



Town of Beaufort, NC
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Board of Commissioners
Regular Meeting Minutes
6:00 PM Monday, May 13, 2024
Train Depot, 614 Broad Street

Call to Order/Pledge of Allegiance

Mayor Harker called the meeting to order at 6:15 p.m. and invited all to join in reciting the Pledge of Allegiance.

Roll Call

Elizabeth Lewis, Town Clerk, called the roll.

PRESENT:

Mayor Harker
Mayor Pro Tem Cooper
Commissioner Gillikin
Commissioner LoPiccolo
Commissioner Oliver
Commissioner Spiegler

ABSENT: None

Agenda Approval

Mayor Harker asked for a motion to amend the agenda to remove the UDO Letter of Engagement and Scope of Work (Item #2) listed under Items of Consent and place it under New Business (Item #4).

Commissioner Cooper made a motion to approve the amended agenda.

The motion carried unanimously.

Recognition of Outgoing Volunteer Board Members

Mayor Harker recognized John Lampros for his service on the Beaufort Housing Authority and Ian Huckabee for his service on the Historic Preservation Commission.

Items of Consent

1. Meeting Minutes- April 8, 2024
2. RCCP Grant Resolution- UDO Resiliency Updates (Phase 3)
3. RCCP Grant Resolution- Beaufort Waterfront Parks Planning Project

4. Fourth of July Parade Event Request
5. Proposed Amendments- Town of Beaufort Personnel Policy

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

The motion carried unanimously.

Quasi-Judicial Proceeding

1. Case #24-09 - Special Use Permit (SUP) for "The Periwinkle"

Mayor Harker asked for a motion to open the evidentiary hearing for Case #24-09- SUP for The Periwinkle.

Commissioner Cooper made a motion to open the hearing.

The motion carried unanimously.

Mayor Harker shared the following statement:

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this Board must make its decision. The Board of Commissioners must base its decision upon competent, material and substantial evidence in the record. A quasi-judicial decision is a decision constrained by the standards in the Land Development Ordinance and based on the facts presented. All applications for special use permits must be consistent with the Land Development Ordinance for the Town of Beaufort and whether the special use is appropriate in the proposed location. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. The Board of Commissioners shall hear relevant information from the parties with standing, as set forth in North Carolina General Statutes 160D-406 and 1402. At the sole discretion of the Board of Commissioners, other witnesses who do not have standing may present competent, material, and substantial evidence that is not repetitive. Parties may appear in person, by designee, or by attorney to present information relevant to the requirements of the Ordinance. Parties may present evidence, call witnesses and make legal arguments. The Board of Commissioners, acting through the Mayor, may subpoena witnesses and compel the production of evidence. For certain topics, the Board of Commissioners may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony.

Ms. Lewis administered the oath to the Town of Beaufort representative, Michelle Eitner and the applicant, Beckie Davis.

Mayor Harker asked if there was anyone else in the audience who believed they had standing.

Arey Grady, Town Attorney, determined the property owner, Laura Fasolino, had standing.

Ms. Lewis administered the oath to Ms. Fasolino.

Mr. Grady explained that witnesses must give competent, substantial, and relevant evidence in the case. He also explained who the Board was required to hear from during the proceeding.

Mayor Harker asked if there was anyone in the audience who would like to determine whether or not they were qualified to be a witness.

There were none.

Mayor Harker called for disclosure by Board members of any ex parte communication, bias and conflicts of interest.

Each Board member confirmed they had nothing to disclose.

Mr. Grady provided further clarification on ex parte communications, bias and/or conflicts of interest for benefit of the public.

Ms. Eitner represented the Town of Beaufort. She began by submitting her staff report and attachments into evidence as "Exhibit A" for Case #24-09. She explained the application was a request for a SUP for a Bar with Indoor/Outdoor operation in the Cedar Street Mixed Use (CSMU) District, located at 406 Live Oak Street.

She shared that at establishment, the principal use of the Periwinkle was retail, with accessory use as a bar. Upon further review, the Periwinkle functions as bar principal use with accessory retail. This proposed SUP is to allow the retail-with-bar business to officially transition to bar-with-retail business. She shared to advertise for the evidentiary hearing, notices were mailed, posted and sent to the newspaper for publication. She went on to explain that zoning districts generally have permitted uses, which do not require board approvals, and special uses, which have additional oversight and some discretion. Bars with indoor/outdoor operation are special uses in the CSMU district. In order for a SUP to be granted, specific required findings must be met, as outlined in the agenda packet. She noted the future land use classification for this parcel is village commercial, which identifies lower intensity neighborhood-scale commercial that prioritizes pedestrian-serving use over automobile-related uses. She said the Periwinkle was a good example of the classification and referenced several plans that support it such as the Entry Master Plan and the Small Area Plan. She discussed the conditions that could be placed on the SUP and shared the Planning Board's recommendations, as noted in the staff report and agenda packet. Following those recommendations, she noted staff reviewed the sidewalk condition with the Town Engineer following and determined that it lacked feasibility. She also noted the applicant shared they have installed the external power source for food trucks.

Commissioner LoPiccolo asked if approved, how would the town make sure the building on the property met code requirements.

Ms. Eitner said it would follow a change in occupancy permit process, similar to establishing a new business. She explained a building inspector and the Fire Marshall would be brought into the process. She noted there were different bathroom requirements for a bar verses retail.

Commissioner Oliver confirmed that each SUP application should be addressed individually. He asked how the primary function of the business was quantified.

Ms. Eitner explained the Land Development Ordinance (LDO) identifies accessory use by square footage.

Mayor Harker invited the applicant to speak.

Ms. Davis distributed a handout and asked it be entered as evidence.

Ms. Davis shared information from the handout, such as The Periwinkle's mission and intention as a small business. She explained they were aimed to serving the community and providing family friendly events. She discussed the nonprofit organizations they served and special events they have provided in the area. She also shared some of their top selling items, and strategies they implemented to reduce noise and encourage safe parking. She noted the importance of development and progress of the Cedar Street area, welcoming a village commercial feel and arts district, that fall in line with the Entry Master and Small Area Plans. She also shared their intentions to finish fencing the area around the front of their property.

Commissioner Spiegler said she supported the Cedar Street area growing and evolving as an arts district. She discussed the importance of family friendly spaces in the community. She asked about The Periwinkle being a generator free food truck area.

Ms. Davis confirmed their establishment had been generator free since December 2023.

Commissioner LoPiccolo shared his support of seeing the area transition to an arts district. He noted it was good to see the space on the corner used and that he was pro small businesses. He commended Ms. Davis on the efforts already put forth with the food trucks and to reduce noise in the area. He asked if she was fine with the Planning Board recommendations.

Ms. Davis expressed financial concerns related to the cost of making additions to bathroom facilities and other necessary changes to meet new occupancy requirements. She asked that the Board take these concerns into consideration.

Commissioner Cooper commented on the size of the building and how improved bathroom facilities might be incorporated.

Ms. Davis said they had not deterred from being a bottle shop and social space business, and to her, they were not a bar. She suggested she was just trying to make sense of the process.

Commissioner Cooper asked questions about parking spaces and the fence on the property.

Ms. Davis explained how they accommodate vendors and adequate parking spaces. She shared their goal was to complete the fence to make Cedar Street the only way to enter/exit the parking lot.

Commissioner Oliver referenced information provided by the applicant, as included in the meeting packet; he suggested Ms. Davis did not need a SUP, because their business was not primarily a pub, tavern or bar. He agreed that if granted the SUP, there were significant improvements that would be required by code. He asked if Ms. Davis felt the primary business was a pub, tavern and a bar.

Ms. David said no.

Commissioner Oliver said he believed they were a bottle shop and a social space and should not have the burdens that go with either an indoor or outdoor special use for a pub, tavern or bar.

Laura Fasolino, property owner, spoke on behalf of the applicant and expressed support for their business model. She spoke on the five conditions the Planning Board recommended during their meeting on April 15, 2024, with specific concerns to the sidewalk expectations. She noted any trees planted in the public right of way would cause more work and require trimming from Duke Power if they grow into the overhead wires. She suggested the site was prime for redevelopment, and as the owner, was more than supportive of beautification on the corner, providing safe walking areas, and tree projects. She noted the need to wait on some of these projects until after NC DOT completed their redevelopment work on Cedar Street. She said it was not appropriate to put these conditions on the tenant of the property as part of the SUP.

Ms. Eitner addressed questions raised from the Board regarding the need for a SUP. She explained the primary usage was determined by square footage and in this case, the on-site consumption of alcohol without a restaurant, is typically going to default to a bar as the usage. She noted financially a bar might not be the majority of their sales, but the on-site outdoor alcohol consumption made it fall under the proposed use.

Commissioner Cooper expressed concerns about the fence blocking visibility on Live Oak Street.

Ms. Eitner explained that unless it was placed as a condition on the SUP, the additional fencing would be up to the property owner, not necessarily a requirement. She pointed out

the applicant expressed a desire to fence the area for safety purposes and to allow one point of entrance; she described the potential size of the fence to be about 3-4 feet, that would mirror the current fence design on the No Name Restaurant side of the property.

Commissioner LoPiccolo referenced staff comments on page 35 of the agenda packet, that indicated the accessory use was a bar, per the alcohol license. He asked if there was something the applicant could do to change the amount of square footage dedicated to alcohol which would allow the Town to determine that it was no longer their primary sale.

Ms. Eitner discussed the ABC license process and explained they quantified this information based off the way the Town's current LDO was written. She suggested the Board consider these types of issues during the UDO update process.

Commissioner Gillikin questioned whether or not the alcohol was a secondary use and if there needed to be some type of re-evaluation of the uses in this situation.

Commissioner Spiegler agreed that the applicant should have additional time to consider their options to determine how their primary use should be classified.

Ms. Davis said she agreed that their business functions as more of an event space.

Commissioner Cooper asked about alcohol sales.

Ms. Davis explained she would need more time to gather that information, but suggested most of their revenue was generated through non-alcoholic beverages. She noted they did sell alcohol and some people consume it on-site while others take it to go, but some of the top selling beverages tend to be non-alcoholic items.

Mayor Harker asked if the Board felt they had enough information and material evidence as presented in the case to make a decision.

The Board confirmed they did.

Commissioner Cooper made a motion to close the evidentiary hearing.

The motion carried unanimously.

Commissioner Oliver made a motion to table the application until the next regularly scheduled meeting of the Board, to allow the applicant to quantify what their primary business is and to make a decision whether they want to proceed with an application for indoor and outdoor Special Use Permits.

The motion carried unanimously.

2. Case 24-11 - Special Use Permit (SUP) for "The Watering Hole"

Mayor Harker asked for a motion to open the evidentiary hearing for Case #24-11 Special Use Permit (SUP) for The Watering Hole.

Commissioner Cooper made a motion to open the hearing.

The motion carried unanimously

Mayor Harker shared the following statement:

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this Board must make its decision. The Board of Commissioners must base its decision upon competent, material and substantial evidence in the record. A quasi-judicial decision is a decision constrained by the standards in the Land Development Ordinance and based on the facts presented. All applications for special use permits must be consistent with the Land Development Ordinance for the Town of Beaufort and whether the special use is appropriate in the proposed location. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. The Board of Commissioners shall hear relevant information from the parties with standing, as set forth in North Carolina General Statutes 160D-406 and 1402. At the sole discretion of the Board of Commissioners, other

witnesses who do not have standing may present competent, material, and substantial evidence that is not repetitive. Parties may appear in person, by designee, or by attorney to present information relevant to the requirements of the Ordinance. Parties may present evidence, call witnesses and make legal arguments. The Board of Commissioners, acting through the Mayor, may subpoena witnesses and compel the production of evidence. For certain topics, the Board of Commissioners may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony.

Ms. Lewis administered the oath to the Town of Beaufort representative, Michelle Eitner; applicants, Leslie Allred and Bobbi Piner; and property owner, Terry Mikels.

Mayor Harker asked if there were any individuals who wanted to testify as a witness.

Mayor Harker called for disclosure by Board members of any ex parte communication, bias and conflicts of interest.

Each Board member confirmed they had nothing to disclose.

Mayor Harker asked Town Staff to present an overview of the case.

Ms. Eitner represented the Town of Beaufort. She began by submitting her staff report and attachments into evidence as "Exhibit A" for Case #24-11. She explained it was an application for a Special Use Permit (SUP) for a bar with indoor/outdoor operation in the CSMU zoning district at 816 Cedar Street, noting the request was made by Leslie Allred and Bobbi Piner. She said at establishment, the principal use of The Watering Hole was retail, with accessory use as a bar. Upon further review, it was determined The Watering Hole functions as bar principal use with accessory retail. This proposed SUP is to allow the retail-with-bar business to officially transition to bar-with-retail business. She confirmed proper actions were taken to advertise for the evidentiary hearing; notices were mailed, posted and sent to the newspaper for publication. She went on to explain that zoning districts generally have permitted uses, which do not require board approvals, and special uses, which have additional oversight and some discretion. Bars with indoor/outdoor operation are special uses in the CSMU district. In order for a SUP to be granted, specific required findings must be met, as outlined in the agenda packet. She noted staff does not give recommendations on SUP's or the required findings, but they do advise on conformity with plans; she discussed those as outlined in the staff report. She explained the future land use classification for the parcel is village commercial, which identifies lower intensity neighborhood-scale commercial that prioritizes pedestrian-serving use over automobile-related uses. The Watering Hole is a good example of this classification, especially as it transitions the property away from the former mechanics shop and carwash. Additionally, the land use plan identifies that the Cedar Street area should evolve into an arts district. The use, design, and presentation of The Watering Hole is comparable to uses in emerging arts districts.

She said other plans identify the area as well. Both the Entry Master Plan and Small Area Plan identify the intersection of Cedar and Live Oak as a minor gateway in the community and impress upon the importance of pedestrian improvements to the intersection. With lower amounts of traffic and increased improvements, including the CSMU district regulations and recent stormwater and utility improvements, Cedar Street continues to show opportunity and success in planning efforts. Increased pedestrian-level businesses like the watering hole, but also the existing Historic Grounds and Beaufort Barre & Fitness, will fill in the corridor and further meet the measure of success set in the Small Area Plan that ten new businesses open on Cedar and Live Oak. She noted that NC DOT has identified the intersection of Cedar and Live Oak as a project to be funded, but it has not yet been funded in current cycles. She explained that if this SUP is found not quite meeting the required findings, conditions may be placed to complete that picture, within the realm of zoning regulations. She discussed the conditions that could be placed on the

SUP and shared the Planning Board's recommendations, as noted in the staff report and agenda packet. She shared that staff requested information from Duke Progress as to the feasibility of street trees or vegetation below the high voltage transmission lines along the Cedar Street frontage of the property and found that no plantings should take place within 25 feet of the structures or lines.

Commissioner Spiegler confirmed the request complied with the Town's LDO.

Commissioner Gillikin noted the staff comments reference a recent discussion between staff and the business owners that determined the primary use is bar with indoor/outdoor use. She asked if that was a verbal discussion and if there was some sort of documentation.

Ms. Eitner explained that similarly with Periwinkle, something occurred that suggested the Town needed to take a second look at the uses. At the outset of business registration and such, it was primarily retail. She noted they were required to comply with additional zoning requirements, and explained the owners had to install a fence in accordance with a commercial property bordering a residential property.

Commissioner Oliver confirmed he could reference all the materials in the meeting packet as part of the hearing. He asked if there had been noise complaints on the property.

Ms. Eitner confirmed there had been five noise complaints at the property.

Commissioner Cooper asked what the noise complaints were concerning.

Ms. Eitner said some of the complaints were regarding music and some of them were regarding generator noise.

Commissioner LoPiccolo asked if the Town had done anything to address trash cans being brought to the rear of the property.

Ms. Eitner said she had not had any discussion regarding trash cans, but the business should follow Town ordinances which line with the GFL contract for trash pickup.

Commissioner LoPiccolo asked if the sidewalk in front of the property was allowed to have food trucks on it.

Ms. Eitner explained food trucks are supposed to be on private property. She noted she was unaware of any particular situation when it was a problem.

Commissioner Gillikin asked if there were any noise complaints associated with beverage containers or anything else being discarded in the trash bins.

Ms. Eitner said she was not aware of any complaints to the police department regarding the noise from trash cans.

Mayor Harker asked if there was anybody else, besides the property owner, that wished to be qualified as a person with standing in this particular case.

Tipper Davis, 309 Live Oak Street, shared with the Board and attorney as to why he believed he had standing in the case. He noted his home was not adjacent to The Watering Hole, but it was 14 feet away, next to two properties that are adjacent. He said he had standing because he is constantly bombarded with noise from The Watering Hole. He suggested the noise of the back patio area interfered with his peace, quiet and enjoyment of his property. He said he made five complaints to the police department due to noise, specifically related to the generators. He said the noise had interfered with his sleep as well.

Town Attorney, Arey Grady, determined Mr. Davis was a person with standing, as demonstrated through his testimony. Mr. Grady said it was his recommendation to the Mayor and Board that Mr. Davis had standing to participate as a party in the proceeding for Case #24-11.

Mayor Harker invited the applicants, Leslie Allred and Bobbi Piner, to present their case.

Ms. Allred shared a slideshow, entered into the record as evidence, that provided a basic overview of their business. She explained a big part of their sales was plants and related items, but also noted alcohol, retail, and non-alcoholic beverages. She shared several events that have taken place at The Watering Hole, such as trivia, bingo, cookoffs, and vendor markets. She noted they had provided their space for birthday parties, reunions, etc., free of charge. She said they are a bar, but much more than that. She explained that they brought foot traffic to the Cedar Street district. She described their business as a place where the neighborhood goes and gathers. She expressed frustration regarding the new business permit process and noted they were confused as to why they were having to reapply, as they had been operating as a bar from the beginning, about five months now. She noted the difficulty associated with spending more money to apply for the SUP. She said they have been very upfront with everything from the start and have not falsified any information; they sell plants and alcohol and always have. She suggested the Town was knowledgeable about the stage area and the potential to have music.

Ms. Piner and Ms. Allred offered visuals from their slideshow, to familiarize the group with the inside of their business. They noted before and after photos of the building and noted the addition of a fence in the backyard. It was noted they had successfully installed 24 square feet of planter boxes outside. They discussed some of the recommendations from the Planning Board and noted they were okay with shutting their backdoor at a certain time but did not agree with the garage doors being shut due to extreme temperatures. They suggested the garage doors were inviting and a better look for the business when open.

Ms. Piner explained that any time officers addressed any noise concerns, they stopped what they were doing. She noted they had not exceeded the prescribed decibel levels.

Ms. Allred addressed the food truck issue, noting they were in the process of installing a plug to ensure a generator free area which would reduce noise. She shared it was an expensive upgrade due to the age of the building. She discussed the addition of a food truck ordinance in the future, per a conversation she had with the Fire Marshall. She asked the Board for leniency during the process, for reasons such as change and related costs.

Commissioner Spiegler thanked the applicants for their presentation. She said she very much supported locally owned businesses in the Cedar Street, Live Oak Street area, noting she would love to see it evolve into an arts district. She noted the importance of having family friendly spaces and finding a balance as a community to grow together as neighbors and as businesses. She complimented the artwork on The Watering Hole building. She expressed her thoughts on generators, stating they were a nuisance, and suggested that issue could be complied with sooner rather than later.

Commissioner Gillikin also shared her appreciation of women business owners and the beautification of the corner. She asked if The Watering Hole hosted non-amplified music in the garage space and/or outdoors.

Ms. Piner explained there were some speakers in the garage but not outside.

Commissioner Gillikin asked about live music.

Ms. Piner said on occasion they have had amplified live music, about five times since they opened. She said it was not something they do a lot of and shared they had a magician show which used a microphone, but no music was played.

Ms. Allred said they originally had a speaker outside, but it was removed as soon as there was an issue.

Commissioner LoPiccolo also commended the applicants for their hard work in beautifying the building and creating a small business. He noted the biggest issue was the noise concerns. He asked what percentage revenue came from alcohol sales.

Ms. Piner said about one third of the total revenue.

Commissioner LoPiccolo asked if they had received bids to become a generator free location.

Ms. Piner explained that because of where their breaker boxes were located, it was going to cost thousands of dollars, but they wanted to make the upgrade as fast as possible.

Commissioner Cooper asked about the type of plants located inside the business and questioned their original permit application.

Ms. Allred explained the inside layout of the building. She provided background as to why they were applying for the SUP and suggested they were honest with the Town regarding their usages from the beginning.

Commissioner Cooper had questions related to the Town Fire Marshal's comment amount food trucks. He expressed his concerns about the noise issues on the property.

Ms. Allred suggested anyone could call and make noise complaints over and over. She suggested some noise complaints were coming in when the business was not even open.

Commissioner Cooper suggested being a good neighbor was extremely important. He also expressed his concerns related to the noise generators make on food trucks.

Ms. Allred said they make sure the food trucks are parked so that the generators are not facing residential areas but were working to be a generator free location.

Commissioner Oliver said he was a devout entrepreneur, very much respectful of independent businesspeople; especially young, bright females. He said he personally thought that the branding of The Watering Hole was a brilliant stroke, likewise, recognized that the branding is purposeful. He stated, I have no question in my mind, and that I agree with you that the primary use of your facility is a bar. I am bothered by the fact that you to this day, do not respect our zoning ordinances and I think that that is an area of education that I would urge you to learn about.

Commissioner Oliver suggested the noise concerns were valid and expressed the importance of getting along with your neighbors to ensure success in the business world. He asked if the applicants had experience in a bar, tavern, pub enterprise.

Ms. Allred shared this was her third business and she had been in the bar industry for over 12 years, with management experience. She noted her other employees had experience as well.

Commissioner Gillikin asked why the trash cans had moved around the property so much.

Ms. Allred explained that originally, they did not know where to put them because of parking, but they usually sat out front because of trash pickup. She shared that one of the neighbors said the trash can lids were loud in the wind, so they moved them again. She said they are currently on the side of the vacant lot, facing the empty building.

Mayor Harker asked the Town of Beaufort representative to address the comments made about a food truck ordinance and the knowledge of the business being a bar from the beginning.

Ms. Eitner explained the food truck item is a state fire code that is supposed to go effective in January 2025. She noted the fire code is a subset of the building code and is administrated by the Fire Marshal. She explained it is not something that is under zoning ordinances or under Town of Beaufort's purview, it is a state requirement.

Ms. Eitner shared that she had copies of the five noise complaints if those are desired to be viewed, as well as a copy of the initial application for change of use occupancy, which identifies mercantile use and retail for plants, beer, wine and knickknacks.

Mayor Harker said she would like to submit the application as evidence for the record.

Ms. Eitner confirmed the initial application, change in occupancy, was submitted August 24, 2023. She explained the change in occupancy triggers the building inspector review, and everything else that might follow; it can be referred to as a new business inspection as well.

Commissioner Gillikin asked if Ms. Eitner knew what constitutes amplified sound.

Ms. Eitner said she would defer to the Police Department as they enforce the noise ordinance.

Mayor Harker noted it was time to hear from the people with standing.

Terry Mikels, 1305 Front Street, identified himself as the property owner of The Watering Hole. He shared background on the property purchase and noted he almost tore it down, but Ms. Allred and Ms. Piner had a different vision. He discussed the state of the property when he purchased it, noting the amount of work put into cleaning up the building and outside area. He spoke on the conditions recommended by the Planning Board, specifically regulations on garage doors limited to outdoor music. He spoke on the landscaping at the front of the building, which is concrete. He shared there were five tanks taken up from the parking lot in 2007. He believed the planter boxers to be a good compromise. He spoke of his business experience over the course of his career, specifically in mixed use districts. He suggested Ms. Allred and Ms. Piner were making extra efforts to reduce the noise and trying to be good neighbors. He said it would be in everyone's best interest not to place so many conditions on the business, which might cause it to fail. He said it would be a terrible precedent to send out to any other young entrepreneurs that are considering spending their hard-earned money on starting a business in the CSMU district.

Commissioner LoPiccolo asked if there were any conditions on the property that would restrict them from selling food.

Ms. Mikels said the only condition placed on the deed was by DEQ and it was that a drinking well could not be installed.

Tipper Davis said in the last three weeks, the applicants have made a pretty good effort to be quiet. He expressed that his main concern is the use of the back patio because it made it hard to enjoy his property, especially later at night. He suggested a time limit of six o'clock for the back patio area. He spoke of the generators being loud. He said he believed The Periwinkle was totally proactive on their generator free space. He shared The Watering Hole folks had done a great job with the building. He suggested it was his understanding they were just selling plants from the beginning. He said he did not want it to become an event center and explained he did not like the idea of bar, karaoke or drag show because it generates a lot of noise. He suggested the building was like a speaker that could be heard all through that neighborhood. He said parking was an issue, even if they did not think so. He shared that he would like to be able to enjoy his property without being face to face with them all the time.

Mayor Harker provided an opportunity for the applicants to offer a rebuttal.

Ms. Allred suggested there were just as many commercial properties around as there were residential, noting it was a mixed use in the area.

Ms. Piner expressed the frustration with noise complaints via social media and by phone, noting they have gotten messages about their music being too loud when they were already closed for the night. She noted it had been an emotional process and they just wanted to succeed and be an open safe space for the entire community. She added there intent has always been to be a plant store that also sold beer and wine for extra profit and to never stay open past midnight.

Ms. Allred said she did not want anybody to think they were not being respectful or neighborly, because they want to provide amazing events on a weekly basis. She

suggested they were just a small business trying to provide a nice place for people to go in Beaufort.

Commissioner Gillikin asked for clarification on their current business hours.

Ms. Allred replied their door said open 4-10 p.m., Wednesday-Saturday and 12-5 p.m. on Sunday, but were happy to change that if need be.

Mayor Harker thanked Ms. Allred and Ms. Piner for their testimony and their time. She asked if the Board felt like they had all the evidence necessary to start to deliberate on the topic; if so, to provide a motion to close the evidentiary hearing.

Commissioner Gillikin made a motion to close the hearing.

The motion carried unanimously.

Commissioner Cooper suggested the noise ordinance should be addressed as a separate matter.

Commissioner Oliver made several recommendations for the outside conditions. These were summarized as all activities face Cedar Street, prior to any further use of a generator, a power source be made available; food trucks be restricted to private property; no outside speakers; and the trash cans face Cedar Street and be corralled in accordance with Town agreements with GFL.

Commissioner Oliver made several recommendations for the inside conditions. These were summarized as Town Fire and Building Codes must be complying; occupancy be limited to 11 p.m.; and a specific time limit be placed on the SUP, such as six months.

Commissioner Spiegler asked if Commissioner Oliver was suggesting the back patio be completely closed for actively.

Commissioner Oliver said yes, no gatherings in the back of the building.

Mr. Grady reminded the group all conditions placed on the SUP must be reduced to an order that the Board must approve at a future meeting.

Commissioner Cooper suggested they find a balance to ensure residential property owners in the area can enjoy their properties while also promoting Beaufort as a good place to have a business.

Mr. Clark provided clarification on the Town code that addresses trash collection, Section 50.16; stating that containers must be returned to the yard for residences, or for businesses or institutions to the rear of buildings or inside the building by the customer on the day of collection. He also pointed out there were updates to the National and State Fire Codes periodically. He noted the Town's Police Department did respond to noise complaints and they use decibel meters. It was confirmed the noise

Mayor Harker referenced the noise ordinance in a residential area. She suggested it was extremely restrictive to place time limits on this property when the residential property could have a party in their backyard at the same time. She expressed concerns on the suggestion to eliminate use up the back of a property. She suggested the conditions should be reasonable and customary. She expressed concerns with placing a time limit on the SUP.

Mayor Harker reviewed the findings of fact for the project.

Commissioner Spiegler also suggested it would be unreasonable to shut down the entire use of the back patio.

Commissioner Gillikin expressed concerns about the parking and driveway piece.

Ms. Eitner shared that based on specific zoning district standards for the CSMU district, the business only needs three spaces.

Commissioner Gillikin shared that she believed the findings of fact could be met with conditions. She expressed concerns with emptying trash cans and the rear of the building. She said it would be hard to eliminate the outdoor activity in the rear of the property. She suggested prioritizing the generator issue with a time limit to ensure the plug was installed soon. She questioned what time the garage doors should be closed if there was amplified music.

Commissioner LoPiccolo spoke on the conditions which had been suggested so far. He suggested restricting outdoor music between the hours of 11am-8pm was a good idea. He agreed outdoor speakers should not be permitted and that a plug in power source for the generators should be a requirement. He questioned whether or not a dumpster towards the front of the building would be a possibility, suggesting it might help solve issues with noise at the back of the property. He agreed a time limit on the SUP was a good idea; he recommended the business owners take responsibility in making sure conditions were met and that the Town enforced the conditions.

Commissioner Cooper expressed concerns about placing a time limit on the SUP.

Commissioner Gillikin asked the Town Attorney if a SUP could be time limited, and if so was there a minimum time limit.

Mr. Grady confirmed the SUP could have a time limit and explained it would be at the discretion of the Board. He noted once expired, the applicant would come back to the Board for an extension or new permit. He explained it would be like any other permit issued by the Planning Department; they would be responsible for enforcing it with their usual procedures and ensuring compliance.

Commissioner Gillikin said six months was too short and suggested nine months to a year was more reasonable.

The Board further discussed the trash cans and dumpster issues. There was not a consensus to include any trash related conditions. They encouraged the business to be mindful of their empty times.

Mayor Harker explained there were two special uses in question and reminded the group the findings of fact should be revisited.

Commissioner LoPiccolo asked about liability concerns with the proposed use.

Mr. Grady explained this was the exercise of the Board's legislative discretion; any liability with the permit would be between the applicant and whoever might have an issue with it.

Commissioner Cooper made a motion to approve Case #24-11, confirming the application met all Required Findings, (a-g), as listed in the Land Development Ordinance for the Town of Beaufort.

The motion carried unanimously.

Commissioner Gillikin made a motion the Special Use Permit (SUP) be issued with the following conditions: no outside speakers; the permit is time limited for a period of nine months; power source for food trucks is required to be plug in after one month of issuance of the permit; the garage door must be closed at 8 p.m. when there is amplified sound inside the building and operations can continue that way until midnight; when the garage door is open, the decibel limit and the noise ordinance cannot be exceeded, per Section 91.08 of the Town's Ordinances; no use of the patio or backyard area after 8:00 p.m., including closing of the back door at 8:00 p.m.; and the fire and building code will be complied with for the indoor area.

The motion carried unanimously.

Commissioner Cooper made a motion to recess the meeting at 9:50 p.m.

The motion carried unanimously.

Commissioner Cooper made a motion to reconvene the meeting at 9:58 p.m.

The motion carried unanimously.

New Business

1. Proposed FY 2025 Budget

Todd Clark, Town Manager, presented the proposed FY 2025 Budget and shared the budget message. He noted upcoming budget work session meeting dates and explained the Board would consider adoption of the FY 2025 Budget at their June 10th Regular Meeting, where a public hearing would be held. It was noted the proposed FY 2025 Budget was posted online and available for public inspection at Town Hall.

2. Case #23-05 Preliminary Plat Palmetto Plantation Phase 2

Kyle Garner, Planning Director, explained the request was to subdivide a 5.225 acre tract into 9 lots located in Professional Park Drive. He noted the applicant was The Cullipher Group and recognized their staff was present to answer questions. He shared a vicinity map and noted at their April meeting, the Planning Board recommended approval if a sidewalk could be included within the cul-de-sac. Mr. Garner explained since that meeting, the plans had been revised to reflect the changes and those details were included in the meeting packet.

Commissioner Gillikin confirmed there was a prior approval on the preliminary plat, but that approval expired after one year. She noted the only difference from that period to the current request was the addition of the sidewalks.

Commissioner LoPiccolo asked if there had been any opposition from the community.

Mr. Garner noted there had been complaints related to flooding from the resident who owned lot twelve. He suggested once the proposed project was complete, those issues should be resolved.

Commissioner Oliver made a motion to approve Case #23-05 as presented.

The motion carried unanimously.

3. Beaufort Pirate Invasion 2024 Event Request

Rachel Johnson, PIO/Events Coordinator, shared the Beaufort Pirate Invasion submitted a request to host the 2024 Pirate Invasion in downtown Beaufort. She noted the event dates as November 22-24, 2024 and shared the requests as outlined in the application included in the meeting packet. She shared it was a multi-day event that would have multiple activities that would involve cannon fire. She noted the request did include an alcohol waiver for Middle Lane and the Craven Street parking lot. She recognized the applicant, Carl Cannon, was present and available to answer questions.

Commissioner Gillikin asked questions about the frequency of cannon fire over the course of the event.

Mr. Cannon explained all cannon fires would be blank rounds that could take place every couple hours depending on the schedule of activities.

Commissioner LoPiccolo asked questions related to the number of port-a-potties that will be available, as well as the number of people expected to attend the event.

Mr. Cannon explained it was hard to estimate how many people would attend the event, but based off prior years, he would predict around 1,500 people. He noted the event requirements outlined one port-a-potty be provided per every hundred person.

Ms. Johnson explained the Town's restrooms count towards that number and would be cleaned and maintained during the event. She noted the porta-potties would be required in key locations, such as behind Town Hall and on Middle Lane, and there was a requirement for those to be serviced daily.

Commissioner Cooper added that closure of the requested parking spaces would not be a problem, as paid parking would be over in November.

Commissioner LoPiccolo made a motion to approve the event request as presented.

The motion carried unanimously.

4. UDO – Letter of Engagement & Draft Scope of Work

Mr. Garner provided background on the decision to move forward with consultant White & Smith of Charleston, South Carolina, to rewrite the Town's UDO. He shared, as provided in the meeting packet, there was a letter of engagement and draft scope of work for the Board's consideration. He noted the proposal from White & Smith was to first develop a Codes Assessment to gain understanding on the items the Town boards, staff and citizens see vital for the adoption for a new ordinance. He explained that the first component would cost \$30,900 and would be comprised of three phases described as:

- Phase I – Project Initiation which has the consultant visiting the community for two days to meet with the Board of Commissioners, any volunteer board members and interested Beaufort citizens to gain knowledge in developing a scope of work for the UDO.
- Phase II – Diagnosis/Assessment Summary take the comments given in Phase I and provide a recommendation on which code issues are time sensitive and need to be addressed first. Also, the summary of proposed topics of revisions will be in a memo form and structured by subject matter or by code section (This could be at least iterations based on the attached Scope of Work). This memo to be submitted will NOT include the preparation of new code language but lay out the framework of such revisions for the UDO.
- Phase III – Presentations & Meetings Once the Summary Memo is completed the consultant will present the findings in person and then a final Memorandum presentation that would discuss the next steps. The public may participate in these meetings as well if the Board is inclined. These three phased approaches are proposed to provide a clear direction to the consultant as to the items that need to be addressed in the new UDO as well as a vetting process of the issues the Board and Community see as vital to the future of development in Beaufort.

Commissioner Spiegler shared her expectations related to the entirety of the project, stressing the importance of good communication from the Planning Department to the Board of Commissioners. She confirmed the Town of Beaufort point of contact would be Michelle Eitner. She asked questions regarding the two-day visit from the consultant, potentially scheduled for late June.

Mr. Garner explained there would be several meetings scheduled while the consultant was in Town and all those meetings would be open to the public. He also noted there would be a specific session for the community to provide their input.

Commissioner Spiegler asked what would happen if two days was not enough time to gather the needed information.

Mr. Garner said a zoom meeting or other options could be negotiated if that was an issue.

Commissioner Spiegler asked that in addition to the CAMA Land Use Plan, the Resilient Beaufort document be reviewed and considered as a relative document in Phase I of the project. She requested the Board have the ability to review all of the draft work under Phase II. She questioned if the meetings associated with the final presentation made by the consultant, as part of Phase III, would be open to the public.

Mr. Garner confirmed those would be public meetings as well.

Mr. Grady discussed the process of advertising for public meetings related to the Board of Commissioners.

Commissioner LoPiccolo asked if there were funds budgeted and available for the project.

Mr. Garner confirmed there were funds available in the current budget and there were also funds being requested in the proposed FY 2025 Budget.

Commissioner Cooper expressed the importance of incorporating the resiliency piece into the document.

Commissioner Spiegler made a motion to approve the UDO Letter of Engagement and Draft Scope of Work with the following additions: updating Michelle Eitner's name on letter of engagement; incorporating the Resilient Beaufort document as part of the review process associated with Phase I; ensuring the Board of Commissioners are able to review all draft documents in Phase II; proper advertising to ensure all meetings are open to the public.

The motion carried unanimously.

Public Comment

Lauren Campbell: 106 Jade Street, Beaufort, NC 28516

"No one is going to come and help you. No one's coming to save you." -David Goggins. I came to the same conclusion after fighting for years to get the help I needed from the VA. I'm a veteran; this is my service dog Croaker. I recently spoke at Morehead City Council. I did not expect to get the opportunity. I also did not know of the time cap. I spoke for nine minutes with no interruptions, and it ended with many in attendance in tears offering to help. I was approached by the city council afterward wanting to meet further with promises of creating change. I was also contacted by a lawyer at the meeting offering his services to help me start a nonprofit. The VA has asked me to prepare a speech for a Board of Medical Doctors. My American Legion is hoping I will get to speak here at this city council meeting. They are eagerly waiting to attend in uniform, hats, and shirts and a show of solidarity. In short, the Crystal Coast is increasingly dog friendly, and due to lackluster service dog policies, I find it hard to leave my house these days. Just yesterday, we suffered another vicious attack at Black Sheep on the waterfront while having dinner. A man walked by on the waterfront, not keeping a retracting leash tight, and his dog attacked mine. I can't go to a local church, as they have accommodated a supposed service dog that attacked my dog. I had three very promising interviews for businesses on the waterfront that I am well qualified for, and yet was never contacted and avoided by the managers when I stopped by to check on these jobs. I found a job out of desperation in Morehead and had to leave because of their lackluster service dog policy. I only go to pet friendly places with my fiancée or my best friend. My dog has had to have refresher training as she has been attacked so much by the dogs at the dog park, that is the Crystal Coast to include Beaufort. My dog is a \$50,000 dog who was donated to me by a nonprofit called, Continuing The Mission, that pairs up four disabled veterans a year with a medical device that helps us live life again. I will leave you with one last image... A young airman has her weekly Skype date with her husband who is currently deployed in the Middle East. It is a beautiful sunny day as he sits in the gazebo. Suddenly, air raid sirens go off. The laptop slams on the gazebo bench leaving a collage of old wedding gazebo ceiling, blue sunny skies, and people running in all directions. The young woman screams for husband. His hand pops up into the screen and waves as nothing can penetrate the sound of the sirens. He continues to wave for what seems like an eternity, and the young wife wonders if this is the last time she will see him. This is what veterans come home with, some missing limbs, some with very visible disabilities, and yet others not so visible. I respectfully request to be put on the docket to speak uninterrupted. Surely, the city council full of people who stepped up to do a job most are not courageous enough to do can find the time to listen to a veteran, about a real issue that plagues people you did not even know existed. Thank you.

Manager Report

Mr. Clark provided a monthly Town Manger's report which was projected and shared with those in attendance. The monthly report can also be found online at: <https://www.beaufortnc.org/boardofcommissioners/page/managers-report>

Mayor/Commissioner Comments

Commissioner Spiegler thanked those from the public who participated in the Harbor and Waterways Public Charrette on May 6th.

Commissioner Gillikin thanked Ms. Campbell and her dog for enduring the meeting, and for speaking during public comment.

Commissioner LoPiccolo shared a tribute to Joe McCreary, a band teacher in the Beaufort community that passed away at the age of 53.

Commissioner Cooper expressed empathy for Ms. Campbell and the struggles she has faced and continues to deal with as a veteran. He shared several highlights from the recent North Carolina Beach, Inlet and Waterway Association's Annual Conference.

Commissioner Oliver noted how blessed they were to live in such a great community.

Mayor Harker thanked the Commissioners and Town Staff for their efforts. She commended Plastic Free By The Sea for their great work in recent meetings. She thanked all those who attended the Harbor and Waterways Public Charrette and explained the purpose behind those meetings.

Closed Session

1. Pursuant to NCGS 143-318.11 (a) (3) and NCGS 143-318.11 (a) (4)

Due to the length of the meeting, Mayor Harker proposed deferring the closed session item. There were no objections.

Adjourn

Commissioner Cooper made a motion to adjourn the meeting at 11:15 p.m.

The motion carried unanimously.

Sharon E. Harker, Mayor

Elizabeth Lewis, Town Clerk



STAFF REPORT



To: Board of Commissioners
From: Michelle Eitner, Town Planner
Date: May 13, 2024
Case No. 24-09 Special Use Permit – The Periwinkle 406 Live Oak

THE REQUEST: Special Use Permit (SUP) for “The Periwinkle”, a bar with indoor and outdoor operation at 406 Live Oak St in the Cedar Street Mixed Use (CSMU) zoning district.

INFORMATION:

Location: 406 Live Oak Street
Property Owner: Sound Shore Construction Inc
Business Name: The Periwinkle
Business Owners: Kris and Beckie Davis
Requested Action: Special Use Permit to operate “The Periwinkle”, an indoor/outdoor bar
Existing Zoning: Cedar Street Mixed Use (CSMU)
LUP Future Land Use Map: Village Commercial
Size: 10,560 square feet
Existing Land Use: The Periwinkle (SUP requested to cover current/proposed use)
Adjoining Uses/Zoning: North: No Name Pizza (B-1), Seaside Family Practice (B-1)
West: Beaufort Café (CSMU), Teel’s Gas (CSMU)
East: Single-family residential (CSMU), Duke Energy Progress station (B-1)
South: Body Shoppe Physical Therapy (CSMU), Watering Hole (CSMU)

OPTIONS:

1. Approval of Special Use Permit as presented
2. Approval of Special Use Permit with conditions
3. Denial of Special Use Permit due to specific failures to meet required findings

ATTACHMENTS:

- Attachment B – Vicinity Map
- Attachment C – Zoning Map
- Attachment D – Application Package
- Attachment E – CAMA Land Use Plan Future Land Use Map and Classification Type
- Attachment F – CAMA Land Use Plan Goal 7 Town Character Action Item 7.1.2.2 (as referenced in application package and staff report)
- Attachment G – Entry Master Plan Section 2 Beautification and Gateways (p.15)
- Attachment H – Small Area Plan Section 7.7 How We Know We Have Succeeded (p.141)
- Attachment I – Notification Certification
- Attachment J - Section 20.E. SUP Required Findings

STAFF COMMENTS:

Kris and Beckie Davis own “The Periwinkle”, a business at the northeast corner of Live Oak Street and Cedar Street. The Periwinkle has been in operation for over a year as a retail store (“quick stop bottle shop & social space”, off-site alcohol license) as the primary use, with accessory use as a bar (on-site alcohol license). The new business inspection form read, “New business: The Periwinkle; bottle shop selling retail beer & wine and selection of non-alcoholic beverages”. Recent discussion between staff and the business owners has determined that the primary use of the business is now a bar with indoor and outdoor operation, with accessory retail use. The remedy moving forward is for the owners to seek a Special Use Permit to allow this primary use to continue.

The Periwinkle provides a good example of a transitional property in a mixed-use district between a business district (north), commercial uses in a mixed-use district (west and south), and residential uses in a mixed-use district (east). The relatively low intensity commercial use (small structure, reduced hours of operation, low lighting levels, and weather-dependent outdoor space) can provide a buffer between use types, especially when controlled by a Special Use Permit. The applicant has discussed several aspects in their application and with staff that could become conditions:

- Hours of operation
- Installation of fencing to replace post-and-rope on west and south property lines (to match existing fencing and be installed within 6 months of SUP approval)
- Installation of a power source for food trucks to eliminate the additional noise that comes from their generators/motors (to be installed within 6 months of SUP approval)
- Maintain shade screens for outdoor space

The Beaufort Comprehensive and CAMA Land Use Plan identifies this property as Village Commercial. The typical uses of this future land use classification list: “Smaller footprint, lower intensity, neighborhood serving commercial, retail, services, or offices. Pedestrian-serving uses (boutique shops or fitness studios, personal care, arts) are more appropriate than automobile-oriented uses (vehicle or machinery repair, rental and service, commercial nurseries or lumber yards, fast food restaurants, drive-thru banks, etc.). Upper story dwellings (aka “live/work”) are also appropriate” (p 186, Attachment E). Staff asserts that this proposed use fits with the typical uses for the Village Commercial future land use classification, as well as follows LUP Goal 7 Town Character, Objective 7.1, Action 7.1.2.2, “Support policies that allow the Cedar Street area to evolve into an arts district” (p160, Attachment F).

The Entry Master Plan (2012) and Small Area Plan (2018) identify multimodal improvements, bicycle and pedestrian connectivity, and street beautification along Cedar Street and Live Oak Street. Implementation of this plan includes permeable paving along Cedar Street, concrete railings on the Turner Street Bridge, and several NCDOT-funded transportation projects. These plans identify improvements at the Cedar Street/Live Oak Street intersection to include pedestrian safety and beautification. Additionally, the Small Area Plan identifies that success of the plan is marked by several goals, one of which being “Entrepreneurs will have opened 10 more businesses on Cedar and Live Oak.” This new business is an indicator of success of past planning efforts, and future roadway improvements will continue to enhance this area.

The Technical Review Committee discussed this SUP during their meeting on April 1, 2024 and no comments or concerns were raised by the committee. Specifically, Captain Joel Marino and Fire Marshal Robert Smith confirmed that neither police nor fire had responded to any calls to or complaints about The Periwinkle since their opening.

The Planning Board discussed this case during their meeting on April 15, 2024 and unanimously recommended approval of the proposed special use permit with the following conditions to be completed within six months of the special use permit approval:

- Install, stake, and maintain trees in accordance with LDO requirements on Cedar and Live Oak frontages
- Install fencing to replace post-and-rope on west and south property lines to match existing fencing
- Install sidewalk along Cedar Street in accordance with Town of Beaufort design standards

- Restrict outdoor amplified music hours to the hours of 12:00pm to 8:00pm
- Install a power source for food trucks to eliminate additional noise from generators

Following the Planning Board's recommendation, Planning Staff discussed design requirements for sidewalk as proposed along Cedar Street. The Town Engineer said that sidewalk on that side of the road is not advisable due to the difficulty of connection at the main intersection and that the sidewalk wouldn't connect to anything as it would terminate at residential properties. He also pointed out that the Town's sidewalk network is already present at the south side of the road to provide connection.

Staff also discussed proposed change in use to determine what changes may be necessary. The building inspectors identified that the change in use from mercantile to a bar will require the addition of bathroom facilities to meet new occupancy requirements. No additional parking facilities are required in accordance with CSMU-specific standards – LDO Section 8.D.6.i.iii requires 1 parking space for this property based on gross floor area.



our mission and intention:

The Periwinkle : Quick Stop Bottle Shop and Social Space located in Beaufort NC is creating a place where locals and tourists alike can unwind with family and friends or make new ones in a safe, artistic and mellow atmosphere. Creating a space for weekly community based activities such as a run club, free yoga and makers markets. Hosting special events throughout the year while showcasing excellent craft, domestic and import beer, wine, ciders, seltzer, hard kombuchas and non alcoholic beverages such as mocktails, draft kombuchas and adaptogen infused drinks. Responsibly sip a beverage onsite or build out a 6 pack, fill a growler to go and take with you as you set out on a super fun adventure on the Crystal Coast.

est. 2022

Hours of Operation

Tues - Fri 4-8pm
Saturday 2-8pm

special events

reoccurring community events

WEDNESDAY : No Wake Hash House Harriers Run Club 5:30pm

THURSDAY : FREE YOGA and CSA pick up 6pm

Monthly Corner Collab Second Tuesday Night Market 4-7pm

First Friday THANK GOD ITS VINTAGE Night Market 5-7pm

non profits served

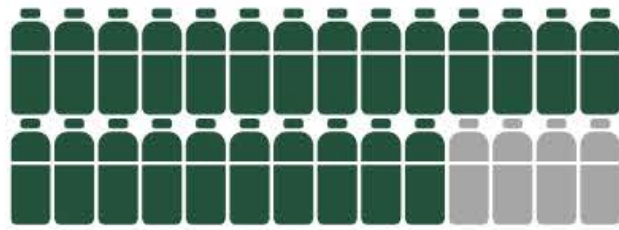
pedaling for parkinsons
misplaced mutts
NAMI
bike box project



some of our top beverage sales

non alcoholic beverages

off site sales to-go



we use all compostable and plant based disposables and are single use plastic free. our facility is glass free.

n/a beer, craft mocktails, kombucha sales and adaptogen n/a drinks

noise reduction strategies



• continue our fence to enclose the full property, will serve as a better buffer for our patrons onsite from noise and for neighboring properties

- music : rarely live musicians and if so: acoustic
- low background radio indoors and out
- close at 8pm



• installation of a hook up specific for food trucks : generator free site.



parking lot 10-12 cars

- encouragement to patrons on where public parking is located
- parking cones on neighboring property to deter parking
- permissions with neighboring businesses for events and parking agreements
- signage for no residential street parking

special events to note



- SLOW BIKE RACE: fundraiser for Parkinson's disease raising almost 1k in donations
- NIGHT MARKETS/ARTISAN MARKETS : connecting movers, shakers and creative skilled makers in a collective space.
- KIDDO COLLAB: kid led art market where children sell their creative and learn the art of negotiation



KRIS AND BECKIE DAVIS

252 222 0140

406 LIVE OAK ST BEAUFORT NC 28516

periwinklenc.com



STAFF REPORT



To: Board of Commissioners
From: Michelle Eitner, Town Planner
Date: May 13, 2024
Case No. 24-11 Special Use Permit – The Watering Hole 816 Cedar St.

THE REQUEST: Special Use Permit (SUP) for “The Watering Hole”, a bar with indoor and outdoor operation at 816 Cedar St in the Cedar Street Mixed Use (CSMU) zoning district.

INFORMATION:

Location: 816 Cedar Street
Property Owner: TPBT LLC (Terry Lee Mikels)
Business Name: The Watering Hole
Business Owners: Leslie Allred and Bobbi Piner
Requested Action: Special Use Permit to operate “The Watering Hole”, an indoor/outdoor bar
Existing Zoning: Cedar Street Mixed Use (CSMU)
LUP Future Land Use Map: Village Commercial
Size: 0.27 acres (calculated acres per GIS)
Existing Land Use: The Watering Hole (SUP requested to cover current/proposed use)
Adjoining Uses/Zoning: North: Beaufort Café (CSMU), Teel’s Gas (CSMU)
West: Vacant (CSMU)
East: The Periwinkle (CSMU), Body Shoppe Physical Therapy (CSMU)
South: Single-family residential (CSMU)

OPTIONS:

1. Approval of Special Use Permit as presented
2. Approval of Special Use Permit with conditions
3. Denial of Special Use Permit due to specific failures to meet required findings

ATTACHMENTS:

- Attachment B – Vicinity Map
- Attachment C – Zoning Map
- Attachment D – Application Package
- Attachment E – CAMA Land Use Plan Future Land Use Map and Classification Type
- Attachment F – CAMA Land Use Plan Goal 7 Town Character Action Item 7.1.2.2 (as referenced in application package and staff report)
- Attachment G – Entry Master Plan Section 2 Beautification and Gateways (p.15)
- Attachment H – Small Area Plan Section 7.7 How We Know We Have Succeeded (p.141)
- Attachment I – Notification Certification
- Attachment J - Section 20.E. SUP Required Findings

STAFF COMMENTS:

Leslie Allred and Bobbi Piner own “The Watering Hole”, a business at the southwest corner of Live Oak Street and Cedar Street. The Watering Hole has been in operation since December 2023 as a retail plant store and bottle shop (beer & wine) as the primary use, with accessory use as a bar. The new business inspection application read, “sell tropical plants, beer and wine, nic nacs”. Recent discussion between staff and the business owners has determined that the primary use of the business is now a bar with indoor and outdoor operation, with accessory retail use. The remedy moving forward is for the owners to seek a Special Use Permit to allow this primary use to continue.

The Beaufort Comprehensive and CAMA Land Use Plan identifies this property as Village Commercial. The typical uses of this future land use classification list: “Smaller footprint, lower intensity, neighborhood serving commercial, retail, services, or offices. Pedestrian-serving uses (boutique shops or fitness studios, personal care, arts) are more appropriate than automobile-oriented uses (vehicle or machinery repair, rental and service, commercial nurseries or lumber yards, fast food restaurants, drive-thru banks, etc.). Upper story dwellings (aka “live/work”) are also appropriate” (p 186, Attachment E). Staff asserts that this proposed use fits with the typical uses for the Village Commercial future land use classification, as well as follows LUP Goal 7 Town Character, Objective 7.1, Action 7.1.2.2, “Support policies that allow the Cedar Street area to evolve into an arts district” (p160, Attachment F). The business owners have invested significantly in the previously vacant commercial space with fencing, renovations, and plant-related murals. Upfit of existing structures, particularly with murals, are consistent with emerging arts districts.

The Entry Master Plan (2012) and Small Area Plan (2018) identify multimodal improvements, bicycle and pedestrian connectivity, and street beautification along Cedar Street and Live Oak Street. Implementation of this plan includes permeable paving along Cedar Street, concrete railings on the Turner Street Bridge, and several NCDOT-funded transportation projects. These plans identify improvements at the Cedar Street/Live Oak Street intersection to include pedestrian safety and beautification. Additionally, the Small Area Plan identifies that success of the plan is marked by several goals, one of which being “Entrepreneurs will have opened 10 more businesses on Cedar and Live Oak.” This new business is an indicator of success of past planning efforts, and future roadway improvements will continue to enhance this area.

The Technical Review Committee met on April 1, 2024 to review the continuation of the business as a SUP. No comments or concerns were identified other than regarding noise complaints. Police Captain Joel Marino provided that only two noise complaints were made to the Police Department in February 2024 in accordance with the Town’s noise ordinance, and both of those reports identify that the decibel level limit was not exceeded. Since these complaints, the business owners have taken steps to reduce their noise level outside – they removed the speaker in the backyard area (southwest side of the building) and no longer leave the back door propped open which reduces indoor noise going outside. Further complaints have not been made to the Police Department for formal enforcement, but discussion has continued about the issue. Given continued concern with noise but no other aspects of the business, staff recommends the following conditions to the SUP:

- Continued noise-reduction efforts (back door closed when not in use and no speakers in backyard/outdoor area)
- Reduced hours of operation for backyard/outdoor areas (perhaps move inside by 9pm)
- Installation of a power source for food trucks to eliminate the additional noise that comes from their generators/motors (to be installed within 6 months of SUP approval)

The Planning Board discussed this case during their meeting on April 15, 2024 and unanimously recommended approval of the proposed special use permit with the following conditions to be completed within six months of special use permit approval:

- Install landscaping in accordance with the LDO as appropriate and allowed by Duke Progress along Cedar and Live Oak frontages
- Install 90 square feet of planter space with appropriate plants and trees

- Restrict outdoor music to the hours of 11:00AM to 8:00PM. Outside of these hours doors and windows to remain closed when there is amplified music inside.
- Outdoor speakers in the rear of the building shall not be permitted.
- The rear door shall be kept closed when amplified sound is being played inside.
- The rear area shall not be used after 8:00PM
- The garage doors shall be closed after 8:00PM
- Install a power source for food trucks to eliminate additional noise from generators

Following the Planning Board's recommendation, Planning Staff reviewed feasibility for street trees and/or planter boxes within such close proximity of the main transmission lines along the north side of the property. Duke Progress Energy advised that no plantings should take place within 25 feet of the transmission structures or lines, and that non-compatible vegetation is subject to removal without replacement.

Planning Staff also reached out to the Police Department to review further noise complaints, of which there were two more since the Technical Review Committee meeting on April 1st.



THE WATERING HOLE

GARDEN BAR & GIFTS

The Watering Hole Summary

- **Plant store**
 - House plants
 - Plant related gifts, such as apparel, pots, soil, local merchandise.
- **Bar**
 - NC based beer and wine
 - Beverages for all ages
- **All inclusive**
 - Trivia nights
 - Bingo
 - Cook-Offs
 - Rotating Local Art Walls
 - Vendor Markets
 - Other family friendly events

Community Support

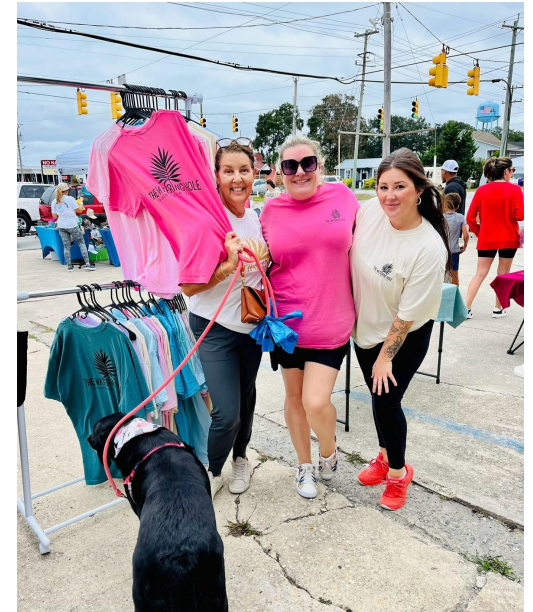
Since opening, we have hosted the 2014 ECHS class reunion, Leadership Carteret, Nurse ProLink Networking night, multiple adult and child birthday parties, community socials and many more events... ALL FOR FREE!

We were also nominated for seven categories for People's Choice Awards and even won top three for Best Trivia Spot!



More than a “BAR”

Bringing art and new businesses to Cedar/Live Oak Street increases foot traffic, which is the town’s goal. Majority of our customers are people who live next door or within walking distance and are excited get outside and see the neighborhood GROW!



Operating Information

We opened December 2023.

During our re-model, we had to work closely with the town to decide where items would go such as:

- Our Doors
- Our Stage
- Our Fence

Discussion with town:

- Hours of operation
- Use of our space
- Future events

Approval Process:

- The police department
- The fire department
- The town of Beaufort
- The Alcohol Beverage Control Commission

All approved and signed before opening!

Permit Request

The Watering Hole requests a permit to operate the property on Cedar Street as a

Tavern/Bar/Pub with Outdoor Operation.

- At the time we presented our original application we were asking for the same permits that we are today, but were not required to go through this process.
- We have always been a plant/gift store with a bar in it or a bar with a plant/gift store in it.
- We were up front about beer/wine sales being what would make us profitable.

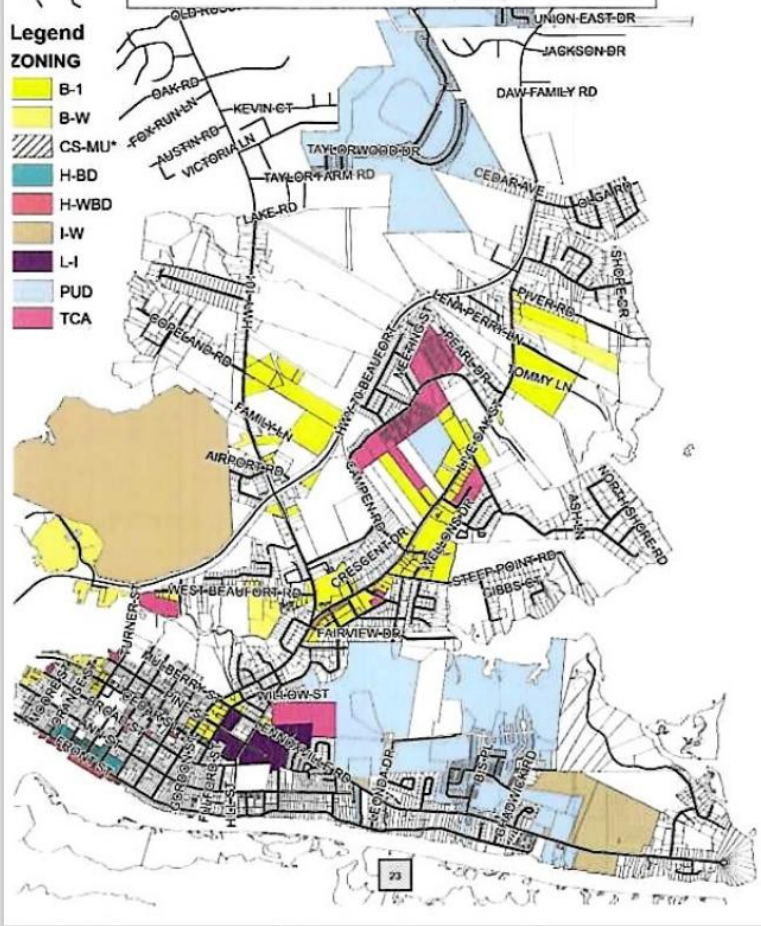
Zoning Districts That Allow Tavern Bar Pub
With Outdoor Operation as a Special Use
* CS-MU Excluded

2

Legend

ZONING

- B-1
- B-W
- CS-MU*
- H-BD
- H-WBD
- I-W
- L-I
- PUD
- TCA

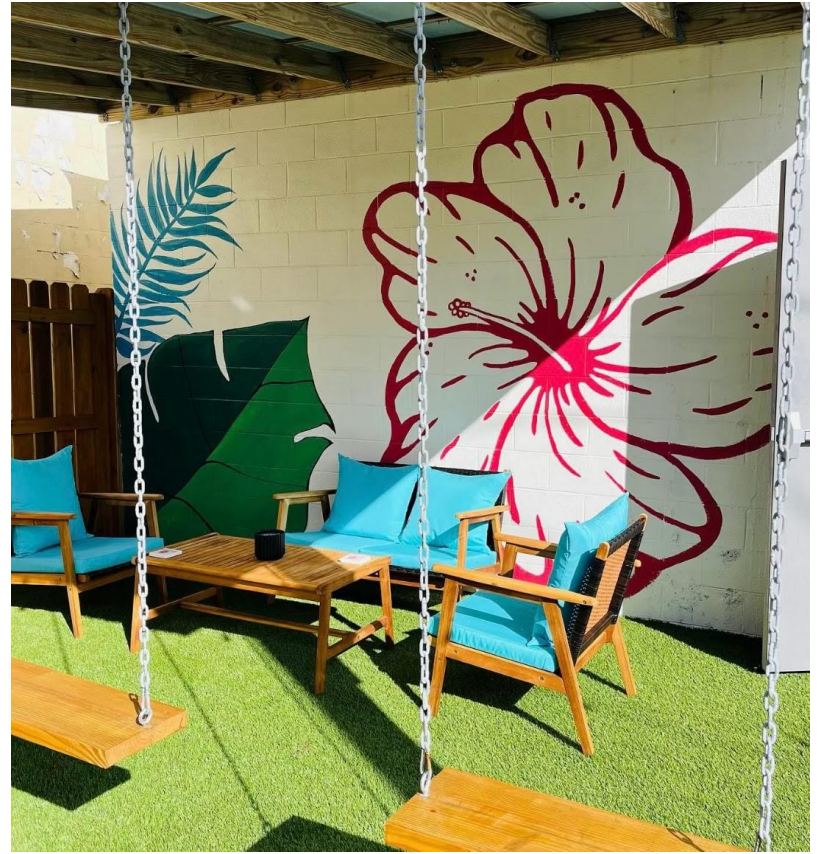


- Legend
- Property Owners Within 100 Feet
 - B-1
 - B-W
 - TCA
 - H-BD
 - RC-5
 - RS-5
 - TR

“Beautify Beaufort”

An upgraded facility with substantial improvements to the exterior and the landscaping on the property. (Improving aesthetics: D1 in LDO)











Our Plan for “Noise Concerns/Additional Appearances”

- We have already installed 24 square feet of planter boxes since opening and we plan to plant an additional 30 feet as requested by the planning board, minus any trees per Duke Energy.
- We think that restricting the use of our back yard or forcing us to keep the garage doors closed would be a violation of our rights, unless all commercial and residential structures in the area are told to do the same. (note- garage does not have heat/AC, so closing doors will result in the space being too hot or too cold, depending on the time of year)
- We will adhere to the noise ordinances, but local law enforcement are either not finding us over the limit or do not have a decibel reader to properly measure the noise.
- We will be installing a plug for food trucks as soon as we are able, prior to the 6 month deadline. We will also abide by the new food truck regulations being set forth by the town, effective JAN 2025.

Change of Occupancy Permit

Site Address:	816 CEDAR STREET	Owner Name:	TPBT LLC
Tax Map ID:	730618308332000	Construction Cost:	\$2,000.00
Report Code:	1202 - Change of Occupancy	Flood Zone:	X

Description:

Contractor

Financial: Leslie Allred | The Watering Hole | 816 Cedar St Beaufort NC 28516 | 919-339-9369
Tenant/ Leaseholder: Leslie Allred | The Watering Hole | 816 Cedar St, Beaufort, NC 28516 | 919-339-9369
Applicant: Leslie Allred | The Watering Hole | 816 Cedar St, Beaufort, NC 28516 | 919-339-9369

Permit Details

Site Acreage	0.00	No. of Employees	
Prop. Use Sq Ft	540	No. of Shifts	
Previous Use	Mercantile	Hours of Operation	11:00a.m - 10:00 p.m
Business Name	The Watering Hole	Proposed Structure Changes	Fix bathroom
Proposed Use	Sell Tropical plants, beer and wii	Proposed Site Changes	Paint
Parking Spaces	10		
Parking Surface	asphalt		
HC Parking	1		
Work Performed?	NO		
Cost of Const.	\$2,000		
Total Acreage of Site	0.00	Hours of Operation	11:00a.m - 10:00 p.m
Proposed Use Sq Ft	540	Structure Changes	Fix bathroom
Previous/Current Use	Mercantile	Site Changes	Paint
Describe Use of Space	Sell Tropical plants, beer and wii	Work Performed?	NO
Current No. Parking Spaces	10		
Parking Lot Surface Type	asphalt		
No. H/C Access Parking Spaces	1		

Zoning

Front Setback:	10-1	Easements:	
Sides Setback:	0 Fe	Special Flood Hazard Area:	
Rear Setback:	0 Fe	Present Overlays:	

Zoning Conditions:

Fees

Fees:	Occupancy Permit	50.00
		\$50.00

Conditions

I certify that I am authorized to make this application, that the information provided is correct to the best of my knowledge, that I am authorized to grant, and do grant, permission to the local zoning official and local building official to enter on the property described above for the purpose of inspections. I understand that if this application is approved, failure to meet any conditions of the approval shall result in the revocation of zoning approval. I shall comply with the provisions of all Town of Beaufort ordinances and all building codes for the State of North Carolina. Misinformation, lack of information, statements made in error, or any falsehoods could result in a permit being revoked and the applicant at risk of litigation in the process. Construction shall commence within 180 days of permit issuance.

Leslie Allred

Signature

Owner/Agent/Contractor:

Date 08/30/2023

Reviewed By:



Tobbie Bowden
Codes Administrator