



Town of Beaufort, NC

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Board of Commissioners

Regular Meeting

6:00 PM Monday, July 11, 2022

Train Depot, 614 Broad Street, Beaufort, NC 28516

Minutes

Call to Order

Mayor Harker called the meeting to order at 6:00 p.m.

Roll Call

Elizabeth Lewis, Town Clerk, called the roll.

PRESENT:

Mayor Harker

Mayor Pro Tem Hagle

Commissioner Oliver

Commissioner Cooper

Commissioner Terwilliger

Commissioner Hollinshed

Agenda Approval

Commissioner Hagle made a motion to approve the agenda as presented.

The motion carried unanimously.

Public Comment

Martha Kenworthy, 109 Holly Lane in Beaufort, shared the following:

I am writing these questions and comments as one of the property owners listed on page 113 as residing within 100 feet of the named variance requested. This request is for Phase 2 of the Salt Wynd subdivision which has not been presented to the town yet for approval. I am wondering how a cul-de-

sac variance can be considered when only Phase 1 has been approved and it is unknown what the Phase 2 plan and surrounding development will be. It looks like in the sketch submitted with this variance request, that the cul-de-sac will go to lots in 404 wetlands. I would request this variance be denied until the Phase 2 portion of the subdivision is approved and allowed to have public comment. Why is the subdivision plan not going to the Planning Board for approval? Mr. Garner states it is the staff's opinion the variance is not unique to the applicant's property, and in that there are wetlands throughout Beaufort that have impacted other streets. Is this now the standard in Beaufort? Is it okay for wetlands to be impacted by Town Streets? We have always been told when we moved into Howland Rock, the street that I live on (Holly Lane) was supposed to connect with Pinner Point Road but that was denied because it would go through a wetland. I believe that should still be the practice considered by the Town of Beaufort. As an adjoining property owner, I request the variance be denied when it comes up; I don't know that I could have spoken during that time, that is why I am speaking now. Perhaps it will be an appropriate variance but that is unknown because we don't know what Phase 2 is for that subdivision. Also, as you get to towards the end of that road the lots get narrower, more cramped between the flood area and wetlands, which could make it harder to get out during a storm. I am just not sure what the reasoning is for the additional length to that cul-de-sac.

Margaret Powell, 264 Glenda Drive in Beaufort, addressed the Town Manager and Board on cemetery concerns, particularly on the east side of Oceanview Cemetery. She noted she was speaking for concerned citizens of Beaufort. She had questions about the spacing of lots and driveways in the cemetery and suggested it was becoming a bit overloaded. She also expressed concern regarding the question of ownership on the east side of the cemetery, and the price associated with each plot.

Manager Report

Todd Clark, Town Manager, gave a report regarding recent and upcoming projects throughout Town. Below is a summary highlighting what was discussed.

“Trestle Walk” Project: The staff has met with the developers of the Mulberry Project and have received a favorable response from them to work with the Town to establish a multi-use path. This discussion will be incorporated into the presentation on the pending Mulberry Rezoning and PUD cases.

Harbor & Waterways Master Plan: The Harbor and Waterways Advisory Committee conducted a public meeting on June 23rd and received public comment on the first draft of the Master Plan. The committee is seeking further public feedback through a survey posted on the Town website.

Waterfront Asset Appraisals: As directed by the Board, the Town Manager is seeking qualified firms to perform an appraisal of Town owned assets surrounding the waterfront. The Town Manager will also work with the Board of Commissioners in the coming months to develop a strategy concerning the renewal of the waterfront lease, as the Board's input is crucial and will be needed to develop a plan before the end of this calendar year.

CAMA Land Use Plan Integrated with Resiliency Plan: The Board of Commissioners has a workshop scheduled for Thursday, July 14, 2022 to review the plan with staff. The Board of Commissioners will be asked to call for a public hearing for August 8, 2022.

Oceanview Cemetery Improvements: The Mayor as well as staff met at Oceanview Cemetery. to discuss needed improvements. Staff is currently working to develop a budget to make these improvements; a presentation to the Board of Commissioners will be made when a complete budget has been developed.

Space Needs Study: A scope of services has been developed and Greg Meshaw has had preliminary discussions with Oakley Collier Architects. Staff anticipates making a recommendation to the BOC to retain their services at an upcoming meeting.

Cedar Street Paving: The Town has made application for a Water Resources Development Grant for impervious concrete as part of the NCDOT paving project. This type of grant is administered by the Division of Water Resources which is part of the North Carolina Department of Environmental Quality. The grant parameters include a 50 percent matching limit which means that the Town will be responsible

for providing \$195,500 of the (estimated) funding needed to construct the pervious pavement parking lanes. To that end, it is important to know that the Coastal Federation has committed to matching the Town's contribution up to \$75,000 of the needed grant matching funds thereby reducing the Town's estimated contribution to \$120,500. Should the Town be successful in obtaining grant funding, staff anticipates execution of the funding documents by November.

LDO Re-Write and NCGS 160D Compliance: Funding for this project was included in the proposed FY 2023 budget. Kyle Garner and his staff will move forward with this project now that the budget has been adopted, but no sooner than the CAMA Landuse Plan Update has been completed.

USDA Funded Water and Sewer Infrastructure Projects: Greg Meshaw reports that the design and engineering is 90% complete. Staff anticipates the plans will go to the State of North Carolina for permitting review in August. Construction is anticipated in late winter or early spring of next year.

Comprehensive Street Resurfacing Projects: This project is scheduled to begin at the conclusion of our USDA Funded Water, Sewer and Stormwater Improvement Projects. Funding mechanisms still need to be determined.

High-Rate Infiltration Basin: Greg Meshaw reports that we are 75% complete with the design and engineering on this project.

Water and Sewer Transfers: As part of the motion to adopt the FY 2023 budget, the Board decided to address the issue of water and sewer reimbursements to the General Fund through the creation of a committee to determine a methodology/policy for such transfers. The Town Manager will be reviewing this with the Mayor to determine next steps toward accomplishing the goals of the Board and before the September deadline.

ADA Transition Plan: The Town Manager reports he anticipates staff will make a presentation to the BOC in August. The Town is required to have an ADA plan that sets forth specific goals to ensure compliance with State and Federal Regulations.

Mr. Clark initiated a conversation regarding the addition of two SRO positions in Beaufort. He explained there would be funding available through State grants and County contributions, noting one SRO position could receive funding up to \$49,000 per year.

Commissioner Hagle confirmed the grants were annually renewable.

Commissioner Hollinshed asked if the second batch of COVID funds could be used for any of the SRO positions or recently mentioned projects.

Commissioner Oliver noted currently, the Town receives \$33,333 for an SRO position at Beaufort Middle. He shared the County was applying for a grant that would provide additional funding for both Beaufort Elementary and Tiller School, potentially providing around \$50,000 for each position. He pointed out the bulk of the portion of cost associated with new officers is the vehicle and their equipment. He questioned the need for SRO's to have fully equipped police vehicles.

Paul Burdette, Police Chief, explained that all officers need to be a self-contained unit that can respond and be of service regardless of where the emergency might be. He noted it would be an asset to have the SRO position fully equipped and available to go to other schools or emergency situations as needed, explaining the officer is ultimately under the command of the Town of Beaufort Police Department.

Commissioner Cooper noted we did not have the all the funding yet and asked Mr. Clark if he had spoke with the County regarding the SRO positions.

Mr. Clark confirmed he had spoke with the County and noted they were committed to a portion of the funding. He explained the breakdown cost of a new officer, totaling approximately \$145,416.93 per officer, noting many of the cost would be upfront.

Commissioner Terwilliger pointed out these should be 12-month positions, not offered in 9-month terms. He suggested the officers be cross trained in Marine Patrol to aid in that area of service in Town.

Commissioner Cooper asked how long the training was to be in the SRO position.

Chief Burdette explained in addition to being a certified Police Officer, they must complete a one-week course to become a certified SRO as well.

Mayor Harker asked how adding the positions would affect the budget overall.

Mr. Clark explained it was not budgeted for in the FY 2023 Budget; meaning other areas of the budget would be impacted by the expenses this fiscal year.

Commissioner Oliver suggested making a commitment to the SRO positions now, and have staff come back before the Board with a Budget Amendment to explain the impact of such expenses.

Commissioner Hollinshed pointed out there was about six weeks before school started, and in order to have an SRO trained and familiar with the schools, she was in favor of making the decision currently. She suggested it was something that was going to be required either way. She asked if there was any chance of obtaining funding from NOAA or any other agency that supports water safety, in terms of the potential Marine Patrol aspect of the positions.

Commissioner Oliver made a motion to approve two additional full-time SRO positions.

The motion passed unanimously.

Items of Consent

1. Historic Beaufort Road Race
2. Minutes

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

The motion carried unanimously.

Items for Discussion and Consideration

1. Case # 22-12 AA Storage Site Plan

Kyle Garner, Planning and Inspections Director, presented the site plan review at 2176 Live Oak Street. He indicated the request was to construct a mini storage facility totaling 150,567 square feet and includes: (4) one-story climate-controlled buildings, each totaling 24,000 square feet; (1) one-story covered open air storage area totaling 52,967 square feet; and (1) two-story office totaling 1,600 square feet. He shared the applicant was the Cullipher Group for Rosemyr Corporation. Mr. Garner shared as part of the Special Use Permit, the applicant agreed to install a 30-foot-wide landscape buffer between the facility and adjoining residential properties along Piver Road. He confirmed the site had already been annexed, rezoned, and received a Special Use Permit for the Mini-Storage Facility. Mr. Garner noted in the engineer's plans for the project, he included the impacts of stormwater on down stream properties. Mr. Garner confirmed the project meets the designed criteria required in the LDO and the Planning Board staff recommended approval at their June 20th meeting. He noted the applicant and engineer were present to answer any questions from the Board.

Commissioner Hagle had questions about lighting and air condition noise from a neighboring standpoint.

Bill Coffey, with The Rosemyr Corporation, spoke on the site plan and addressed the lighting questions. He explained the lighting would be primarily be in the driveway and should not impact the neighbors on the back side. He said there would most likely be lighting on the corners of the building for safety precautions; they would be directed down. He noted they would be very mindful of surrounding neighbors. He explained the air condition units would be roof mounted, noting there had been no complaints about noise in other locations.

Commissioner Hollinshed asked if the security lights on the corner motion would be triggered.

Mr. Coffey said they would probably come on at dusk and go off at dawn. He noted the hours of operation were 7 am - 10 pm, unless the customer has 24-hour access. He explained where the office and gated areas would be located and noted there would be an onsite manager.

Commissioner Cooper confirmed stormwater had been engineered.

Commissioner Oliver suggested the use of down lighting, especially if they were LED lights.

Commissioner Hagle made a motion to approve the site plan as presented.

The motion carried unanimously.

2. FY 2023 Budget Amendment #1 and Capital Reserve Fund Amendment #13

Mr. Clark explained the request was to approve FY 2023 Budget Amendment #1 and Capital Reserve Fund Amendment #13 in the amount of \$60,000. This proposal was to construct water and sewer lines at the Pruitt Healthcare Facility. He noted this had been an item of discussion at the previous meeting and the Board instructed the Town Attorney to investigate the matter further, to determine whether the Town was obligated to provide funding.

Arey Grady, Town Attorney, shared after reviewing the records the Town has regarding the matter, it was apparent previous management made a promise to run water and sewer lines under Highway 70; he confirmed the property owner had an understanding it was the Town's obligation to fund the project.

Commissioner Oliver noted that this was presented as an economic incentive agreement offer in 2018; he asked Mr. Grady to confirm the policy would not change for future projects in terms of agreeing to provide assistance boring under the road, or with utility cost.

Mr. Grady said that it would not change the policy on a staff level regarding how they deal with water and sewer connections. He explained this was a isolated special situation and any future economic incentives would be on a case by case basis at the Board's discretion.

Commissioner Terwilliger made a motion to approve the FY2023 Budget Amendment #1 and Capital Reserve Fund Amendment #13.

Voting Yea: Commissioner Hagle, Commissioner Cooper, Commissioner Terwilliger, Commissioner Hollinshed.

Voting Nay: Commissioner Oliver

The motion carried with a 4-1 vote.

Commissioner Hollinshed made a motion to award the to Atlantic On-Site Development, LLC in the amount of \$59,337.00

Voting Yea: Commissioner Hagle, Commissioner Cooper, Commissioner Terwilliger, Commissioner Hollinshed.

Voting Nay: Commissioner Oliver

The motion carried with a 4-1 vote.

Public Hearing

1. Rezone 801 Mulberry Street totaling 15.87 acres from TR to PUD With Master Plan

Commissioner Hagle made a motion to open the floor for a Public Hearing.

The motion carried unanimously.

Mr. Garner presented Case # 22-11 and explained the request was to rezone 15.87 acres from Transitional (TR) zoning to Planned Unit Development (PUD) with a Master Plan, with 3.55 acres to be open space. He shared the proposed request included 5.5 Dwelling Units per acre, 42 Duplex Units, 36 Condominium Units, and 10 mixed use units. He pointed out the request did not include any variances from the standards of the ordinance or amendments to the CAMA Map. He noted the proposed density is close to the Medium Density of five units per acre, confirming staff received approval from the CAMA District Planner.

Mr. Garner reported, as requested by the Board, staff met with the developer and their engineer on June 3, 2022; he shared the below highlights of the conversation:

- The developer will provide a 15-foot-wide easement along the eastern portion of the property to the wood line, and they will provide an easement through the wood line to the County property on the west. The Town has agreed that when the trail is constructed, they will install a fence at the rear of the proposed residential lots to provide privacy and a barrier.
- Mr. Garner also shared at their May 16, 2022 meeting, the Planning Board recommended unanimously the Rezoning to PUD with Master Plan and attached three recommended conditions:
- The developer work with the Town to provide an easement or dedication of a multi-use path area for the construction of a multi-use trail as included in the adopted Bicycle & Pedestrian Plan.
- The buffer area identified on the master plan be retained as a natural and that the density shown on the Master Plan is not exceeded.

- The mixed-use structures be submitted as site plans for review by the Planning Board and Board of Commissioners.

Mr. Garner shared some maps regarding the project and noted the applicant/engineer was present and available to answer questions.

Commissioner Hagle had questions regarding future maintenance of the proposed open space and roads within the development.

Ron Cullipher with the Cullipher Group explained initially the developer would be responsible those duties would eventually transfer to the HOA. He also noted the extension of Marsh Street would be public and the other internal drives would be private.

Commissioner Oliver noted some of the property was in the 100 Year Floodplain and asked what mitigation efforts would be taken to handle that.

Mr. Cullipher explained they would be raising the site to keep the structures above floodplain requirements, while also meeting all Town rules and regulations of the road system.

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

Logan Louis, 900 Cedar Street in Beaufort, suggested several benefits of an affordable housing zoning ordinance. He discussed potential statistics associated with the proposed rezoning and future project, if affordable housing was taken into consideration. He requested the Commissioners include a condition to any motion made; such condition would require the property owner meet and discuss in good faith with the Beaufort Housing Coalition, the possibility of voluntarily complying with the draft Town of Beaufort affordable housing zoning ordinance and involve the Town staff if and only when voluntary compliance is likely.

Commissioner Hagle made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Cooper expressed the need for affordable housing in Beaufort. He made a motion that Ballou-Lewis Properties, owner of 801 Mulberry Street, have a discussion with Beaufort Housing Coalition regarding affordable housing.

Voting Yea: Commissioner Cooper

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

The motion was denied with a 1-4 vote.

Commissioner Hagle made a motion to approve the rezoning request at 801 Mulberry Street, along with the plan and conditions recommended by the Planning Board.

The motion carried unanimously.

Quasi-Judicial Proceeding

1. Variance Request for Salt Wynd Preserve Cul-de-sac Length

Commissioner Hollinshed made a motion to open the Evidentiary 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 Subdivision Ordinance and state statutes and based on the facts presented. Any variance granted must meet the criteria established by the Town's Subdivision Ordinance and state statutes. 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.

Mayor Harker asked if there were any individuals that wished to testify as a witness, not associated with the Town or the applicant.

There were none.

Mayor Harker asked if there were any individuals who believe they qualify as parties with standing.

There were none.

Mayor Harker asked the Town Clerk to administer the oath to the Town's representative and the applicant.

Ms. Lewis administered the oath to Kyle Garner and Josh Johnson.

Mayor Harker called for disclosures by Commissioners of any ex parte communication, bias and conflicts of interest.

There were none.

Mr. Garner presented Case #22-05 as a variance request from the Town's Subdivision Ordinance. He explained the request was an extension of street for a cul-de-sac greater than 500 feet, to 765 feet, for Salt Wynd Preserve Phase 2. He noted the staff report included in the meeting packet references a request of 750 feet, but it should be 765

feet. He shared and discussed the attached associated maps that are entered as part of the record, see *Exhibit A*.

Mr. Garner continued by presenting the facts of the case as listed below:

- The property is zoned R-20 (Residential 20)
- The proposed length of Salt Wynd Point is 765 feet, which is more than allowed, per Section 9.16 of the Town's Subdivision Ordinance.
- There is an area of wetlands to the south.
- There are other cul-de-sacs longer than 500 feet, however they are part of Planned Unit Developments
- Legal Notices were Published on June 29th & July 6th and the sign was posted June 30th.

Mr. Garner reviewed the findings required to grant a variance and noted that staff stands behind the ordinance requirement of limiting the street length of a cul-de-sac to 500 feet, suggesting an alternate design could be done to encompass the 500 feet maximum length.

Commissioner Cooper noted he believed they should stand behind the ordinances.

Commissioner Terwilliger asked why 500 feet was the selected length.

Mr. Garner suggested it was a typical standard throughout subdivisions in North Carolina, pointing out ingress/egress must be considered from a safety standpoint.

Commissioner Terwilliger noted Mr. Garner mentioned an alternative design could be done and asked if he believed that design would encompass the same number of parcels.

Mr. Garner said he believed it could be done close to the same number of parcels, but emphasized he was not an engineer nor a designer.

Commissioner Oliver asked for confirmation on procedure, noting the property was in the ETJ and the plans had not yet been approved; he asked Mr. Grady if they could consider this request now.

Mr. Grady confirmed there was not an issue with the Board of Commissioners considering the variance request even though the Planning Board has not acted on the plat yet. He explained it was the applicant's choice as to which request to pursue first.

Commissioner Oliver asked questions regarding the future street access on the road being discussed.

Mr. Garner explained it had been submitted as part of the preliminary plat and there was not any future roads on the property to the north of it, as it is undeveloped.

Josh Johnson suggested the map Mr. Garner was referencing was not the map submitted with the proposed variance application and the correct map was on page 110.

Mr. Garner said he felt confident both maps did not meet the 500 feet requirement.

Mr. Johnson apologized for the confusion and noted two maps were submitted, one with the requested variance and the other than Mr. Garner reference, which had a future stubbed out street to an undeveloped parcel. He explained the stubbed out section left a 500 foot span to the cul-de-sac at the end; they felt that may meet the Town's criteria. He said it did include one additional lot in the configuration. Mr. Johnson went on to reference that the Town Ordinance states the variance allots for deviation as necessitated by topography, noting there was wetlands to the southern and property line to the north, and a jurisdictional tributary that stretches all the way to Live Oak Street. He explained they did not want to cross wetlands to access the property.

Commissioner Hagle said the map they were looking at was also 765 feet, just as Mr. Garner's map referenced, noting they were essentially the same, except for the removal of the future street.

Mr. Johnson confirmed that was correct.

Commissioner Oliver clarified Mr. Johnson's request was for the Board to consider as described by Kyle, the street at 765 feet.

Mr. Johnson confirmed the 765 feet but again referenced the depiction on page 110 of the meeting packet. He explained they would like to have the open space with the eye brow loop at the front of the property. He shared the property had been requested for annexation, the application had been submitted, and they had received the okay from the Fire Marshall regarding the extended cul-de-sac.

Commissioner Hagle asked for clarity on why a longer street was needed.

Mr. Johnson explained they could utilize the full extend of the peninsula of properties that are isolated by wetlands, without having to cross the wetlands for access.

Commissioner Hagle asked if they would lose lots if the street was shorter.

Mr. Johnson confirmed that was correct, approximately four lots.

Commissioner Hollinshed asked for clarity on how someone would get to the proposed street.

Mr. Johnson confirmed it would be through Bay Court.

Commissioner Cooper questioned why the request was submitted before the plat was approved.

Mr. Johnson explained Town staff advised them to seek the variance approval through the Board of Commissioners, before taking the preliminary plat to the Planning Board.

Commissioner Terwilliger suggested it was difficult to find a reason to approve the variance, simply because there is not a general loss of the property if denied, meaning there is no hardship. He noted the guidelines for granting a variance are very clear, and he did not believe the Town Ordinance would allow the Board to approve the request.

Commissioner Oliver asked what the length of the highlighted yellow area on page 110 represented.

Mr. Johnson explained the length incorporated a 100 foot diameter cul-de-sac, with the start of the cul-de-sac to the intersection of Bay Court being 765 feet.

Commissioner Hollinshed made a motion to close the Evidentiary Hearing.

The motion carried unanimously.

Mayor Harker read the four Findings of Fact for a Variance:

- Unnecessary hardship would result from the strict application of the Ordinance. (It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.)
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)
- The hardship did not result from actions taken by the applicant or the property owner (the act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship).
- The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

Commissioner Terwilliger said having reviewed the record and having considered all evidence submitted and oral testimony for Case #22-05 I move that the Board of Commissioners conclude the application fails to meet the following standards for a variance and a variance is not appropriate because the following standards have not been met: (a) The request does not demonstrate an unnecessary hardship would result from the strict application of the Ordinance. (b) The hardships results from conditions that are not unique to this property and are fairly ubiquitous throughout the area, so there is no specific hardship that results. (c) The hardship does not result from actions taken by the applicant or the property owner; it is not their fault there is nothing there. (d) The requested variance is not consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved; the Ordinance states 500 feet and the applicant has not demonstrated any reason to go against the Ordinance.

The motion carried unanimously.

Commissioner Hagle made a motion to deny the variance based on the Finding of Facts, as all four points do not support the variance.

The motion carried unanimously.

2. Case #22-16 Special Use Permit for a Mini-Storage facility at 1791 Live Oak Street

Commissioner Terwilliger made a motion to open the Evidentiary Hearing.

The motion carried unanimously.

Mayor Harker read 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.

Mayor Harker explained the Town would open up the case and confirmed the applicant was present to speak as well.

Mayor Harker asked if there was anyone in the audience who wished to be a witness.

There were none.

Mayor Harker asked if there was anyone in the audience who wished to participate as a party with standing.

There were none.

Mayor Harker asked the Town Clerk to administer the oath to the Town's representative and the applicant.

Ms. Lewis administered the oath to Kyle Garner and Josh Johnson.

Mayor Harker called for disclosures by Commissioners of any ex parte communication, bias and conflicts of interest.

There were none.

Mr. Garner presented Case #22-16, a Special Use Permit for a Mini Storage facility at 1791 Live Oak. He noted the acreage as 8.51 acres and applicant as Carteret County ABC. He shared Public Notice was provided to surrounding property owners, signs were posted, and legal advertisement was published on June 29, 2022 and July 6, 2022. He shared a zoning and vicinity map, confirming the property is zoned B-1. Mr. Garner shared an additional map that he noted was a survey, not a site-plan or vicinity map. He said there appeared a property line issue that both owners were in the process of resolving, confirming the applicant was aware and could speak to it. He shared at the June Planning Board Meeting, the Preliminary & Final Plans were tabled until the applicant could show that they had approval to use adjacent property access. *All presentation documents are attached and part of the record as Exhibit B.*

Commissioner Hagle confirmed the access would be off Live Oak onto the north east side of the ABC Store, on the existing driveway.

Commissioner Hollinshed asked Mr. Garner to speak on the dispute over the property line.

Mr. Garner suggested it was not uncommon for there to be a small discrepancy, but noted the Board could put a condition on the Special Use Permit that would not allow it to go into effect until the dispute over the property line was settled.

Commissioner Terwilliger agreed that condition should be placed on the Special Use Permit if approved. He noted there were multiple storage units in the area, questioning the continued need for them.

Commissioner Cooper shared similar concerns regarding the number of storage units in Beaufort.

Commissioner Oliver suggested also attaching a condition that addressed access to the property, in connection with the property line that was in question.

Josh Johnson confirmed there was a gap present along the property line, noting the owners had engaged with attorneys to get a property line agreement in place. He shared there was a letter confirming agreement of an access easement from the driveway to the north; the ABC Store as part of contract and terms of sale, has agreed to an access easement through the southern side of their parking lot as well. He noted the access on the north side was not depicted on the map provided in the meeting packet, but it would be a combined access for emergency vehicles to have two places to get through. He pointed out there were many communities that did not allow boat storage parking in their driveways or on the streets, noting the need for storage buildings. He shared about one-third of the property was going to be indoor boat storage; 40 units, 50x15. He confirmed his client was prepared to meet all of the recommendations set forth by the Planning Board but did request the Sunset Clause be no less than 5 years due to the mitigation

process. He shared the Planning Board thought it was an appropriate use and liked that it was on the back of the property.

Commissioner Hollinshed made a motion to close the Evidentiary Hearing.

The motion was approved unanimously.

Commissioner Hagle said having reviewed the record and having considered all evidence submitted and oral testimony for Case #22-16, I move that the Board of Commissioners conclude the pending application meets the following standards under the Land Development Ordinance for the Town of Beaufort and is appropriate in the proposed location and has met the following:

- a) The proposed use is an allowable special use in the zoning district it is being located within;
- b) The application is complete;
- c) The location and character of the use will be in conformity with the Town's land use plan and other comprehensive planning elements;
- d) Streets, driveways, parking lots, traffic control, and any other traffic circulation features shall be designed and provided in accordance with the current traffic engineering standards and Town regulations and found to be adequate for the proposed special use;
- e) The proposed special use will not substantially injure the value of adjoining or abutting properties;
- f) The proposed special use will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area; and
- g) The proposed use will not materially endanger the public health or safety of the community if located where proposed and developed according to the submitted and approved plan.

The motion carried unanimously.

Commissioner Terwilliger said based upon the foregoing Findings of Fact, I move that the Board of Commissioners conclude that the proposed special use is compliant with the requirements of Section 20 of the Land Development Ordinance and that the special use application for case #22-16 be approved.

The motion carried unanimously.

Commissioner Terwilliger made a motion for the Board of Commissioners to attach the following conditions to the approval of Case #22-16 Special Use Permit that was discussed previously; those conditions are: 1) Attach a Sunset Clause that would expire 5 years from the final review of the plans; 2) That the approval would not take effect until such time as the property boundary dispute that is currently in play is settled appropriately.

The motion carried unanimously.

3. Case # 22-11 PUD Old Beaufort Elementary School - SUP

Commissioner Hagle made a motion to go into the Evidentiary Hearing.

The motion carried unanimously.

Mayor Harker read 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.

Mayor Harker explained the Town would open up the case and confirmed the applicant was present to speak as well.

Mayor Harker asked if there was anyone in the audience who wished to be a witness. There were none.

Mayor Harker asked if there was anyone in the audience who wished to participant as a party with standing. There were none.

Mayor Harker asked the Town Clerk to administer the oath to the Town's representative and the applicant.

Ms. Lewis administered the oath to Kyle Garner and Ron Cullipher.

Kyle Garner presented Case #22-11 at 801 Mulberry Street. He explained the Special Use Request was for multiple uses in the PUD: duplexes, condominiums, mixed use, event center, and catering kitchen/restaurant. He shared there are no permitted uses by right and the applicant must request each use be approved as a Special Use Permit.

Commissioner Hollinshed asked if they could be approved as a blanket or was separating the uses required.

Mr. Garner confirmed a blanket was acceptable.

Ron Cullipher shared he was representing Ballou-Lewis Properties who was requesting approval of the Special Use Permit for the uses that were previously mentioned, noting those uses are all incorporated as part of the site plan. He said they feel the plan fits in with the neighborhood and meets all of the criteria for the required findings.

Commissioner Cooper asked if it would be possible to have a conversation with the Beaufort Housing Coalition.

Mr. Cullipher said he was aware of the request and explained his clients would have to make that decision.

Commissioner Oliver emphasized there was a certain portion of the property in the 100 Year Floodplain, and asked what recommendations Mr. Cullipher would make to the developer to mitigate any problems that may be in that area.

Mr. Cullipher recommended elevating the site above the floodplain.

Commissioner Hagle made a motion to close the Evidentiary Hearing.

The motion passed unanimously.

Commissioner Hagle said having reviewed the record and having considered all evidence submitted and oral testimony for Case #22-11, I move that the Board of Commissioners conclude the pending application meets the following standards under the Land Development Ordinance for the Town of Beaufort and is appropriate in the proposed location and has met the following:

- a) All of the proposed uses that are in the application are allowable special uses in the zoning district it is being located within;
- b) The application is complete;
- c) The location and character of the uses will be in conformity with the Town's land use plan and other comprehensive planning elements;
- d) Streets, driveways, parking lots, traffic control, and any other traffic circulation features shall be designed and provided in accordance with the current traffic engineering standards and Town regulations and found to be adequate for the proposed special uses;
- e) The proposed special uses will not substantially injure the value of adjoining or abutting properties;
- f) The proposed special uses will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area; and
- g) The proposed uses will not materially endanger the public health or safety of the community if located where proposed and developed according to the submitted and approved plan.

The motion carried unanimously.

Commissioner Hollinshed said based upon the foregoing findings of fact, I move that the Board of Commissioners conclude that the proposed special use is compliant with the requirements of Section 20 of the Land Development Ordinance and that the special use application for Case #22-11 be approved, provided that the following conditions are made: 1) That in good faith, the developers negotiate with the Town of Beaufort, some

type of agreement on the Trestle Walk property; 2) That the fence be installed by the Town of Beaufort as part of the Trestle Walk project, after an agreement is in place.

The motion carried unanimously.

Mayor/Commissioner Comments

Commissioner Hagle commended those who attended and helped facilitate the Independence Day Parade. He shared he was excited to hear the Bulkhead Channel Dredging project was on schedule, as other projects happening throughout Town. He expressed the need for all those on the street to be patient and share the road.

Commissioner Hollinshed also applauded hard work and the great turn out for the 4th of July Parade. She noted the pedestrian signs that have been added to the corner of several crosswalks seem to be helping.

Commissioner Cooper expressed his gratitude to the Fire Department for the Raising of the Flag Ceremony prior to the 4th of July Parade start. He shared a recent tour he took of the Rachel Carson Reserve and noted the importance of preserving that area.

Commissioner Terwilliger made a motion that the Town staff be directed to develop a plan and move forward expeditiously with this implementation to: 1) convert the intersection of Live Oak and Ann Street from a two-way stop to a full four-way stop sign 2) install signage at the intersection of Live Oak and Broad Street that clearly states that traffic must yield to pedestrians in crosswalks.

The motion passed unanimously.

Commissioner Terwilliger made a motion that the Town staff be directed to develop the modifications needed for the LDO and subdivision ordinance to ensure that all requests coming before the Planning Board are required to obtain approval from the Board of Commissioners. The draft of the revised language should be presented to the Board of Commissioners at the August Work Session Meeting, for the appropriate review and consideration.

The motion passed unanimously.

Commissioner Oliver commended those in Town who helped make the 4th of July events run smoothly, specifically Susan Sanders. He requested an update on the house located at 104 Chestnut Street.

Mr. Garner shared there was movement on the property, noting the grass has been cut and repairs have been made on the structure. He said the Town was working with them and they were putting together a plan of anticipated improvements; reporting they had been given 30 days to comply, which would roughly be at the end of August. He shared it was still in the foreclosure process, but the agency knew the Town was taking a serious stance.

Commissioner Hagle noted the structure at 111 Fulford Street was decaying quickly and needed to be addressed by Town Staff.

Mayor Harker also expressed her thanks to Town Staff and others who were involved in all of the 4th of July festivities. She too noted the pedestrian signs located at various crosswalks were proving to be successful. She ended by speaking about the need for affordable housing, suggesting there are many older homes in the area that could be repaired rather than demolished.

Adjourn

Commissioner Hagle made a motion to adjourn the meeting at 9:16 p.m.

The motion carried unanimously.

Sharon Harker, Mayor

Elizabeth Lewis, Town Clerk

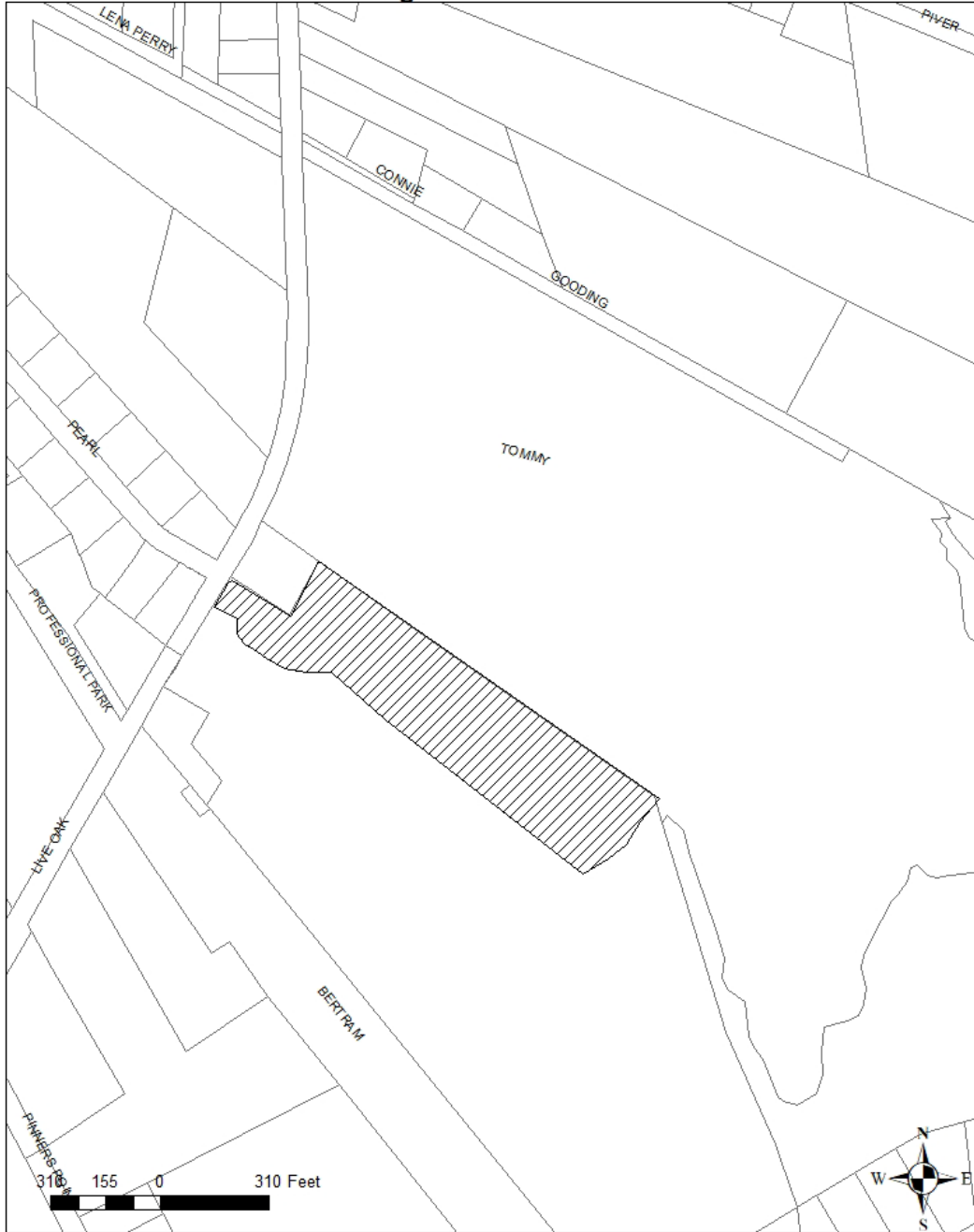
Exhibit A- Case #22-05
Presentation

Case #22-05

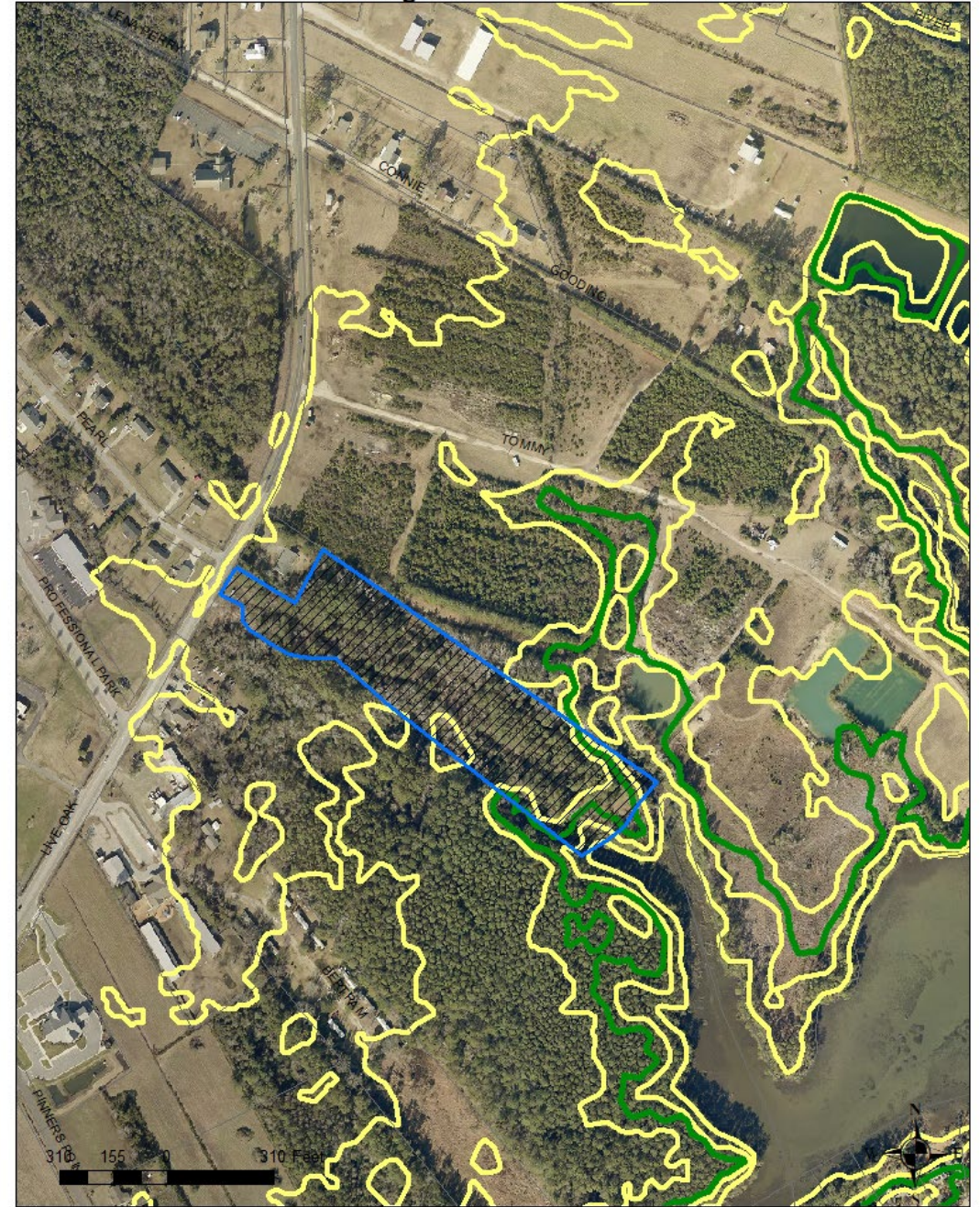
Variance Request – From Town’s Subdivision Ordinance
Extension of Street with Cul-de-sac greater than 500 feet to 765 feet
For Salt Wynd Preserve Phase 2



Case # 22-05 Variance Request Salt Wynd Preserve Phase 2
Cul-de-sac Length from 500 feet to 765 feet



Case # 22-05 Variance Request Salt Wynd Preserve Phase 2
Cul-de-sac Length from 500 feet to 765 feet

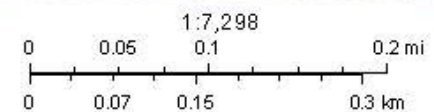
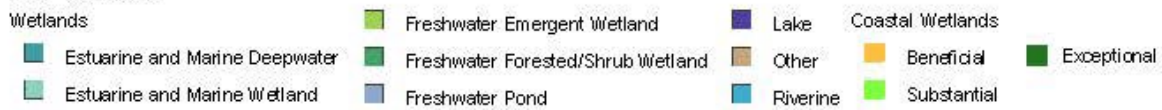


Salt Wynd Preserve Wetlands



July 11, 2022

Wetlands



U.S. Fish and Wildlife Service, National Standards and Support Team, wetlands_team@fws.gov, NC CGIA, Maxar

SALT WYND PRESERVE

PHASE TWO

BEAUFORT, CARTERET COUNTY, NORTH CAROLINA



VICINITY MAP
SCALE: 1"=100'

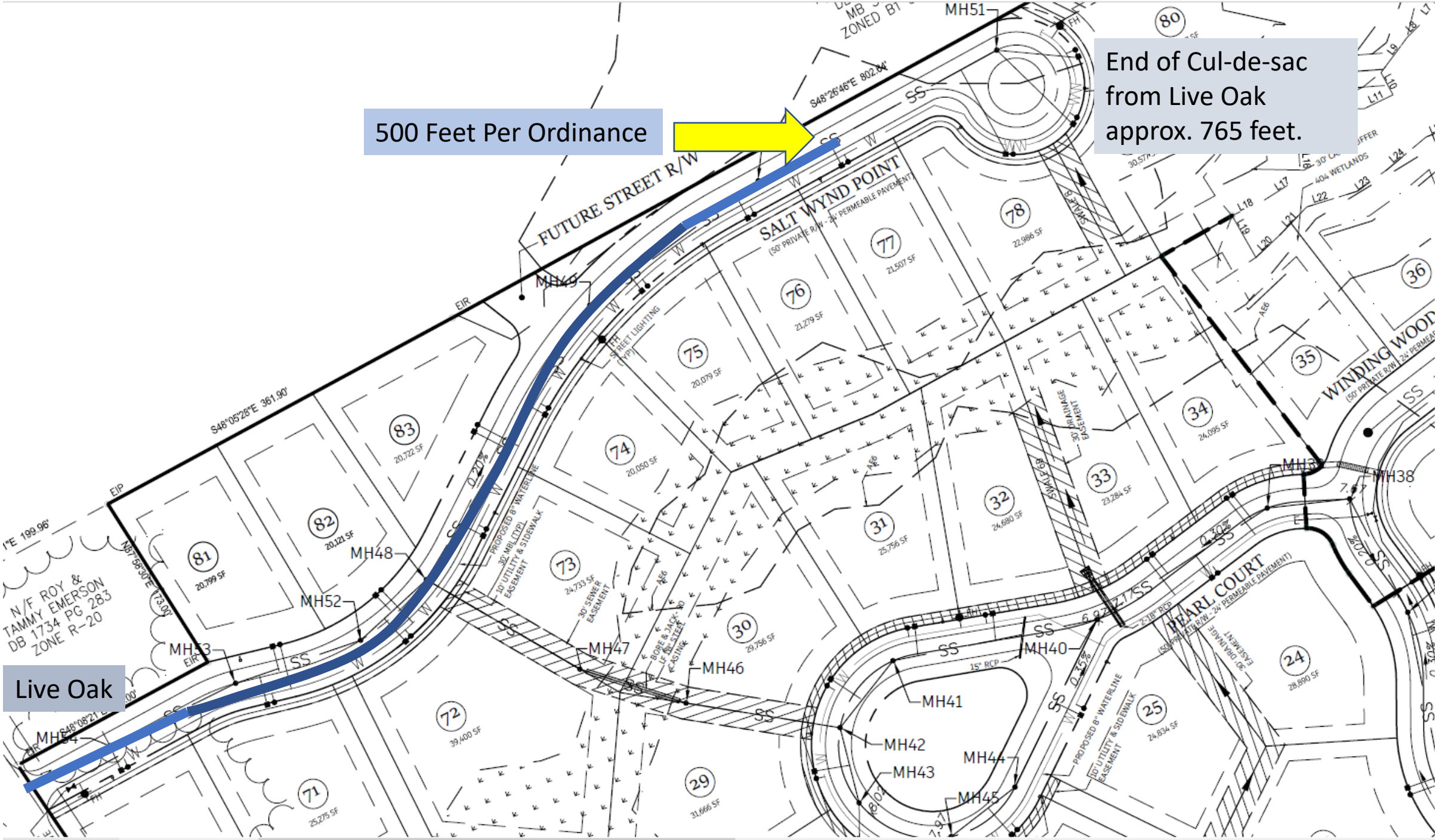
SHEET INDEX	
SHEET C1	COVERSHEET/SHEET INDEX
SHEET C2	OVERALL PRELIMINARY PLAT
SHEET C3	PRELIMINARY PLAT
SHEET C4	WINDING WOODS PLAN & PROFILE
SHEET C5	PEARL COURT PLAN & PROFILE
SHEET C6	SALT WYND POINT PLAN & PROFILE
SHEET C7	WATER DETAILS
SHEET C8	SEWER DETAILS
SHEET D1	DRAINAGE PLAN
SHEET D2	DRAINAGE AREA PLAN
SHEET D3	DRAINAGE DETAILS
SHEET E1	STREET LIGHTING PLAN

500 Feet Per Ordinance



End of Cul-de-sac from Live Oak approx. 765 feet.

Live Oak



Facts:

- The property is zoned R-20 (Residential 20).
- The proposed length of Salt Wynd Point is 765 feet which is more than allowed (500 feet Section 9.16 unless necessitated by topography).
- There is an area wetlands to the south.
- There are other cul-de-sacs longer than 500 feet, however they are part of Planned Unit Developments

Legal Notice Published:

June 29th & July 6th

Sign Posted June 30th

Required Findings

Sec. 6. Variances.

The board of commissioners may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the board of commissioners shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the board of commissioners finds:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of land.
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- (4) That the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which said property is situated.

Requested actions

- Conduct a Evidentiary Hearing
- Making of Findings of Fact
- Decision on Variance Request



Exhibit A- Case #22-16
Presentation

Case #22-16

Special Use Permit - Mini Storage 1791 Live Oak



**Request: To allow Mini Storage
in a B-1 Zoning
District**

Location: 1791 Live Oak

Acreage: 8.51 Acres

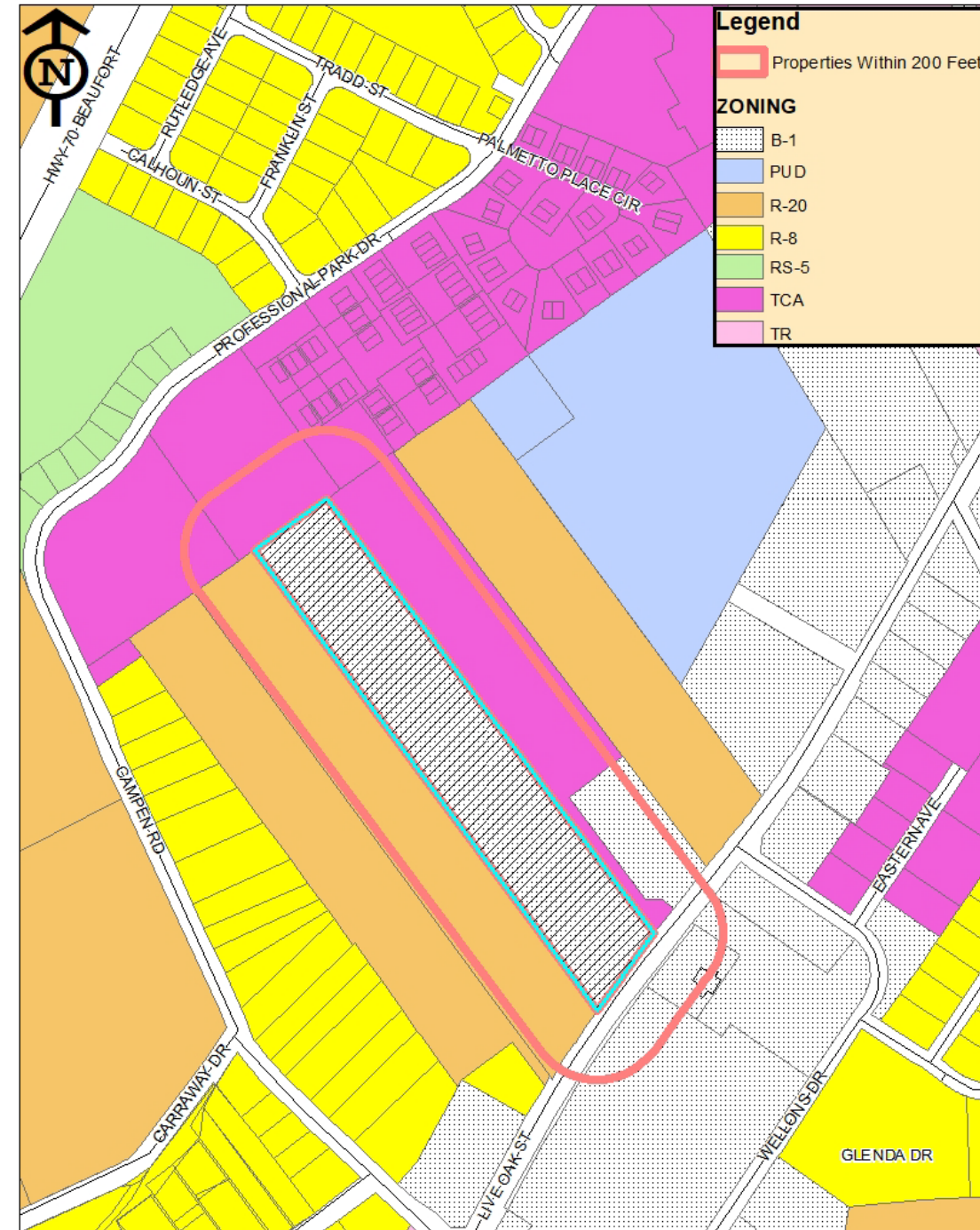
Applicant: Carteret County ABC

In accordance with the **Town of Beaufort Land Development Ordinance**, **Public Notice** was provided via

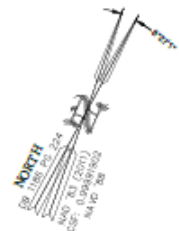
9 - Letters Mailed to property owners included in rezoning area and those within 200 feet. Information based on Carteret County GIS.

Signs - Posted on June 30th

Legal Advertisement – Wednesday June 29th & July 6th 2022



PRELIMINARY
NOT FOR SALES OR RECORDATION



NEIGHBORHOOD MAP (NOT TO SCALE)

LEGEND

- R/W = RIGHT-OF-WAY
- CP = COMPUTED POINT BY DEED
- EP = EXISTING IRON PIPE
- EF = EXISTING IRON ROD
- EN = EXISTING NAILON NAIL
- ER = EXISTING RAILROAD SPIKE
- BOUNDARY LINE
- NON-SURVEYED LINE PLATTED BY DEED
- EX. RIGHT-OF-WAY
- EX. EASEMENT LINE

NOTES

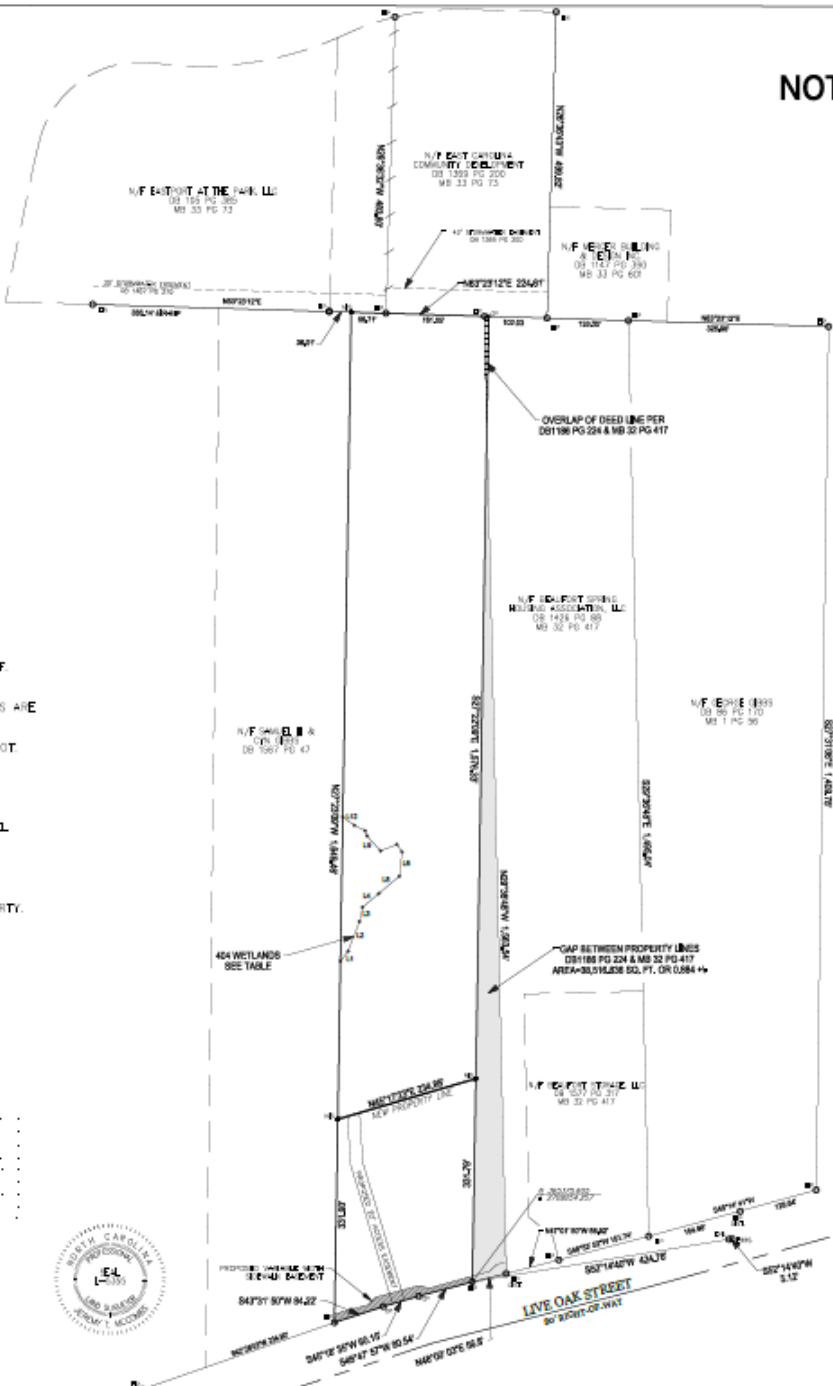
- ALL AREAS CALCULATED BY COORDINATE GEOMETRY. AREA = 361,496.551 S.F. OR 8.30 +/- ACRES ON LAND.
- ALL BEARINGS ARE BASED ON DEED BOOK 1186 PAGE 224 AND COORDINATES ARE BASED ON N.C. STATE PLANE COORDINATE SYSTEM, NAD 83 (2011).
- ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES. UNITS: US SURVEY FOOT.
- THIS PARCEL IS ZONED D-1 PER THE TOWN OF BEAUFORT UNIFIED DEVELOPMENT ORDINANCES.
- THIS PROPERTY IS LOCATED IN FLOOD ZONE DESIGNATIONS: SHADDED "X" AS DETERMINED BY THE NATIONAL FLOOD INSURANCE PROGRAM. FIRM PANEL 3720730600L DATED 7/16/2003.
- 404 WETLANDS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS PER ACTION ID: SAR-2017-00741.
- NO NOS HORIZONTAL MONUMENT WITHIN 2,000 FEET OF THE SUBJECT PROPERTY.

I, JEREMY T. MCCOMBS, CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY OF THE DESCRIPTION(S) AS RECORDED IN DEED BOOK 1186, PAGE 224, THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS SHOWN AND WERE PLOTTED FROM INFORMATION AS REFERENCED HEREON: DB 1567 BK 47, MB 31 PG 264; MB 32 PG 417; MB 33 PG 73; MB 33 PG 601 THAT THE RATIO OF PRECISION WAS 1:10,000+ AND THAT THE GLOBAL NAVIGATION SATELLITE SYSTEM (GNSS) WAS USED TO PERFORM A PORTION OF THIS SURVEY AND THE FOLLOWING INFORMATION WAS USED:

(1) CLASS OF SURVEY	CLASS A
(2) POSITIONAL ACCURACY	2.50"
(3) TYPE OF GPS SURVEY	RTK
(4) DATE OF SURVEY	1-1-2022
(5) DATUM/PROJ	NAD83(2011)
(6) PUBLICITY/PROJ-COMPL USE	NO
(7) DEED MODEL	2016
(8) COMBINED GRID FACTOR(S)	0.99991903
(9) UNITS	US SURVEY FOOT

I FURTHER CERTIFY THIS IS A SURVEY OF AN EXISTING PARCEL OR PARCELS OF LAND OR ONE OR MORE EXISTING EASEMENTS AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET THAT THIS PLAT MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600) AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30(F)(1) AS AMENDED. WITNESS MY HAND AND SEAL THIS 20TH DAY OF MAY, A.D. 2022.

JEREMY T. MCCOMBS PLS L-5355



404 WETLAND TABLE		REFERENCES
L1	N09°12'25"E 20.36'	- DEED BOOK 1567 PAGE 47
L2	N07°05'08"W 32.05'	- MAP BOOK 1 PAGE 56
L3	N16°40'22"W 23.81'	- MAP BOOK 30 PAGE 757
L4	N21°36'05"E 34.54'	- MAP BOOK 31 PAGE 260
L5	N21°35'28"E 44.21'	- MAP BOOK 31 PAGE 723
L6	N22°16'13"W 39.64'	- MAP BOOK 31 PAGE 794
L7	N01°40'28"W 14.76'	- MAP BOOK 31 PAGE 905
L8	S40°55'14"W 28.92'	- MAP BOOK 32 PAGE 32
L9	N70°48'31"W 32.31'	- MAP BOOK 32 PAGE 417
L10	N48°45'39"W 9.49'	- MAP BOOK 32 PAGE 454
L11	S88°36'00"W 19.60'	- MAP BOOK 31 PAGE 905
L12	N83°25'32"W 23.03'	- MAP BOOK 32 PAGE 73
		- MAP BOOK 33 PAGE 466
		- MAP BOOK 33 PAGE 508
		- MAP BOOK 33 PAGE 601

SUBDIVISION PLAT OF
TRACT #3 TOM GIBBS SUBDIVISION
REFERENCE: DB 1186 PG 224 PIN: 730612858893000
BEAUFORT, CAROLINA COUNTY, NORTH CAROLINA

OWNER: CAROLINA CO BD OF ALCOHOLIC CO SURVEYED: 8/8/AC

ADDRESS: 1791 LIVE OAK STREET DRAWN: JTM

BEAUFORT, NC 28516 APPROVED: JTM

STROUD ENGINEERING, P.A. DATE: 06/09/2022

422 HIGHWAY 24 MOREHEAD CITY, N.C. 28557 U.C. LICENSE NO. C-0847 SCALE: 1" = 100'

(252) 247-7479

PK3071-001

This property is part of a subdivision plat of the existing ABC Store property and is for the rear portion. If the Special Use Permit is approved by the Board of Commissioners a full Site Plan, to include a stormwater management plan will be submitted for review and then later for approval by the Board of Commissioners.

At the June Planning Board Meeting the Preliminary & Final Plats were tabled until the applicant could show that they had approval to use adjacent property access. Also, there is a property line issue that both owners are in the process of resolving.

SECTION 20 Special Use Permit (*Town of Beaufort Land Development Ordinance*)

E) Required Findings

1) In addition to any other findings or requirements as specified by any other section of this Ordinance, before any application for a special use may be granted or denied, the BOC shall make each of the following findings:

- a) The proposed use is an allowable special use in the zoning district it is being located within;
- b) The application is complete;
- c) The location and character of the use will be in conformity with the Town's land use plan and other comprehensive planning elements;
- d) Streets, driveways, parking lots, traffic control, and any other traffic circulation features shall be designed and provided in accordance with current traffic engineering standards and Town regulations and found to be adequate for the proposed special use;
- e) The proposed special use will not substantially injure the value of adjoining or abutting properties;
- f) The proposed special use will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area; and,
- g) The proposed use will not materially endanger the public health or safety of the community if located where proposed and developed according to the submitted and approved plan.

Requested Action

1. Conduct Quasi-Judicial Hearing
2. Decision on Finding of Facts
3. Decision on Special Use Permit