



## **Town of Beaufort, NC**

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### **Town of Beaufort Planning Board Regular Meeting 6:00 PM Monday, August 21, 2023 - Train Depot 614 Broad Street, Beaufort, NC 28516 Minutes**

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#### **Call to Order**

Chair Merrill called the August 21, 2023 Planning Board meeting to order at 6:00 p.m.

#### **Roll Call**

Members Present: Chair Merrill, Vice Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil

Members Absent: Member Bowler, Member Willis

A quorum was declared with five members present.

Staff Present: Kyle Garner, Town Planner Michelle Eitner, Town Attorney Arey Grady, and Laurel Anderson

#### **Agenda Approval**

Chair Merrill asked if there were any changes to the Agenda and hearing none, he asked for a motion.

*Member Stanziale made the motion to approve the agenda as presented and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was unanimously approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

#### **Minutes Approval**

1. PB Draft Minutes for 5.15.23

Chair Merrill asked if there were any changes to the Minutes from the May 15, 2023 meeting.

*Vice-Chair Meelheim made the motion to approve the minutes with previously adopted changes and Member Stanziale made the second. Chair Merrill took a vote that was unanimously approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

## **Public Comment**

Chair Merrill opened public comments and asked if anyone would like to speak.

Robert Harper, 1020 Broad St, spoke regarding Case #23-05.

Bobbie Rouse, 503 Golden Eye Ct, spoke regarding Case #23-05.

Heather Walker, 504 Campen Rd, spoke regarding Case #23-05.

## **Public Hearing**

1. Case #23-05, Zoning Text Amendment - Modifying Section 8A (TCA District) & Table 8-8 (Table of Uses) to allow a density of 14 Dwelling Units per acre as a Special Use.

Vice-Chair Meelheim made a motion to recuse Member Stanziale due to a conflict of interest. Town Attorney Grady stated that Member Stanziale did not have a conflict of interest in the text amendment but could be recused for Case #23-07. Vice-Chair Meelheim withdrew her motion.

Mr. Garner gave a presentation and explained that after reviewing a proposal for a new affordable housing district, the Board of Commissioners at their June workshop requested that staff move in another direction and instead add language to the existing TCA district to allow a density of 14 units per acre as a Special Use Permit. By making this amendment it opens the opportunity for the density bonus to a much larger group than focusing on just one developer. He explained that Special Use Permits (SUP) are decided in a quasi-judicial proceeding.

The Board discussed SUP criteria and requirements including density and usage, and the difference between obtaining a SUP and a variance. Town Attorney Grady stated that expert witnesses may be required to testify about parking, environmental concerns etc. and persons with standing also may be qualified to testify.

*Chair Merrill asked for a motion to open the Public Hearing. Member Stanziale made the motion to open the Public Hearing and Member LoPiccolo made the second. Chair Merrill took a vote that was unanimously approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

Keith Walker, 103 Turner's Creek Way, stated that he had been an affordable housing developer for about 30 years and applauded the Planning Board's and Board of Commissioners' discussions on the issue. He felt that his affordable housing developments had always fit into the existing communities but large development communities of affordable housing created what he called "reservations of poor people".

Member Stanziale commented that affordable housing was not specifically the issue under discussion and clarified that this was an amendment to an ordinance.

Heather Walker then rebutted Member Stanziale and said that the discussion was specifically for affordable housing and the Beaufort Housing Authority.

*Chair Merrill asked for a motion to close the Public Hearing. Member Stanziale made the motion to close the Public Hearing and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

Chair Merrill asked Mr. Garner why the text amendment proposal did not include changing the density across the board from 12 to 14 units allowed by right rather than a SUP. Mr. Garner stated that the Planning Board (PB) could make that a recommendation rather than a SUP. He reminded them that a SUP gave the PB more leeway and restrictions for every application, and other jurisdictions used the SUP mechanism to regulate density, and all developers would be given the option to apply for higher density.

Member LoPiccolo stated that he was personally not in support of increasing the density higher than 12. Vice-Chair Meelheim also said she was not in support of increasing the density. Member Vreugdenhil had no comment and Member Stanziale stated that he felt that the increase from 12 to 14 was negligible and he moved to approve the text amendment. Member Vreugdenhil clarified that Member Stanziale could vote on the text amendment without recusal and Town Attorney Grady agreed.

*Member Stanziale made the motion to approve Case #23-25 as presented. There was no second and the motion died.*

*Vice-Chair Meelheim made the motion to recommend denying the text amendment. Member Vreugdenhil made the second and Chair Merrill took a vote.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

*Voting nay: Member Stanziale*

2. Case #23-06, To recommend approval or denial to the Board of Commissioners for the rezoning of 1103 Lennoxville Road

Ms. Eitner introduced Case #23-06 and stated that the approximately 6,000sf property on the north side of Lennoxville Road is currently zoned R-8 (Residential Medium Density). The commercial building on the property was built in 1965 and until recently hosted the Carter Tile Company. This nonconforming use continued for decades. Upon discontinuation of the nonconforming commercial use for more than 180 days, all subsequent uses are required to conform to the zoning district (LDO Section 11.E.3). This property is proposed to be rezoned from a residential district to a commercial district to allow a new commercial use to be established. 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, and no CAMA Plan amendment is required. Ms. Eitner requested that the consistency statement in the packet be corrected as it errantly notes a change to the comprehensive Land Use Plan in the heading of the document as the proposed rezoning does not require an amendment to the Land Use Plan.

Member Vreugdenhil clarified that the current R-8 zoning is non-conforming and the B-1 rezoning would be conforming.

Chair Merrill asked if there were any comments regarding the request and Ms. Eitner stated that there were two comments but they were only asking for clarification.

*Chair Merrill asked for a motion to open the Public Hearing. Member LoPiccolo made the motion to open the Public Hearing and Member Vreugdenhil made the second. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

Mary Garvey, owner of 1103 Lennoxville Rd, stated that she had bought the property from Ann Carter in January 2021 as a commercial property and in March of 2023 and found out that her property had been rezoned to residential and did not understand why and she had never been contacted regarding the rezoning. Member Vreugdenhil corrected Ms. Garvey’s statement claiming the property had been rezoned and clarified that the property had lost its legal nonconforming commercial usage over the time of disuse as commercial property, and the current rezoning was to correct the zoning map and usage.

*Chair Merrill asked for a motion to close the Public Hearing. Member Vreugdenhil made the motion to close the Public Hearing and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

*Member Vreugdenhil made the motion to recommend approval of the rezoning request as presented and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was unanimously approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

3. Case #23-07, To recommend approval or denial to the Board of Commissioners for the rezoning of three properties owned by the Beaufort Housing Authority from TR & R-8 to TCA

*Chair Merrill asked for a motion to recuse Member Stanziale from deliberating and voting on Case #23-07 due to a conflict of interest. Vice-Chair Meelheim made the motion and Member LoPiccolo made the second. Member Vreugdenhil stated for the record that Member Stanziale had brought the conflict of interest matter to the Board's attention. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

Chair Merrill took the opportunity to welcome Ms. Eitner in her new position as Town Planner. Ms. Eitner thanked him and she introduced Case #23-07, a request from the Beaufort Housing Authority (BHA) to rezone three parcels from TR & R-8 to Townhomes, Condominiums, and Apartments (TCA). She explained that notifications of the request were mailed to property owners within 100 feet of each tract and 43 letters were mailed on August 7<sup>th</sup>, signs were posted on August 9<sup>th</sup>, and advertisements were run in the newspaper on August 9<sup>th</sup> and 15<sup>th</sup>. Tract 1 is currently zoned R-8 and is undeveloped, Tract 2 is currently zoned TR and contains multi-family housing, and Tract 3 is currently zoned R-8 and the BHA office is located on that property. Ms. Eitner stated that no comments were received.

Member Vreugdenhil asked how many units could be on Lots 2 and 3 if it were rezoned, and Ms. Eitner stated that she did not have that information at this time as factors such as landscaping, parking spaces and recreational areas as well as residential units would be calculated, and Lot 3 currently contained the BHA office and Lot 1 was undeveloped.

*Chair Merrill asked for a motion to open the Public Hearing. Vice-Chair Meelheim made the motion to open the Public Hearing and Member LoPiccolo made the second. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

Cindy Szwarcop, Withers and Ravenel, 137 South Wilmington St, Raleigh, spoke on behalf of the BHA. She gave a brief presentation reiterating the current zoning and proposed TCA zoning and redevelopment which would align all of the properties' zoning.

Ms. Szwarcop answered questions from the Board regarding consistency with the CAMA Land Use Plan, Environmental Impact Studies, density, and explained that the rezoning only the first step in the process those issues would be addressed as the projects moved forward.

Robert Harper, 1020 Broad St, stated that if the CAMA Land Use Plan was updated for this rezoning then it would be changed for the entire area. He noted that the requested rezoning met the criteria for spot rezoning.

Steve Bishop, 800 Mulberry St, stated that he lived close to BHA Tract 3 and nearby homes were one-story and he was opposed to the rezoning.

Logan Louis, 900 Cedar St, spoke about spot zoning and reiterated Tract 3 was surrounded by single family homes.

Martin Haber, 711 Mulberry St, stated that if Tracts 1 and 2 would not be approved by CAMA, why would they be rezoned, and Tract 3 was currently a one-story building and he would not like to see a three-story building there, and also noted that visitors coming into Beaufort would be seeing three-story buildings when they came into town, and small town Beaufort was disappearing.

*Chair Merrill asked for a motion to close the Public Hearing. Member Vreugdenhil made the motion to close the Public Hearing and Vice-Chair Meelheim made the second. Chair Merrill took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

After further discussion, Member Vreugdenhil stated that he had many concerns regarding housing density and the fragile environment.

Member LoPiccolo also expressed his concerns with keeping the character of the town, in Tract 1 the marsh could be backfilled, open space and parking concerns needed to be addressed especially with Tracts 1 and 2 being in a busy traffic area.

Vice-Chair Meelheim stated the concerns with flooding in that area.

Chair Merrill expressed concerns with the higher density traffic along the Turner St corridor.

*He then asked for a motion to address all three properties as the applicant packaged all three requests together. Vice-Chair Meelheim made the motion to recommend denying the rezoning requests as they were not consistent with the current CAMA Land Use Plan and also concerns with spot zoning, and Member LoPiccolo made the second.*

*Chair Merrill took a vote.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

*Chair Merrill made a motion to return Member Stanziale to the meeting and took a vote that was approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Vreugdenhil*

## **Commission / Board Comments**

The Members thanked the staff for the complete and detailed agenda items. Chair Merrill requested discussion regarding updates to 160D at the next meeting. Town Attorney Grady noted that the discussion would not be a policy debate but would be an overview of statutory changes.

## **Staff Comments**

Mr. Garner introduced and welcomed the new Town Planner, Michelle Eitner and noted that she was already an asset to the department.

He noted that the Subdivision Ordinance would also be reviewed as well as the Land Development Ordinance for 160D updates.

## **Adjourn**

*Member Vreugdenhil made the motion to adjourn and Member Stanziale made the second. Chair Merrill took a vote that was unanimously approved.*

*Voting yea: Chair Merrill, Vice-Chair Meelheim, Member LoPiccolo, Member Stanziale, Member Vreugdenhil*

Chair Merrill then declared the meeting adjourned.

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Ralph Merrill, Chair

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Laurel Anderson, Board Secretary