



Town of Beaufort, NC
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Board of Commissioners
Regular Meeting
6:00 PM Monday, October 09, 2023
Train Depot, 614 Broad Street
Beaufort, NC 28516

Call to Order/Pledge of Allegiance

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

Roll Call

Elizabeth Lewis, Town Clerk, called the roll.

PRESENT:

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

Agenda Approval

Mayor Harker asked to amend the agenda to add a closed session, pursuant to NCGS 143-318.11 (a) (3).

Commissioner Hagle made a motion to amend the agenda as requested.

The motion carried unanimously.

Public Comment

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

I am here to comment on Case #19-19 Compass Hotel. I understand that there is a development timeline that is part of the extension package. The only thing I would recommend, that I would love to see you guys do, is if you do grant this 18- month extension that you please, for the sake of Beaufort, put some teeth into enforcing the timeline. The history of this development is such that some of those timelines that have been promised in the past, were sort of blown through. So, if you do decide to grant that extension, please make sure there are some enforcement teeth in the timelines that were presented to you. Thank you.

Harriet Altman: 103 Leonda Drive (Beaufort, NC 28516)

The first thing I want to mention is that we are having a big event on Wednesday, Mayor Harker is going to be there. I think Rachel is going to be there and I invited all of you Commissioners to be there as well. I am part of a group Plastic Free by The Sea, and I am inviting all of you to this event. We are going to be working with the Town of Beaufort to reduce plastic in our community. We know that it is a big problem now, as the microplastics are getting into our waterways, and are hurting our marine life and ultimately hurting us as well. So, the Town of Beaufort is working with us now and we are going to be doing some workshops this spring. This week, the Marine Debris Symposium is going on at the Duke Marine Lab, and of course, it would be great if some of you participate in that as well. But, on Wednesday, we are going to have a reception at The Vault at 5:30 p.m., welcoming all the people participating in that event, as well as wanting the whole Town to come and learn more about what we are doing and what they are doing. It should be a really nice event; a lot of businesses have been helping us and are sponsoring it as well as the Sierra Club. So, that was the first thing I just wanted to mention. I did not realize there was going to be a Public Hearing on the CAMA Plan. I was going to comment that I really have felt in the dark about that, and do not know what changes had been made. I do not know if that will all come out in the Public Hearing, because I was really excited about the original one. I did hear something about Resilient Beaufort not being in it and I am not sure what that means, because that concerns me. So, it might be that I just learn more during the Public Hearing and can address it at that time. I just want us to make sure we are doing all the right things to protect our community and our coast. Thank you.

Items of Consent

1. Meeting Minutes- 9/11/23 & 9/25/23

Commissioner Hagle made a motion to approve the items of consent.

The motion carried unanimously.

Items for Discussion and Consideration

1. Case # 19-19 Site Plan - Compass Hotel - 18 Month Extension Request

Kyle Garner, Planning Director, shared the developer had provided a construction schedule as requested by the Board at a prior meeting. He provided background on the project, stating their site plan was set to expire in November 2023, as half of the improvements have not been completed. He noted the request was for an 18-month extension, as provided in the meeting packet.

Commissioner Hollinshed asked if the USDA Loan had closed yet.

Mr. Garner said it had not.

Commissioner Terwilliger asked how staff would utilize the construction schedule provided to track progress.

Mr. Garner shared it was not routine to have his staff track progress of new construction based off a schedule provided by the developer, as typically that is not something that is provided. He suggested rather the progress could be followed through completed building inspections. He noted Preston Godwin with Hudson Brothers Construction did offer to provide quarterly reports to the Board on the status of the project.

Commissioner Terwilliger suggested it would be best to loop Town Staff into the quarterly updates as well, to ensure targets were being met.

Commissioner Hagle noted the importance of quarterly reports. He suggested the report should provide information on any kind of issues the development is facing, such as difficulties obtaining supplies.

Mr. Godwin stated he was happy to provide updates related to the construction schedule. He shared they could not close on the USDA Loan until the 18-month extension was approved.

Commissioner Hollinshed asked about the intended use of the parking lot area.

Mr. Godwin suggested the purpose of the lot was for people who own or rent boat slips in the Beaufort Yacht Basin to have an area to park. He also noted it may be used for overflow parking for construction workers and subcontractors from time to time, but no heavy equipment would be housed in that parking lot.

Commissioner Hagle made a motion to approve the 18-month extension request for the Compass Hotel, with the request of meeting with the Board of Commissioners at least every four months to provide the project status, as well as an updated construction schedule if need be to ensure the project is completed by the noted timeline.

Commissioner Terwilliger asked that the motion be amended to include the Planning and Inspections staff to play a vital role in the process of tracking the project, and the ones who would present the quarterly updates to the Board, as provided by the developer.

Mr. Garner commented, based on Commissioner Terwilliger's suggestion, that his department would be glad to take the quarterly information provided by the developer and have his building inspectors provide comments, interpretations, and other recommendations to ensure the project is following the construction timeline as desired. He noted this could be provided as part of the agenda packet.

Mayor Harker asked for a vote on the motion made by Commissioner Hagle.

The motion carried unanimously.

2. Beau Coast Street Extension Contract

Todd Clark, Town Manager, shared that Town staff made a presentation to the Board of Commissioners on February 27, 2023, concerning street connections between the Jones Village neighborhood and Beaufort East Village. At that time, the Board directed Town staff to seek the cooperation of Beau Coast to share in the cost of connecting George Street and Fairview Drive to Pineview Boulevard located in Beau East Village. He noted that an agreement had been drafted and a copy was attached in the meeting packet for consideration by the Board. He commented on specific parts of the agreement and shared it was a 50/50 cost of the Town and Blue Treasure. He also noted the Town had the funds to cover the street connection aspects of the project, but anticipated a budget amendment would be required for the water and sewer improvements at a later date.

Commissioner Cooper suggested the owner should incur the cost of the entire project.

Mr. Clark explained it was his understanding from the prior discussion, he was directed to seek the cooperation of Blue Treasure as far as the cost is concerned, but the Board desired to make the two street connections regardless.

Commissioner Hollinshed expressed her support for the proposed contract, noting the importance of safety and access in the area.

Mayor Harker asked if any sidewalks were considered in the proposed contract.

Mr. Clark shared sidewalks had not been factored in and noted if it was the Board's desire, Town staff would have to do additional research in regard to engineering and placement of potential sidewalks.

Commissioner Oliver made a motion to approve the agreement as to form.

Voting Yea: Commissioner Hollinshed, Commissioner Terwilliger, Commissioner Hagle, Commissioner Oliver

Voting Nay: Commissioner Cooper

The motion carried on a 4-1 vote.

3. 2024 Mardi Gras Event Request

Rachel Johnson, Events Coordinator, shared that the Beaufort Business Association (BBA) submitted a three day event request for Mardi Gras in February 2024. She referenced several details of the event, which are also outlined on the application located in the meeting packet. She explained they were requesting several road closures, alcohol waivers, and Town staff to work the event; she also noted the invoice for the event was provided in the meeting packet as well.

Commissioner Hagle asked if there was a plan in place for parking spaces during the event.

Ms. Johnson noted there was not a specific plan in place to address those parking concerns. She recommended the BBA shuttle groups to and from the event or consider other options.

Commissioner Hollinshed expressed her support of the proposed event. She asked that the organizers protect the parking lot where tents assembled and broke down.

Commissioner Oliver offered suggestions on the tent setup for the event.

Commissioner Hagle made a motion to approve the request as presented, with the understanding that Ms. Johnson will continue to advise the Board of any details or changes that would affect the original plan.

The motion carried unanimously.

Public Hearing

1. Case # 23-08 - Rezoning 101 Ann Street B-W to TCA

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Michelle Eitner shared the following on Case#23-08:

This is a request from Jay Horton of Filter Design Studio, agent for property owner Beaufort Resorts LLC, to change the zoning from Business Waterfront District (B-W) to Townhomes, Condominiums, Apartments District (TCA). Notification of the request and tonight's Public Hearing was provided via letters to all property owners within 100 feet, these 13 letters were mailed on September 25, 2023. A rezoning sign was placed on the property on September 25, 2023, and an advertisement ran in the newspaper on September 27 and October 4, 2023. Staff have not directly received comments or concerns on this request; the 0.631 acre parcel is currently zoned Business Waterfront. It is the site of the former Beaufort Inn, which has recently closed and is soon anticipated to be demolished. They have obtained a Certificate of Appropriateness from the Beaufort Historic Preservation Commission (HPC) for demolition and will have to obtain COAs for future development of the site, as it is within the Historic District. Rezoning must be reviewed as an entire change to a parcel without discussion of anticipated future development, even though we know the owner may soon redevelop the property. The Gallant's Landing multi-family development to the north is also zoned B-W, but the use does not match the zoning district. The properties to the east and south are multi-family and single-family and zoned R-8. To the west, is Gallants Channel and fishing boats on the other side.

The setbacks on this property would be reduced with this proposed rezoning, but as the structure on the property currently exceeds the front and rear setbacks, redevelopment in either district will gain compliance regarding setbacks. This rezoning would reduce the maximum building height from the current 40 feet to 35 feet, but as this property is within the Historic District, it is limited to 35 feet through the current guidelines. This remains consistent with the 35 feet height limitation of the adjacent R-8 properties. There is no

density maximum for the lot currently, because the zoning district does not allow residential uses, but the proposed district allows up to 12 units per acre. For reference, on this 0.631 acre property, a maximum of 7 units would be possible under TCA zoning. Buffer requirements identify that a Type A buffer would be required on the north and east sides of the property upon redevelopment in either the current or proposed district.

This property is subject to CAMA regulations for the Estuarine Shoreline Area of Environmental Concern (AEC). As identified in the staff report, 160D identifies a rezoning that reduces density or number of permitted uses as a down-zoning. There are over fifty permitted uses in the current district, and twenty-six in the proposed district. Business Waterfront, formerly called Waterfront Commercial, is classified as a Nonresidential Zoning District in Beaufort's Land Use Plan (LDO). This parcel is within the medium density residential future land use classification in the current LDO. The classification that is consistent with TCA would be High Density Residential. Rezoning this parcel to TCA would require a concurrent Land Use Plan Future Land Use Map amendment of these parcels to high density residential. At the Planning Board meeting, a concern for spot zoning was brought up and Attorney Grady spoke to that during the meeting. I will leave specific questions for him to answer.

Commissioner Cooper asked if the applicant's plan was to build three residential houses on the lot.

Ms. Eitner explained how a rezoning request was facilitated and noted she had not seen a specific site plan at this point.

Commissioner Hagle reviewed the proposed changes in zoning and noted the down zoning improvements.

Commissioner Hollinshed suggested the proposed zoning was a better option than the current zoning.

Jay Horton, with Filter Design Studio, said this is a project he has been working on for about a year. He said the scope has been three single family dwellings for the parcel. He noted one of the hurdles they have faced is being able to take advantage of the waterfront and they do not have the width for R-5 or R-8, falling just under two feet shy. He noted if they were to turn it to orient it the other way, to face the houses towards Ann Street, then they would have to extend Ann Street to access their westernmost parcel. He explained B-W was to their north, and they want to do the same thing done there. He said his scope of work has been three dwelling units on the parcel. He noted that he has not submitted a formal site plan.

Commissioner Terwilliger asked if there was a way to restrict uses if the parcel was rezoned to TCA.

Mr. Grady said there was not, and explained this was strictly a rezoning request.

Commissioner Terwilliger asked if the applicant could request R-8 zoning and then ask for a variance.

Mr. Grady explained a variance request would go through the Board of Adjustment.

Commissioner Cooper expressed his concern with changing the zoning to TCA, as the applicant would not be restricted to building only three houses.

Mr. Grady suggested it was a purely legislative decision and the Board could vote yes or no as they felt appropriate for the property.

Mayor Harker asked if there was anyone from the public who wished to speak during the Public Hearing.

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

I think the gentleman said that he had planned single family residences for the TCA rezoning, but single family residences are not a permitted use in TCA. So, just as a

caution to the Board, it is not a permitted use. It is a special use, that is true, but it is not a permitted use. Also, I would like to caution the Board that TCA is high density, it is the highest density that we have and our future land use map shows this area as, medium density to low density, not high density. So, if we stuck with our Land Use Plan, you would not rezone it. Using the property to the north as a comparison is not relevant, it is so far out of compliance that it should not be used for any comparison purposes. Thank you very much.

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

You all have a dilemma. I wrote you all a letter that said there are two things that can happen. You can refuse this and ask them to come back with R-7 and look for a variance, in which case, the developer has to trust the Town, or you can give TCA and then we have to trust them. So, who is going to be holding that bag of trust? You are a lot better off if you are not the one that is trusting, because you are in a little bit of a weak position if you are trusting the other side to do the right thing. Who do you work for? That should answer who you should leave with the back of trust. I would say vote this down, tell him to come back for R-7 and ask for a variance. It is only a couple of feet, I mean, the variance people may or may not grant it. You know, I have a lot in Town that is 174 feet, and I could put two houses on it now. But if I can get a variance, I can go to three houses. But if I can get TCA, I can go to ten. So, I think precedent motivates people and we do not need motivation to do TCA. The other thing I would like to say is I worked on the CAMA Land Use Plan that is coming up later on, and a lot of citizens worked on that. This is a direct violation of what you promised the state you would do and what you promised the people you would do, and what you promised the environment you would do to protect it. Logan made a really good point, if you pass this, you have violated your commitment to the environment. I would say reject it, go to R-7, be strong, stand up for something you believe in. Do not be a victim here. Thanks.

Will Ziglar: 117 Ann Street (Beaufort, NC 28516)

The only thing I would add is the precedent that your council mentioned. There were two reasons when the nominator spoke on the zoning commission. He mentioned the property north and said that was the rationale for his nomination. His other one was that, you know, this perhaps would be a better outcome than the hotel. So, I just want to be really clear. Then I guess the other question, you mentioned, a pretty low batting average. But are we talking about this type of variance, where it is two feet?

Mr. Grady said he could not say what another Board might do, but he was referring to variances in general and explained the standard in the statute for obtaining one is very high.

Mr. Ziglar said I think the neighborhood would probably rally in support if these folks wanted a variance with three houses. I mean, our concern is obviously, we do not need 7-8 units; you know, two or three cars and two or three golf carts per unit ripping up and down and street. That really is where we are coming from and I think it should be a residential area, and it should be single family homes. Thank you.

Commissioner Hollinshed made a motion to close the Public Hearing.

Commissioner Terwilliger expressed his concern with rezoning the area to TCA. He noted the Board should be trying to decide what zoning is best for the property in question.

Commissioner Cooper agreed with Commissioner Terwilliger's comments.

Commissioner Oliver suggested there was a consensus from the public and the Board that having the property zoned B-W was not desired, noting there are many permitted uses in the B-W zoning district. He noted that to have three single-family homes in the proposed zoning district, the applicant would have to request a Special Use Permit.

Commissioner Oliver made a motion to approve the rezoning request as submitted.

Voting Yea: Commissioner Hollinshed, Commissioner Hagle, Commissioner Oliver

Voting Nay: Commissioner Cooper, Commissioner Terwilliger

The motion carried with a 3-2 vote.

Commissioner Hollinshed made a motion to approve the CAMA Land Use Plan Amendment for Case #23-08, as recommended in the meeting packet and presented by staff.

Voting Yea: Commissioner Oliver, Commissioner Hagle, Commissioner Hollinshed, Commissioner Cooper

Voting Nay: Commissioner Terwilliger

The motion carried with a 4-1 vote.

2. Comprehensive and CAMA Land Use Plan Adoption

Commissioner Hagle made a motion to open the Public Hearing.

The motion carried unanimously.

Mr. Garner explained the process leading up to the adoption of the Comprehensive and CAMA Land Use Plan. He noted in December of 2022, the Board sent the draft version of the plan for review by the North Carolina Division of Coastal Management as well as other state and federal agencies. He shared that as of September 2023, the document had been updated per comments received from Coastal Management and other state and federal agencies. He noted the only recommended changes were submitted from the State Water Supply Planning Office. The entire document was included as part of the meeting packet. He explained after a decision was made on the local adoption of the proposed plan, the plan will be sent back to Coastal Management for a 30-day public comment period and then to the Division of Coastal Management Director for final certification. He noted since it was before the Board last, there had been updates to the map to reflect the most recent changes made on rezonings.

Mayor Harker opened the floor for the public to speak.

Logan Louis: 900 Cedar Street (Beaufort, NC 28531)

There is a feeling in the community that the original plan that was approved unanimously by the Planning Board, steering committee, and Town Staff, including the Town attorney, that everything was going well. Then, as you all remember, it got to the Board of Commissioners and it ran into a stone wall, and a couple of Commissioners really had a problem with the plan and kind of went back and forth on that. But the feeling of the community is to restore the plan to what it was originally, before it came to the Board of Commissioners and the Resilient Beaufort Plan was stripped out and other things happened. There is a feeling in the community that restoring it is something that is desirous, and some commissioner candidates feel the same way about it. So, this plan might be amended in the future. It is not a big deal to do that. You are amending it tonight, as a matter of fact, with the rezoning thing. It might be better to table it, rather than go through the whole process of adoption, just to have it amended and go through another public hearing in short order. So, my only recommendation is table it and let the new Board of Commissioners deal with it and if they want to change it, let them change it. It would save the Town a lot of time and energy. Thank you so much.

Harriet Altman: 103 Leonda Drive (Beaufort, NC 28516)

I have never seen the amendments. Is there a way to get the whole plan so that I can compare it to the original. Where is it accessible?

Mr. Clark shared it was on the Town's website and in the agenda meeting packet and explained the 30-day public comment period, subject to follow the meeting.

Roberta West: 231 Pinners Point Road (Beaufort, NC 28516)

I am a citizen in Beaufort and I would like to thank all of you Commissioners on the Board for the service you give and to you, Mayor Harker, thank you for everything. I understand you are just a terrific Mayor. I have not been in Town all that long, but I am learning a lot of good things about you. I have a few questions about the CAMA Land Use Plan that I have seen online, but I feel like I have not had adequate time to really study it as much as I would like. However, I do have these questions...and some of them, I hope I am not repeating anything that someone, maybe Kyle, has already said. But you can tell me if I have, that is all right. The first question that I was going to ask is a confirmation for the timeframes and I kind of feel like the lady who just came up here, that it would be nice if we had more than 30 days. But perhaps that is not something that can be changed. I feel like even reading all those pages, I do not know that I absorbed it all; I am such a novice at all of this, that I do not feel secure about it, but that can be discussed amongst you. The second question I have, referenced on page 194, has to do with the sea level and how much it has risen. I would like to know, is it possible to get some kind of statement from NOAA, which is right across the bridge. Some kind of statement showing us perhaps what the sea level rise has been over the past 100 years? Hopefully, they will be talking about what it is like here in Beaufort, and not in Holland or somewhere else in the world, because I understand it is very different in other places. So, would you attempt to do that to get us some, some graphs or whatever, in regard to the sea level rise?

Mayor Harker said they would attempt to provide that information, but they will not be proposed into the CAMA Land Use Plan.

Ms. West asked, can you provide the areas that were talking about the proper function of the septic systems? Can you be specific about the areas where that will be enforced and what is the budget that you have for enforcing it? Also, what is the timeframe for the enforcement? What are the ramifications if someone does not comply? Do they upgrade their septic system or how is that handled?

Mayor Harker shared there were no septic systems in Town, rather than Town sewer.

Ms. West referenced page 199 of the plan and asked, what is the plan to compensate landowners in the NIZ for taking away their by right land rights under the zoning code? Where is the specific legal language of how any development may take place within this area? This needs to be clearly included within the plan, prior to any adoption of the plan, as there is no transparency of what is required and the financial impact to all landowners within the NIZ. If no public water or sewer is allowed within the NIZ, then does the Town of Beaufort prefer that all infrastructure be reviewed and permitted by Carteret County? And that this land not be part of the Town of Beaufort, but remain in the ETJ and not pay taxes to the Town of Beaufort? How would infrastructure permitted by Carteret County be under the purview of the Town of Beaufort?

Commissioner Hollinshed made a motion to close the Public Hearing. The motion carried unanimously.

Commissioner Hagle made a motion to approve the Comprehensive and CAMA Land Use Plan as presented.

The motion carried unanimously.

Manager Report

Mr. Clark provided a monthly Manager's Report. The full detailed report can be viewed at: <https://www.beaufortnc.org/boardofcommissioners/page/managers-report>

Mayor/Commissioner Comments

Commissioner Cooper thanked all who commented during the Public Hearings as well as the Public Comment period.

Commissioner Hagle thanked staff for providing a variety of services to the Town.

Commissioner Hollinshed commended Town staff who recently completed training.

Closed Session

Commissioner Hagle made a motion to enter closed session, pursuant to NCGS §143-318.11 (a) (3)

The motion carried unanimously.

Adjourn

Commissioner Hagle made a motion to adjourn the meeting at 8:10 p.m.

The motion carried unanimously.

Mayor, Sharon E. Harker

Elizabeth Lewis, Town Clerk