on Mulberry Street, across from the property proposed to be rezoned. I have a lot of concerns but will try to be brief. Our neighborhood already has a large development in progress, now you are being asked for another high density development less than a block away. It is a quiet, traditionally working class neighborhood, lower-income housing would fit right in here, but not at the density or height they are trying to get. Mulberry and Moore Streets cannot absorb the traffic and parking demands it would cause, or losses of sunlight to neighbors and old oak trees. We need to be cautious in changing, diversity is affecting our area. Today, it is my beloved neighborhood and tomorrow, it may be yours. Thank you for your time.

**Logan Louis: 900 Cedar Street (Beaufort, NC 28516)**

North Carolina courts have established that a zoning ordinance or amendment which singles out and reclassifies a relatively small tract owned by a single person and surrounded by a much larger area uniformly zoned, so as to relieve the small tract from restrictions to which the rest of the area is subjected is called, spot zoning and is illegal. Efforts through zoning ordinances or amendments which attempt to secure special benefits for particular property owners without regard for the rights of adjacent landowners is also illegal, spot zoning. Across the street from parcel three, 716 Mulberry, are two single-family residences on two lots, both zoned R-8. West of 716 Mulberry Street are two single-family residences on two lots each zoned R-8. To the south is a single-family home on one lot, zoned R-8. To the east, across Marsh Street, is a single-family residence on one lot, zoned R-8. 716 Mulberry Street is surrounded, on all sides, by single-family residences, all zoned R-8. This zone requires a minimum lot size of 8,000 square feet which equates to a maximum of five dwellings per acre. R-8 zoning allows only single-family residences, no duplexes, or multi-family residences, not even with a Special Use Permit. The applicant's request is to rezone 716 Mulberry to Townhomes, Apartments and Condominiums (TCA). Possibly as of tonight, TCA might allow 14 dwelling units per acre, a whopping 180% increase in density over the R-8 lots surrounding 716 Mulberry. Rezoning 716 Mulberry from R-8 to TCA is illegal spot zoning. Spot zoning is restricted by the zoning enabling NCGS 160D-701, which requires that zoning regulations be made in accordance with a comprehensive plan, and courts find spot zoning to be unreasonable and therefore illegal in situations where there are no discernible reasons to single out a small tract for differential zoning treatment. Rezoning 716 Mulberry is not compatible with our future land use map, which shows the neighborhood as medium density residential, three to five dwelling units per acre. As Town of Beaufort Planning Director Mr. Kyle Garner stated to the Planning Board, quote, it is only spot zoning if a judge says so. He was not being facetious, it is true. Mr. Garner's statement sums it up. Why expose the Town to a lawsuit and waste taxpayers hard-earned dollars defending an unnecessary choice to rezone 716 Mulberry from single-family residential to high density multi-family? It does not make any sense. What is proposed is clearly illegal spot zoning and the solution is easy, just remove 716 Mulberry Street from the rezoning package. Thank you and may God bless the citizens of Beaufort.

**Terry Manuel spoke on behalf of her mother, Magley Bryant, who lives directly adjacent to 716 Mulberry Street.**

Even though residents have already brought all the points to the table that she wanted mentioned, my mother wanted to make sure as a 90-year old citizen here in Beaufort, who has lived on that lot all of her life, it was clear that she is not opposing affordable housing. That is something that is needed throughout our Town, Down East and everywhere else. Everybody needs affordable housing in Carteret County, but she is concerned that the rezoning is going to change the neighborhood. I am not sure if everybody understands

that TCA is actually saying 35-feet high, is what my mother understands. That is a very high building to be in our community, adjacent to all of the single-family dwellings that are there. Most of the people have lived there all their life; I have had some people who have signed papers to speak on their behalf. They are also opposing, not family housing, but changing the zoning to TCA and 35-foot tall buildings in our community. Beaufort Elementary School has been there all our lives, and I think it is only at 22-feet, so that is really taking no consideration for our community. Thank you.

**Barney McLaughlin: 509 Turner Street (Beaufort, NC 28516)**

Just to be clear, what is being voted on is rezoning under a low income and affordable housing banner with a higher density to that zone. I mean, that is clearly what is going on here. I just have some questions that I want the Board to consider. How high of a percentage of non-owner occupied housing is too much for a Town? How many low-income subsidized apartments are too many for a Town? Percentage wise, you know is it, 10%, 20%, 30%, 50%, 70%? There is bound to be an optimal number, and I am not saying a lot of this because I have the answers. I am saying we ought to have the answers before we go vote on this; these are important numbers to know. What is the Town's goal on that? Do we want the whole Town to be nothing but rentals? How are you going to achieve it, if you do not know what that goal is. The most important question is, how many Section 8 USDA or other subsidized households exist in Beaufort right now? How many is too many? Our population is only about 4,600. You have heard that saying, build it and they will come. Winn or any other good capitalist will not let a unit sit empty, it is going to get filled, and more than likely, it will be Section 8 certificates, you know, more low-income households. If I or another builder or developer applied for rezoning to build 300 or 400 apartments in Beaufort next week, how would the commission feel about that? Do I need to add a low-income housing aspect to it or workforce housing, you know, to get something approved? I am not being facetious; these are legitimate questions. I think a lot of people in the audience feel the same way too. What is going on nationwide is that developers, big time developers, like Winn and others, are going into areas and doing exactly what they are doing here. They are going in and taking over low-income and affordable housing projects and redoing them, and they are being compensated for it through Section 8 housing certificates. What I fear is if we over build this stuff, that is what they are going to get filled up with, and I do not think that is what the Town wants. Another consideration, if somebody can get the nicest, newest home they have ever had for free, or at way below market, haven't we taken all the incentive away from them to own their own home? You know, looking back on my life, I have lived in some pretty cruddy places. But, you know, I was driven to want to get my own place and to keep getting a nicer place. But if we do this to people, I do not think it is good for them and it is not good for us either.

**Bobbe Rouse: 503 Goldeneye Court (Beaufort, NC 28516)**

The Beaufort Housing Authority (BHA) is pushing for higher density so their construction partners can place as many units as possible on the 27 acres or so that they own here in Beaufort. I still do not understand why there is this big push to go from 12 to 14. The number 12 was decided by a committee who worked hard and looked at CAMA requirements. When you look at statistics a little bit, Beaufort has about 19- 20% of its housing in low-income housing; this is higher than the national average. It was compared with the towns of Swansboro, little Washington and Southport. They are all lower percentiles than we are. Also, I keep hearing from the BHA, when I am in meetings such as this, that there are 476 families in Carteret County that need affordable housing. We do not have that many in Beaufort, not nearly that many. Social Services at any time will tell you, it can range from 20 to 50 or so, but it is not anywhere close to 100. I just do not see making Beaufort bear the brunt of affordable housing in Carteret County, and I believe in affordable housing. But I think other towns should share and do their part.

**Robert Harper: 1020 Broad Street (Beaufort, NC 28516)**

Why are we pushing to increase the density in these TCA zones from 12 to 14? At the present time, the only people who have asked for that is the BHA team. Although they

have been told they can do everything that they would like to do within the TCA 12 units per acre, they have repetitively asked for more density. The problem is that the BHA is not the only firm requesting this increased density. Developers who recently bid on the Fulford Street property last month mentioned rezoning that property to TCA to allow denser development. The developers at the end of Ann Street, who told you that they were building houses for their families because they loved Beaufort so much will come before the Planning Board at their next meeting, to request rezoning of the property at the end of Ann Street, the former Beaufort Inn, to beat TCA. Well, they must have gotten wind that the density is going up. Unfortunately, they will not be the only developers to form a long line into this building asking you for TCA designation, and I will bet you dollars to donuts that they will be asking for 16 units per acre at some point. It is like with a petulant five year old, you have to set firm boundaries and that number has been set at 12 by various committees in the Town, as well as this Board of Commissioners; 12 is 12 and is what the people of Beaufort want. If you increase density, you only encourage people to build to that density as it profits them to do so. It also encourages them to ask for even more; 16,18, 20, at some point in that transition, it becomes economically feasible to buy several small houses. This would be our previous affordable housing units, combine these properties, destroy the houses, rezone for TCA and put a large number of condominiums in. That is how you make a profit. We do not need to be party to the development community altering Beaufort for the sake of making money. We happen to like Beaufort just as it is; 12 is 12, and 12 is enough. Thank you for your consideration of that. I would like to go back to Logan's comment about spot rezoning. Having read all of the information from the UNC Council of Governments, I think Logan is spot on, that this is spot rezoning. The other thing is that any person can come up to this podium and promise you the sun, the moon in the stars. That is not legally binding in North Carolina. You can say anything you want to up here; you can lie about it and not be held to account. So, I congratulate you for insisting on written documentation from the Compass Hotel and I would do that for any other developer who comes up and promises you the sun, the moon, and the stars. Get it in writing for the people of Beaufort. Thank you.

Commissioner Hagle made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Cooper expressed his desire to follow the Planning Board's recommendation to deny the request, keeping it at 12 dwelling units per acre.

Commissioner Terwilliger suggested the Town does need more affordable housing, but how much is unknown. He explained there were no more units of Section 8 Housing being anticipated, noting there would be 100 total housing units, just as there is currently. He questioned why the density of 14 units is needed at this point.

Commissioner Oliver suggested down the road, things like engineering and meeting other ordinance requirements will have a greater control on the number of units built than either the 12 or 14 in a Special Use Permit situation. He noted as a Special Use Permit, the Board would have some additional projections over widespread use.

Commissioner Hagle agreed the Special Use Permit allowed the Board to have control and flexibility of the project. He expressed that he was reluctant to change the number at this point.

Commissioner Cooper made a motion to deny the request.

The motion carried unanimously.

2. Case # 23-06 - Rezoning 1103 Lennoxville Rd R-8 to B-1

Commissioner Hagle made a motion to open the Public Hearing.

The motion carried unanimously.

Michelle Eitner, Town Planner, shared the request to rezone property addressed as 1103 Lennoxville Road from Residential Medium Density District (R-8) to General

Business District (B-1). She explained the request was from property owner Mary Frances Garvey. She shared that notification of the request was provided via letters to all property owners within 100 feet, and a sign was placed on the property on September 1st. Advertisement ran in the Carteret County News-Times on August 30th and September 6th.

She went on to explain the 0.139 acre parcel has been zoned residentially for decades but was used commercially as it was the location of the former Carter Tile Shop. As a nonconforming commercial use of residential property, it was allowed to continue as long as it was not expanded, relocated, or discontinued. The Town's Land Use Plan (LDO) Section 11.E.3 provides that if active operation of a nonconforming use is discontinued for any reason for a continuous period of one hundred eighty days, subsequent use must conform with the LDO. As more than 180 days passed before Ms. Garvey could open her business following the closure of the tile shop, the allowed nonconforming commercial use ceased. To open her retail shop as intended, this property must be rezoned. Both the lot and the use are currently nonconforming in R-8, but would both be conforming upon rezoning to B-1. The Future Land Use Map of the current CAMA Core Land Use Plan classifies this property as mixed use, which is consistent with the requested zoning of B-1 General Business. No CAMA Land Use Plan Future Land Use Map amendment is required for this proposed rezoning.

Commissioner Oliver asked if outdoor display of merchandise was allowed in the B-1 zoning district.

Ms. Eitner explained there were some restrictions but would need to double check specific regulations.

Commissioner Terwilliger suggested the business zoning would fit in with surrounding properties.

Commissioner Hollinshed also questioned whether merchandise could be displayed outside.

Ms. Eitner confirmed if it was rezoned, Town staff would provide the owner with specific guidelines for B-1 districts.

Mayor Harker opened the floor for the public to speak on the case.

**Mary Garvey: 1103 Lennoxville Road (Beaufort, NC 28516)**

I bought the property a couple of years ago. At that time, it was B-1 and mixed use, and that was grandfathered in. I did let that lapse and it reverted to residential. I am here tonight to ask you to please reinstate that and make it a commercial mixed use. It is my livelihood, and I would like to get my shop reopened. But as far as the merchandise outside, I could reel that in however I need to if I am breaking any rules or anything, I certainly could tidy that up. Thank you so much for your consideration.

Commissioner Hagle made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Hagle made a motion to approve the request to rezone 1103 Lennoxville Rd from R-8 to B-1, as presented.

The motion carried unanimously.

3. Case # 23-07 - BHA Parcels Rezoning TR and R-8 to TCA

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Ms. Eitner explained the request was from the Beaufort Housing Authority to change the zoning of three tracts of land from Transitional District (TR) and Residential Medium Density District (R-8) to Townhomes, Condominiums, and Apartments District (TCA).

Notification of the request was provided via letters to all property owners within 100 feet of these properties. She also noted a sign was placed on the properties, on the Turner Street and Craven Street sides, and on Mulberry Street. She shared an advertisement ran in the Carteret County News-Times on August 30th and September 6th.

She provided additional background, noting Tract 1 is currently vacant, Tract 2 hosts housing, and Tract 3 hosts the BHA's office building. The lots and their uses are currently conforming and would also be conforming under the newly proposed zoning district. The other four parcels controlled by the BHA are already zoned TCA, which is the district that best reflects their efforts and provides opportunity for anticipated redevelopment of the aging dwelling units.

She went on to explain, as outlined in the staff report, Tracts 1 and 2 used to be zoned Residential Multi-Family (RMF) and Tract 3 was R-8. In establishment of the Land Development Ordinance in 2013, Tract 2 was zoned TCA and Tracts 1 and 3 were zoned R-8. An updated zoning map adopted in 2020 rezoned Tract 2 from TCA to TR, though the minutes and documentation do not indicate why that was done. The proposed rezoning would revert Tract 2 from TR back to TCA (as it was in 2020) and change Tracts 1 and 3 from R-8 to TCA.

She commented on the proximity of Tract 3 to the Old Beaufort Elementary site and noted that across the 60 foot intersection of Marsh and Mulberry is a Planned Unit Development (PUD), which includes mixed-use, duplexes, and condominiums at a density of 5.5 units per acre. She provided a breakdown of the acreage, current units and density, potential units and density with existing zoning, and potential units and density under the proposed zoning. She explained that all three parcels are within the medium density residential future land use classification in the current land use plan. The classification that is consistent with TCA would be High Density Residential. Rezoning these parcels to TCA would require a concurrent Land Use Plan Future Land Use Map amendment of these parcels to high density residential.

Mayor Harker opened the floor for the public to speak on the case.

Don Mizelle, 219 Station Road in Wilmington, spoke on behalf of the applicant. He provided a presentation that outlined the goals of the BHA, to replace aging units, increase supply of affordable units to serve those who work in the community, and provide new housing for existing residents without displacement. He noted the BHA's goals supported TCA, which provides additional housing options and density options which allow additional units on existing sites. He spoke on potential opportunities via TCA zoning and redevelopment. He noted that nationwide, towns and cities are looking for ways to encourage affordability, and this would be a way BHA and the Town of Beaufort can support that effort. He referenced a map of the 3 Tracts in question and pointed out that any future redevelopment of the parcels would be governed by the LDO.

Commissioner Oliver asked Town staff what the height limit was under TCA, R-8 and TR zones.

Ms. Eitner confirmed all three had height limitations of 35 feet.

**Logan Louis: 900 Cedar Street (Beaufort, NC 28516)**

So, everything I said earlier during the public hearing concerning the text amendment is still applicable. It is not going to be 14 for TCA, it'll be 12. So instead of 180%, it will be 140% more than R-8. But the additional point that I wanted to make was if 716 Mulberry, which is what I was referring to, is rezoned to TCA from R-8, it is surrounded by R-8 to the north, south, east and west. The danger is for the people that live around 716 Mulberry. If you create a nexus, which I would claim would be illegal spot zoning, now all of a sudden you have got a TCA smack dab in the middle of R-8. Now, what if one of the neighbors, say to the west of 716 Mulberry, decides that they want to roll up a couple of lots and they want to build TCA themselves. Okay, they will have an argument against spot zoning, because on one side of their property, it is already TCA. So, now all of a sudden

you have got a problem. It will spread like a virus. Sure, there would be additional things that would have to happen, possible rezonings, etc. But now you have got, as Commissioner Cooper would say, you have opened pandora's box by creating a nexus in the middle of that R-8 area; medium density, not high density, you have opened the avenue for other properties that are joining 716 Mulberry to do a lot. That is the only additional point that I wanted to make. Thank you so much.

**Terry Manuel spoke on behalf of her mother, Magley Bryant, who lives directly adjacent to 716 Mulberry Street.**

The same point that was made earlier, the height of the building 35 feet, is just too high for that lot. He brought up a good point; I have had realtors already asking to buy my mother's lot, so that they can put some units there. I do think there is going to be a concern with that. It is something that has to be considered. We are not opposed; we understand that affordable housing is going to come. I do not think the community understands that affordable housing for people like myself, working in the school, firefighters and police officers, is not conducive to what they are used for right now. Turner Street complex, there is no way that people can afford to be in those houses that are going to be built. From what I understand. I may be wrong but, if you are going to build a high rise on Turner Street that is going to see all the way over into Morehead City, they are probably going to run about \$2,000-\$3000 a month for the top floor. Nobody is going to be able to afford that, working in the school system with me, Police Officers, or Firefighters. I do think that what is being said makes sense, if you are just using the alphabet; TCA, R-8, TR, and all that, it sounds fine, but the people are not going to be able to afford it. Even those that work here in Beaufort are not going to be able to afford some of those houses that are going to be built. I am not only talking about the Mulberry lot that I am concerned with; it all is just too high. I spoke earlier because if you change it to a density of 14, that puts 7 on that lot. From what I understand, it is not an acre. So, they are probably not going to be able to put 12. But they are trying to push for more than that lot can handle in the residential community. It sounds good, sitting here listening, it all sounds great, but for the people that I work with here in this county, a lot of them still will not be able to afford a townhouse that overlooks the water. That will be people coming in, you build it and they will come, and that is going to be the only ones that can afford that. Thank you.

**Steve Bishop: 800 Mulberry Street (Beaufort, NC 28516)**

I own the property which is directly across the side street from the property we are talking about rezoning. I know that Math Chaplain is directly across the street from that property. I have been asked to speak tonight by Marty and Gail Kotch, who live in the corner house. There are two houses directly across the street because that lot is 210 feet long. They have asked that I speak for them tonight as well, those are the two people that live directly across and I am across the side street. Terry Manuel's mother is in the house directly behind the property. Marty Haber is across the street; a portion of his house is across the street from it as well. I just simply do not think it fits. It was in front of the Planning Board three weeks ago and the Planning Board, I felt like, did not have a problem with the two pieces of property on Turner Street. They turned to the Town Attorney and asked if they could vote on the pieces of property individually. The Town Attorney came back and said, I hate to be so blunt, but you will have to vote it up or down, and they voted it down. The reason they voted it down, in my opinion, was the Mulberry Street property. They all voiced opinions about Mulberry Street, that it was not fitting. They voted it down unanimously; everyone on that Planning Board the other night voted it down unanimously. We can build 35 feet now. At some point, there will probably be a bunch of boxes back there that are 35 feet on the R-8 zone. But it has not happened at this point. We are all one story houses, and there are some one and a half story houses. To build a unit with six multi-family homes, there would be at least six units. If you measure the property, possibly seven. I think you can get that many on there because you can go up to 35 feet. There is plenty of parking there for two parking spaces per unit. I think we are going to be looking at a building that just does not fit amongst all our single story homes. Thank you.

**Martin Haber: 711 Mulberry Street (Beaufort, NC 28531)**

I do not think it is appropriate to put a three-story building there. It just does not fit with single family houses. I know you said the school has already done it, but that is a totally different ballgame. We are across the street, surrounded by single-family houses, and it is just too much. I would like to bring up what somebody else brought up ahead of me, I have got three lots right next to me that were just sold to the same person. Where do you think that is going to go, if this goes through. I am going to have two of those buildings on the side of me, and in the back of me. How does my single family house look then? Man? I do not think it is right; I am definitely against it. The other ones on Turner Street are a little bit more appropriate, except for Tract 1. It has been brought my attention, first is on wetlands and it is high density, which I do not think is right. To compound that, it used to be a dump. What is under that? You are going to put three-story buildings on top of it? Where else can that happen? Please do not let this happen. Please vote for the Town, we deserve it.

**Heather Walker: 504 Campen Road (Beaufort, NC 28516)**

My concern is mostly with Tract 1, because that was flooded at the last king tide that we had, and so that tells me that land is going to have to be built up in order to support the development and infrastructure for this project. If you do that, all you are going to do is flood the existing homeowners that are nearby. I do not understand how we can justify one for the other. Now, we do need more affordable housing, but we do not need more subsidized housing. We are only obligated to provide and maintain 100 units of subsidized housing and I think our focus needs to be on finding a way to maintain and update those 100 units. Thank you.

**Bill Burbridge: 518 Marsh Street (Beaufort, NC 28516)**

I live diagonally across from the Mulberry property. I am here to support my neighbors. I would like to try to keep our neighborhood small. Thank you.

**Emily Raker: 513 Live Oak Street (Beaufort, NC 28516)**

I am a new resident and have fallen in love with this Town and what it represents for our country. I have one point about the zone, the first zone. In the wetlands, I saw in the first presentation that there would be some CAMA approvals to be able to build on that land. I do want to make sure that we are considering our wetlands, our environment, and being good stewards of the Crystal Coast. I do have a question for the gentleman representing the BHA. So, you were talking about affordable housing, low-income housing, and worker housing. With rent being the primary goal for these places, my question for you would be what price are you planning to rent and/or sell these units? My question to all of us is, how can we consider the data on what is the average income is of a town worker? Someone who is a dock deckhand on a ferry? Someone who is a waiter, park ranger, teacher, or fire person. Are the goals and prices that you plan to offer with these three recommendations going to meet their needs and support those who keep our community running? Thank you very much.

**Rachel Carroll, Executive Director of the Beaufort Housing Authority:**

The 100 units, as Mr. Bob had spoken about earlier, are being replaced one by one. Any additional units that will be built will all be affordable and workforce, and they are going to be eligible to people making up to 120% of the Area Median Income (AMI). That is based on HUD, and they set out those numbers annually. So, we do not dictate that, we do our numbers based off their documentation. As far as the rent goes, those are based on market, it changes. Market rates fluctuate daily, monthly, yearly. So, I could tell you what it could be today, but it may not be that when they are built and actually renting. As everybody has seen, our market has changed drastically, just within the past four years. So, on the completion date of these units, there is no way to feasibly say what the actual rents will be. It will be controlled, it will be based on their income, and anybody making up to 120% of the area's median income will qualify to live in our new properties. Thank you.

**Julianna Henry: 515 Marsh Street (Beaufort NC, 28516)**

I have lived here in Beaufort for many years, and I personally do not want this. There are a lot that live there on Live Oak and Mulberry that cannot have that. I do not want this in my neighborhood. I have lived here all my life. You will be bringing around other people, I mean, I am getting older, and I am going to be scared. I am not used to all this stuff in our community. I like it the way it is. Thank you.

**Heather Walker: 504 Campen Road (Beaufort, NC 28516)**

I would like to thank Ms. Carroll for clarifying exactly what it is we are about to get, which is market rate rentals. How is that affordable? Which is it going to be? She just told us that it depends on the market rate. So, if we are going by AML, we are not worried about the fair market rate, we are worried about income. So, what is it going to be? Fair market rate or is it going to be affordable? Or is it subsidized? Which subcategory would you like to choose here? What's it going to be?

**Martin Haber: 711 Mulberry Street (Beaufort, NC 28531)**

From what I heard just now, it is going to be based on income in the area. Okay, we have a lot of people that are retired that have very good incomes...a lot. What is going to happen to the working person? What is going to happen to the people that are waiting tables at the restaurant? They do not have the income that retired people have. If you base it on average income, that is not going to be affordable housing for anybody that is working in Beaufort.

Commissioner Hagle made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Oliver asked for clarity on rezoning all three Tract's at once, or if they could be done separately.

Mr. Grady explained the application is for all three parcels to be rezoned as a package. He suggested if the Board wanted to divide that up, they need the consent or permission of the applicant.

Commissioner Hollinshed asked the BHA to remove the Mulberry parcel from the rezoning request.

**Dick deButts: 320 Orange Street (Beaufort, NC 28516)**

I am Chairman of the BHA. This has been a long process. I understand the sensitivity of Mulberry Street right now, we could subdivide that and build two 35 foot buildings. But that is not our intention, it never was our intention. But I understand the sensitivity to it. We would respectfully request that all three properties be passed, but if it is the desire of the Board to strike Mulberry, we can always reapply later. We would like to get the Tracts on Turner Street.

Commissioner Hollinshed restated that she respectfully requested the BHA remove the parcel known as, 716 Mulberry Street (PIN 730618319452000) from the rezoning application.

Commissioner Oliver made a motion to approve the rezoning of Tract 1 (PIN 730618228462000) and Tract 2 (PIN 730618227174000) to TCA, and to remove Tract 3 (PIN 730618319452000) based upon the approval of the BHA Chairman.

Commissioner Hagle expressed concerns about stormwater control on Tract 1.

Commissioner Cooper had similar concerns.

Mr. Grady explained that the zoning would not dictate any permits that the Town, State or Federal Government may issue.

Commissioner Hollinshed called the question with the motion on the floor.

Voting Yea: Commissioner Oliver, Commissioner Terwilliger, Commissioner Hollinshed

Voting Nay: Commissioner Cooper, Commissioner Hagle

The motion carried with a 3-2 vote.

### **Manager Report**

Mr. Clark provided a monthly Manager's Report. The full detailed report can be viewed at:

<https://www.beaufortnc.org/boardofcommissioners/page/managers-report>

Commissioner Cooper expressed his concerns regarding flooding on Meeting Street.

Mr. Clark explained the Professional Park Area Stormwater Inventory and Flood Study would help the Town understand ways to mitigate flooding issues in that area.

### **Mayor/Commissioner Comments**

There were none.

### **Closed Session**

1. Pursuant to NCGS §143-318.11 (a) (3)

Mayor Harker asked for a motion to enter closed session pursuant to NCGS §143-318.11 (a) (3) and NCGS §143-318.11 (a) (4).

Commissioner Hagle made a motion to enter closed session.

The motion carried unanimously.

### **Adjourn**

Commissioner Hagle made a motion to adjourn the meeting at 10:00 p.m.

The motion carried unanimously.

---

Mayor, Sharon E. Harker

---

Town Clerk, Elizabeth Lewis