



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Board of Commissioners Regular Meeting 6:00 PM Monday, March 14, 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.

Pledge of Allegiance

Mayor Harker 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 Cooper

Commissioner Hollinshed

Commissioner Oliver

Commissioner Terwilliger

Agenda Approval

Commissioner Hagle made a motion to approve the agenda.

The motion passed unanimously.

Manager Report

Todd Clark, Town Manager, notified the board of several upcoming agenda items and meeting dates for volunteer boards. He discussed several upcoming events to take place in May and June. He gave an update on a few projects happening around Town as well routine maintenance items.

Public Comment

Janet Woodward, 2217 Lennoxville Road, spoke about the development of Beau Coast, the entrances to that subdivision and the need for a sidewalk down Lennoxville Road. She suggested if there was room for turning lanes in the area, there should be room for sidewalks. She explained people had no where to walk without a sidewalk, and this affects many citizens.

Dale Davis, 133 Piver Road, spoke about an issue with his neighbor regarding the maintenance and upkeep of his yard. He suggested the high grass levels next door caused rodent (rat) problems on his property. He said he expressed concern on this same issue a year ago and was notified the Town could not do anything because he lived in the ETJ area of Beaufort. He requested assistance with this issue moving forward.

Kathy Davis, 133 Piver Road, spoke on the same issue as Mr. Davis, as they reside at the same address. She explained they had also been to a Carteret County Board of Commissioners meeting to express their concerns, and they later sent a letter saying they could not help. She also voiced concern regarding the potential storage buildings being built in the neighborhood, which could potentially make the rat problem worse. She also expressed the health hazard and safety concerns associated with their neighbor's house.

Logan Louis, 900 Cedar Street, discussed the proposed sewer allocation request for Trestle Walk, suggesting it was a bad idea because of its flood zone classification. He voiced his concern with the Town extending utilities to the area. He explained much of Trestle Walk could potentially be underwater years down the road, according to NOAA's Interactive Sea Level Rise Map. He discussed King Tides, and future flooding the Town might face. He also spoke on the ditch along the boarder of the proposed Trestle Walk Subdivision, suggesting it was not a ditch rather than a branch of Town Creek, and expressed environmental concerns in the area. He suggested Trestle Walk should be used as a greenspace area with possible trails and a bridge.

Items of Consent

1. Minutes
2. Year End Parking Program Report

Commissioner Hollinshed made a motion to approve the items of consent as presented.

The motion carried unanimously.

Items for Discussion and Consideration

1. Sewer Allocation Request (Reservation) Proposed Trestle Walk Subdivision Live Oak Street

Greg Meshaw, Town Engineer, presented the sewer reservation request and explained this was for a future project. He explained this was an anticipated 7-lot residential subdivision; at this time, the applicant envisions the lots to have 4-bedroom units, which equates to an allocation of 3,360 gallons per day. He referenced the two maps included in the meeting packet, and reminded the board it was a reservation request, not an allocation of sewer for a project that has permits ready to proceed. He pointed out the applicant has 24 months to obtain proper permits and be prepared to construct the project; otherwise, the reserved allocation reverts to the Town unless the Board grants an extension. Mr.

Meshaw said Greg Moss was present on behalf of Beach Moss Properties LLC and was available to answer any questions.

Commissioner Terwilliger noted citizen's concerns regarding the ditch area and asked if those issues would be addressed moving forward.

Greg Moss, 114 Radley Lane, explained he had already had a preliminary site visit with CAMA, where they received approval for the entrance road of the lot and suggested it would be treated as a rehabilitation project rather than a new construction project. In regard to the ditch mentioned, he suggested a certain portion of it does have some integration with the Town Creek Marsh and explained there were certain guidelines that had to be followed because of that.

Commissioner Terwilliger asked if they had considered future water level in relation to the project.

Mr. Moss said he and his team visited the property during a recent King Tide. He explained the property sits a few feet higher than surrounding properties and the water level did not seem to be an area of concern.

Commissioner Oliver asked if the ditch mentioned was on his property.

Mr. Moss explained he was having the property surveyed in the next few weeks but believed the property line may split the ditch down the middle according to maps examined.

Commissioner Oliver asked if he was aware of any easements.

Mr. Moss said he was not aware of any; he explained there was a culvert that runs between the stormwater ditch and the creek on the north part of the property that will need maintenance. He suggested that would not be a problem after having it professionally surveyed, as they will determine exactly where the lines are located and what areas they are responsible for cleaning.

Commissioner Hagle made a motion to approve the proposed sewer request as presented.

The motion carried unanimously.

2. FY 2022 Budget Amendment 7

Mr. Clark explained this to be a general fund budget amendment that requests the appropriation of fund balance for grant work to be completed for the Waterfront Master Plan in the amount of \$18,000; approval of this amendment authorizes the Town Manager to enter into a contract with Moffatt and Nichol for Grant Support Services. He said it was a recommendation from the Harbor and Waterways Master Plan Advisory Committee.

Commissioner Hollinshed made a motion to approve Budget Amendment 7.

The motion carried unanimously.

3. Voluntary Annexation Request

Ms. Lewis explained the Town received an application for voluntary annexation from Beaufort Agrihood Development, LLC and it was attached for review. She explained

the first step in the annexation process is for the board to adopt a resolution directing the clerk to investigate the sufficiency of the petition requesting annexation. The proposed resolution is listed below.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 17, 2022 by the Town of Beaufort; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town Clerk before further annexation proceedings may take place; and

WHEREAS, the Board of Commissioners of the Town of Beaufort deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Beaufort that:

The Town Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the Board of Commissioners the result of his investigation.

Adopted this 14th day of March 2022.

Sharon Harker, Mayor

Elizabeth Lewis, Town Clerk

Commissioner Terwilliger asked for clarification regarding the term sufficiency in this particular situation.

Arey Grady, Town Attorney, explained the clerk would determine whether or not the petition meets statutory requirements for annexation; if the clerk determines it does meet those requirements, it will go before the board at a later date for a final decision regarding the annexation request.

Commissioner Terwilliger made a motion to approve the resolution.

The motion carried unanimously.

4. NCBIWA Member Appointment

Commissioner Hollinshed made a motion to open the floor for nominations.

The motion carried unanimously.

Commissioner Hollinshed nominated Commissioner Melvin Cooper.

Commissioner Hagle made a motion to close nominations.

The motion carried unanimously.

Mayor Harker confirmed Commissioner Cooper's NCBIWA Member Appointment.

Public Hearing

1. Rezone 1113 Live Oak Street totaling 0.258 acres from R-8 to RS-5

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

The motion carried unanimously.

No one spoke during the Public Hearing.

Commissioner Hagle made a motion to close the Public Hearing.

Kyle Garner, Planning and Inspections Director, explained the request was to rezone 1113 Live Oak Street from R-8 to RS-5. He provided information on the .26-acre lot and shared the vicinity and zoning map provided in the meeting packet. He explained if approved, the requested rezoning would require an amendment to the CAMA Core Land Use Plan Future Land Use Map, as the RS-5 Single Family Residential District is consistent with the High-Density Residential Classification. He added that at their January 18th meeting, the Planning Board recommended the rezoning from R-8 to RS-5 as well as amending the Future Land Use Map, based on the surrounding land use pattern and zoning.

Commissioner Terwilliger said a rezoning should be granted for specific reasons that would require the rezoning. He suggested there was no reason to rezone the lot at this point, based on the application submitted.

Commissioner Hagle asked Mr. Garner to explain the minimum requirements allowed in RS-5 in terms of free space.

Mr. Garner said the RS-5 district was designed to where the amount of impervious surface could not exceed over 50% of the total lot area.

Commissioner Oliver also pointed out the detached garage could be built in the R-8 zoning.

Mr. Garner said if they can meet the setbacks, yes sir.

Commissioner Cooper expressed concerns about the applicants request to rezone, also indicating he can build a garage in the current zoning.

Commissioner Terwilliger made a motion to deny the request, on the grounds that the requester does not need to have a rezoning to accomplish what their stated purpose and objective is within the property.

The motion carried with a (3-2) vote; Commissioner Hagle and Commissioner Hollinshed voting in opposition.

2. Modify/Revise the Existing Planned Unit Development (PUD) for Beau Coast Subdivision

Mr. Garner explained the request was to revise the layout for the Beaufort East Village section of the PUD (now known as Beau Coast West). The revisions are as follows:

- Relocate the planned amenity site eastward from near the Ricks Ave. entrance to the intersection of Leonda Drive and Freedom Park Road
- Expand and revise the initial vision of the amenity center in the new location
- Add alley loaded lots where before all lots were front loaded
- Add on-street parking as needed (per approved street cross sections available via the PUD)
- Revise lot types- Reduce project wide townhome lots by 82; increase single family lots by 88

Mr. Garner went over the Vicinity Map, PUD Master Zoning Plan that were included in the meeting packet. He also pointed out at their February 21st meeting, the Planning Board conducted a hearing and afterward recommended that a Type "B" buffer be installed along the dividing line of the lots in Beau Coast West that abut R-8 and RS-5 lots on Ricks Avenue, Sherwood Boulevard, Fairview, and Willow Street. They also recommended that the minimum rear setback would be 15 feet and the side setback be 8 feet along the dividing line of the lots in Beau Coast West that abut R-8 and RS-5 lots on Ricks Avenue, Sherwood Boulevard, Fairview, and Willow Street. Mr. Garner explained what a Type B buffer consisted of and some examples of screening they were proposing to use.

Commissioner Hollinshed said she felt the proposed revisions were an improvement.

Commissioner Terwilliger agreed with Commissioner Hollinshed and suggested there were some decisions that needed to be made regarding the fencing.

Commissioner Hagle said it would be helpful to have a little more detail about what the proposed changes to the buffers would look like.

Commissioner Oliver confirmed the two neighborhoods were single family and the ordinance did not require buffering in that area.

Commissioner Cooper said he had some questions specifically for the developer regarding fencing.

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

The motion carried unanimously.

Don Mizelle, 219 Station Road Wilmington NC, addressed the group on behalf of Withers Ravenel. He explained they had an existing PUD Master Plan that has been in place since 2008, he suggested the level of detail is excessive, but they wanted to be transparent in their intentions. He explained anytime there were changes made, it required a PUD Amendment. He discussed the proposed revisions before the board, requesting that the side setback not be increased from 5-feet to 8-feet as recommended by the Planning Board. He discussed the difference between each screen buffer, and what was proposed throughout the plan.

Commissioner Hollinshed asked for an explanation of the force main that runs under the property. She also asked who would maintain the buffer.

Mr. Mizelle explained there was an existing underground sewer force main that was located on the back of the lots. He said there was an easement, and it was in the benefit of the Town of Beaufort to maintain and repair the force main in perpetuity. He explained buffering in that area would impede access for the Town. He said the common buffers would most likely be maintained by the HOA.

Commissioner Terwilliger asked if an 8-foot fence height was an option.

Mr. Garner explained because it was a PUD, if the board could specify the 8-foot fence height if that is what they preferred, but generally the maximum height is 6-feet.

Commissioner Oliver asked who owned the land where the sewer line ran.

Mr. Mizelle said the developer owns the land and the Town has an easement on top of that deed.

Commissioner Oliver confirm that the easement was in perpetuity and there is no other use, access, or planting allowed within that easement because it has been dedicated to the Town of Beaufort; he also suggested the easement was in place before the developer purchased the property many years ago.

Commissioner Cooper asked if the force main they were referencing was connected to George Street.

Mr. Mizelle asked his project engineer, Joe Boyd, to address that question.

Mr. Boyd said they would not use anything sewer wise, but they are connected to a waterline on George Street.

Commissioner Cooper expressed his concern and opposition of fences in a neighborhood.

Karl Blackley, President at Preston Development Company, 105 Weston Estates Way, Cary NC, gave some background on the Beau Coast Subdivision project that started in 2008. He pointed out the area had been annexed and the Town was receiving the tax base. He suggested he and his development team try to do the right thing and are willing to work with the Town in anyway. He addressed the fencing concerns and explained the space issues they faced within the area.

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

Janet Woodward, 2217 Lennoxville Road, spoke about the changes which would remove the Town Homes and replace them with Single Family homes. She suggested the Town Homes would result in a less expensive product for consumers and provide diversity in the community. She suggested removal of the Town Homes would be eliminating a portion of buyers. She expressed her dislike of gated communities and suggested these areas excluded other people throughout Town.

Suzanne Lea, 206 Ocean Street, expressed her concern regarding safety issues on Lennoxville Road. She shared that she made several comments at the February 21st Planning Board meeting regarding the preliminary plat for Phase 1 of Beau Coast West Village; with that, she discussed safety concerns involving the corner of Ocean and Lennoxville, where the multi-use path was proposed to cross. She said there was a multi-use pathway incorporated based on discussion presented in 2015; this would allow people to be able to continue on the bike/walking/stroller path. She suggested the need has intensified now that Lennoxville Road cannot be used as a pedestrian way and pointed out the need for a safety area for people to cross. She suggested lot 55 could be an avenue for a safety area in the future.

Chris Vasko, 113 A Sherwood Blvd, shared she was directly affected by the proposal before the board and requested an 8-foot fence versus a 6-foot fence. She suggested the

largest plant buffers possible, given the growth projections. She mentioned there were quite a few options but preferred a faster growing plant/tree. She expressed concern for future unknowns regarding the project as a whole and suggested rejecting the proposal from the developer to allow more time to review the details.

Anne Delvaux, 500 Fairview Drive, expressed her concern regarding the marsh and protection of the area. She suggested there were three lots in the northeast corner that were in a flood zone and voiced her concern about the fragile area and future development. She also pointed out that she called CAMA to verify that permits did exist and was told they expired in 2020.

Dan Kelly, 103 Finch Loop, spoke about PUD's and the unique qualities they can have; he also expressed his support of Mr. Blackley's development. He discussed his personal involvement with the Town over the years and explained changes to plans should be for improvement purposes and the citizens need to understand why.

Daniel Ferrell, 121 Rick Avenue, discussed retention ponds in the development and suggested they were adjacent to the sewer right-of-way, which could cause issues. He expressed concern about an incident that happened a few weeks back, where he indicated it looked like milk in the head waters of Town Creek. He suggested moving the retention pond if there was not enough room for a buffer.

Judd Kenworthy, 109 Holly Lane, expressed his concern for the preservation of Gibbs Creek. He spoke on buffers and how they could be helpful in land and development plans. He also spoke on the need for buffers at the head of Town Creek. He suggested the buffer problem could be solved by modifying the ordinances to ensure the landscape is not cleared out completely and the environment is protected.

Commissioner Hollinshed made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Oliver shared that he respected Mr. Blackley and his organization. He also spoke on the environmental accident; he suggested Mr. Blackley was upset it occurred made it a point to follow appropriate procedures to remedy the situation in a timely manner.

Commissioner Terwilliger said he believed Mr. Blackley and his team have presented a good plan but felt there were still questions regarding the proposed buffers. He suggested more time was needed before moving forward with a decision; based on the concerns raised by citizens, he thought the item should be tabled until there was a clear understanding of the entire plan.

Commissioner Hollinshed made a motion to approve the plan, with the following conditions: the modified buffer be accepted; retain the proposed rear setback; and approve the fencing. She suggested the side setback should not be approved unless they find it can be incorporated into their plan successfully as proposed.

Commissioner Cooper agreed with Commissioner Terwilliger and suggest more time was needed before a decision should be made.

Commissioner Hagle noted the height of the fence was one area of concern that was not addressed in the conditions; he also mentioned the question regarding plants and their growth rate. He expressed his desire to hear more from the developer, noting the concerned marsh area by Freedom Park.

Troy Beasley, Director of Natural Resources for Withers Ravenel, 219 Station Road Wilmington NC, spoke on the initial environmental work and permit process of the project. He addressed the comment about the permits that were expired. He shared there was no need to continue extending the referenced CAMA Major Permit, as the permitting impacts have been completed. He explained the appropriate permits would be obtained when needed. He noted the organization was always evaluating the site environmentally. He addressed the marsh concerns, explaining there was not a proposed development in that area; he confirmed there were not any wetland impacts in the proposed PUD amendment.

Mr. Mizelle commented they would commit an 8-foot fencing if that resolved any issues.

Commissioner Hollinshed requested her motion be left as originally stated.

The motion carried with a (3-2) vote; Commissioner Cooper and Commissioner Terwilliger voting in opposition.

Quasi-Judicial Proceeding

1. Case #22-06 Special Use Permit for a Mini-Storage facility at 2150 & 2176 Live Oak Street

Mayor Harker explained the procedures associated with a quasi-judicial evidentiary hearing. She asked all individuals who wished to provide testimony approach the clerk's table to be sworn in.

Kyle Garner, Ron Cullipher and Bill Coffey were sworn in by Elizabeth Lewis, Town Clerk.

Mayor Harker called for any disclosures; she asked if the Board members had any ex parte communication, bias or conflicts of interest in the case.

None were noted.

Mr. Garner asked that the exhibits included in the agenda packet be incorporated as evidence, as well as the Power Point slides used to present Case #22-06.

The exhibits and other information are attached and referenced as part of the minutes.

Ron Cullipher, an engineer with the Cullipher Group of Morehead City, stated he was representing Rosemyr Corporation and Mr. Coffey on behalf of the request. Mr. Cullipher submitted and agreed with Mr. Garner's findings. He explained they proposed to increase the buffer on the rear of the property, along Piver Road; he said this would be an increase from 15-feet to 30-feet. He suggested the commercial uses that are generally allowed do not have mini storage as a listed use, explaining their proposal was actually a conditioned storage space, and mini storage was the closest definition to that. He noted the client proposed to develop this, along with the boat and RV storage, which is typically allowed in the B-1 District. He concluded by respectfully requesting approval of the Special Use Permit.

Commissioner Hagle asked if the boat storage would be inside.

Mr. Cullipher confirmed it would.

Mr. Coffey said the discussion of setbacks took place from the very beginning, ensuring any residential concerns were addressed. He suggested there were no issues there, as he had talked with several neighbors. He also spoke on the increased setbacks, from 15 to 30 feet and suggested with landscaping it would actually be larger than that. He discussed stormwater management and the possibly of oversizing the pond for the proposed development. He noted from the very beginning, they cleaned up the site and removed the old convenient store to improve that entryway to Beaufort. He shared they keep the lot maintained and take great pride in their properties.

Commissioner Hagle asked if the stormwater from the property would flow into the pond.

Mr. Coffey said it was designed for that and informed the board they have submitted that to Department of Water Quality, in hopes of getting the plans approved.

Commissioner Hagle asked where the overflow of the pond would go.

Mr. Coffey said there were ditches in place, and it would eventually run out to North River.

Commissioner Cooper commended Mr. Coffey on speaking with the public to address any concerns they might have; he also asked him to address the rodent problem if possible.

Mr. Coffey said he would reach out to those who mentioned the rodent problem.

Commissioner Terwilliger made a motion, based on the evidence presented by Mr. Garner, that the request of the applicant meets and fulfills all the requirements as stipulated in the ordinances of the Town of Beaufort and so that, the finding of fact would be it is positive to move forward.

The motion carried unanimously.

Commissioner Hagle made a motion to approve the Special Use Permit for the piece of property at 2150 & 2176 Live Oak.

The motion carried unanimously.

Mayor/Commissioner Comments

Commissioner Hollinshed thanked the first responders who were at a recent fire.

Commissioner Terwilliger thanked the residents who spoke on various items throughout the meeting and encouraged them to continue voicing their opinions.

Commissioner Hagle also thanked the citizens for their comments and encouraged good safety practices at home and on the job.

Commissioner Oliver also emphasized the importance of citizen input and expressed the desire to listen and help anyway possible.

Commissioner Cooper commended the staff on their daily work and thanked the citizens who attended the meeting.

Mayor Harker expressed the importance of face-to-face meetings and encouraged the citizens to continue expressing their needs. She thanked the Commissioners on their hard work and engagement throughout Town. She shared there was a two-day Board Retreat in the prior week and felt it was a very productive time for the staff and Commissioners.

Closed Session

1. Pursuant to NCGS 143-318.11 (a) (3); and NCGS 143-318.11 (a) (5)

Commissioner Hagle made a motion to enter into closed session pursuant to NCGS 143-318.11 (a) (3); and NCGS 143-318.11 (a) (5)

The motion carried unanimously.

Adjourn

Commissioner Hagle made a motion to adjourn the meeting at 9:30 p.m.

The motion carried unanimously.

Sharon Harker, Mayor

Elizabeth Lewis, Town Clerk

BOARD STAFF REPORT

To: Mayor & Board of Commission Members

From: Kyle Garner, AICP, Planning Director

Date: February 22, 2022

Case No.: 22-06

THE REQUEST: Special Use Permit for Mini-Storage

BACKGROUND:

Location: 2150 & 2176 Live Oak
Owner: Rosemyr Corporation
Applicant: The Cullipher Group
Requested Action: Provide Recommendation to Board of Commissioners
CAMA Land Use: General Commercial (Compliant)
PIN: 731605191929000, 731703102015000, 731605192705000
Size: 12.18 Acres
Existing Land Use: Vacant Lot – Former Convenient Store
Adjoining Land Use & Zoning: North – Single-Family with Manufactured Homes; Zoned R-20
South – Boat Storage Units – Zoned BW
West – Across Live Oak - Single Family Residences - Zoned R-20
East – Undeveloped Property; Zoned R-20

SPECIAL INFORMATION: This property has been rezoned to B-1 with a CAMA Map Amendment to General Commercial. A full Site Plan, to include a stormwater management plan will be submitted after the decision of the Special Use Permit.

The Planning Board at their February 21st meeting recommended unanimously the request for a Mini-Storage Facility at 2150 & 2176 Live Oak Street.

Public Utilities: Water Existing Service
Sanitary Sewer Existing Service

ACTION:

1. Conduct Quasi-Judicial Hearing
2. Finding of Fact on Special Use Request
3. Decision on Special Use Request

Exhibit - A



STAFF COMMENTS:

- This application is for a Special Use Permit for Mini Storage in a B-1 Zoning District.
- There are other Storage Facilities in the vicinity of the site.
- The request is consistent with the current Land Use Plan – (*See CAMA Land Use Map*)

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

E) Required Findings

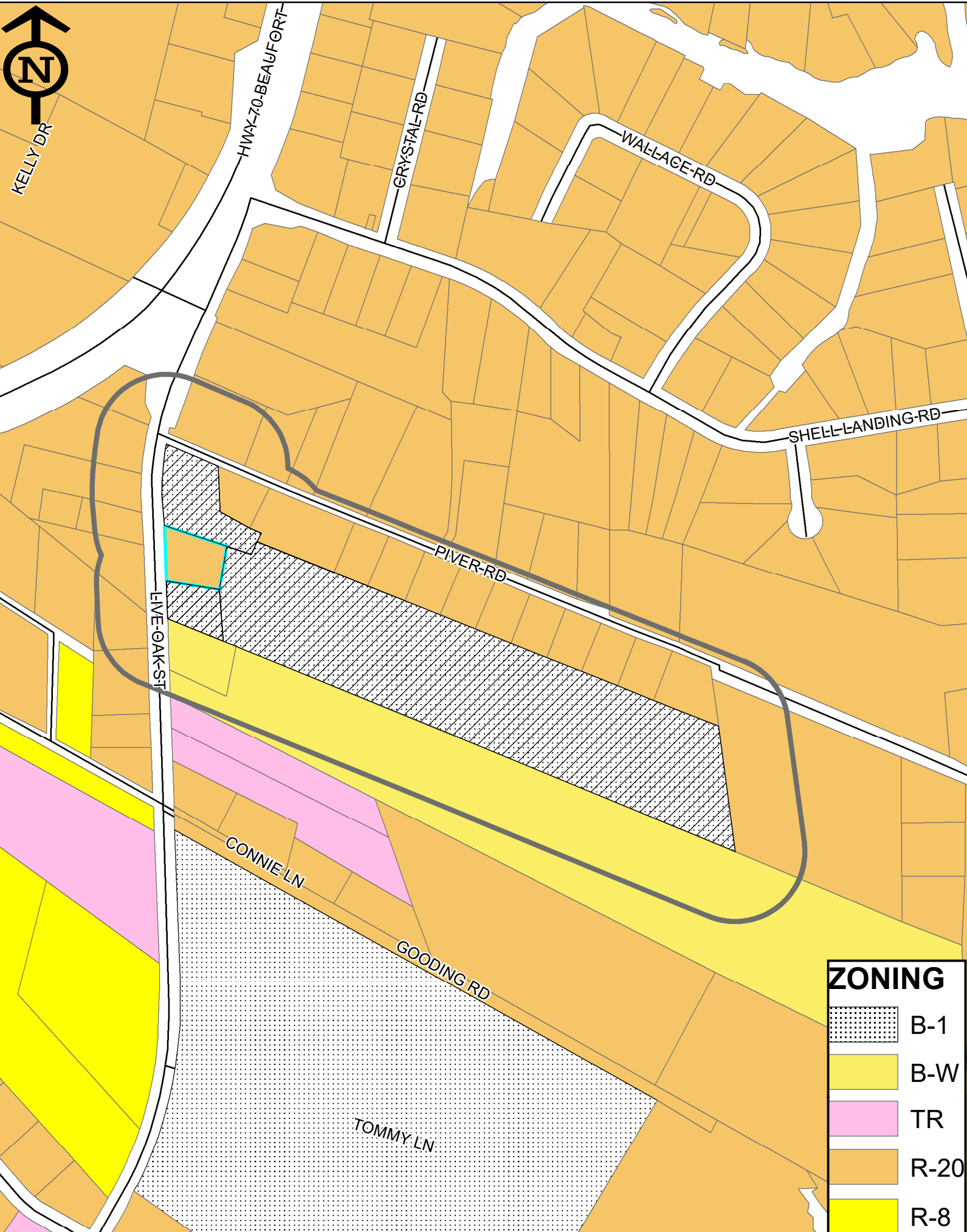
1) In addition to any other findings or requirements as specified by any other section of this Ordinance, before any application for a special use may be granted or denied, the BOC shall make each of the following findings:

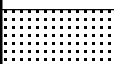




- a) The proposed use is an allowable special use in the zoning district it is being located within;
- b) The application is complete;
- c) The location and character of the use will be in conformity with the Town's land use plan and other comprehensive planning elements;
- d) Streets, driveways, parking 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.

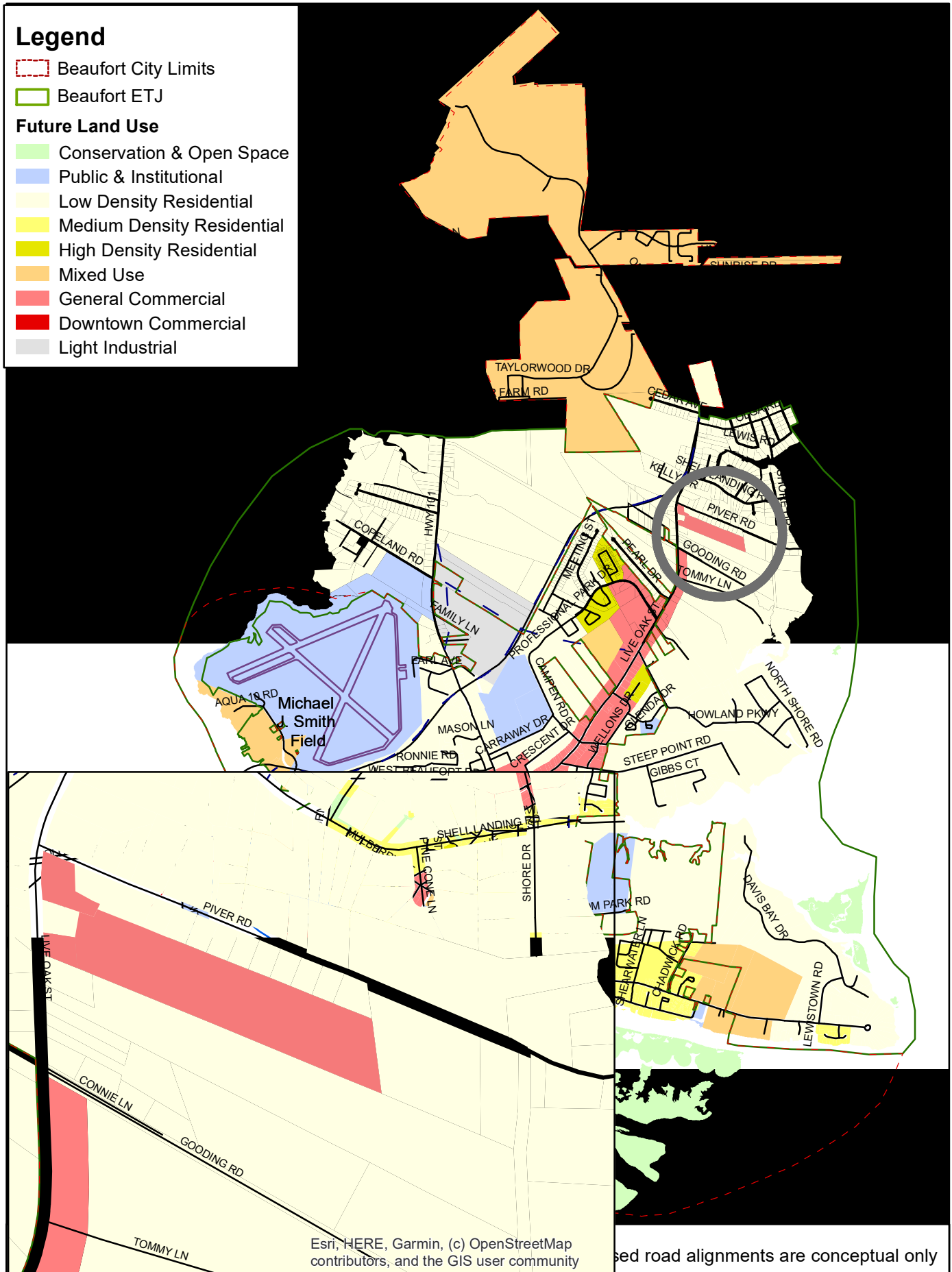
Exhibits:

- B- Vicinity Map & Zoning Map
- C - CAMA Land Use Map
- D - List of Property Owners within 200 feet
- E - Site Plan
- F - Section 20 Special Use Permit Information

Case # 22-06 - Special Use Permit - Zoning & Vicinity Map



ZONING	
	B-1
	B-W
	TR
	R-20
	R-8



<u>OWNER</u>	<u>MAIL HOUSE</u>	<u>MAIL ST</u>	<u>MAIL CITY</u>	<u>IL ST</u>	<u>MAIL ZIP</u>	<u>MAIL ZIP</u>	<u>MAIL ADD2</u>
BEACHEM,CEDRIC D	3600	SPRUELL DR	SILVER SPRINGS	MD		20902	
BEACHEM,CYNTHIA CAROL	121	PIVER ROAD	BEAUFORT	NC		28516	
BEAUFORT RENAISSANCE LLC			BEAUFORT	NC		28516	PO BOX 799
BLUEFIN PROPERTIES LLC			BEAUFORT	NC		28516	PO BOX 677
DAVIS,DALE W ETUX KATHLEEN	133	PIVER ROAD	BEAUFORT	NC		28516	
DEAN,MELINDA PADEN	199	SHORE DR	BEAUFORT	NC		28516	
DIXON,CHRISTIAN	167	PIVER ROAD	BEAUFORT	NC		28516	
GARNER,ARLENE	148	PIVER ROAD	BEAUFORT	NC		28516	
GARNER,MARCIA LYNETTE	118	PIVERS RD	BEAUFORT	NC		28516	
GARNER,RUTH ANITA	134	PIVERS RD	BEAUFORT	NC		28516	
GARNER,WILLIS DE	2134	LIVE OAK STREET	BEAUFORT	NC		28516	
HARDING,WILLIAM A ETUX TRACY	685	SEA GATE DR	NEWPORT	NC	6275	28570	
HARKER,AARON B	218	PIVERS ROAD	BEAUFORT	NC		28516	
HENRY,DEVIN JAMAR ETUX JULIE	154	PIVER ROAD	BEAUFORT	NC		28516	
KISPERT,JAMIN ETAL PATRI GRANT	127	HOLLY LANE	BEAUFORT	NC		28516	
KNOWLTON,NICOLE A	166	PIVER ROAD	BEAUFORT	NC		28516	
MASON REVOCABLE LIVING TRUST	157	PIVER RD	BEAUFORT	NC		28516	
MASSINO,CATHY LOUISE	125	BAY DRIVE	SMYRNA	NC	9579	28579	
MAY,KATHERINE W ETVIR RICKY V	1897	NC 39 HWY S	LOUISBURG	NC	7104	27549	
MAY,RICKY V ETUX KATHERINE W	1897	NC 39 HWYS	LOUISBURG	NC	7104	27549	
METZ,RICHARD S ETUX SHARON	109	CEDAR AVENUE	BEAUFORT	NC		28516	
PENCO LAND COMPANY LLC			RALEIGH	NC		27619	PO BOX 19691
PINER,DORAN GRAY JR	124	NORTH HARBOR DRIVE	BEAUFORT	NC		28516	
ROSEMYR CORPORATION			HENDERSON	NC		27536	PO BOX 108
ROWAN,WILLIAM III ETUX JULIANN	3098	JEFFERSON WOODS LANE	AMISSVILLE	VA		20106	
SPRINGLE,ELIZABETH BEVERIDGE	192	PIVER ROAD	BEAUFORT	NC		28516	
STORY,PAUL JACKSON JR	137	PIVER ROAD	BEAUFORT	NC		28516	
WILLIAMS,ANGELA BAKER ETAL	174	PIVERS ROAD	BEAUFORT	NC		28516	
WILLIAMS,SEAN T	111	PIVER ROAD	BEAUFORT	NC		28516	
WILLIAMS,SHARON	175	PIVER RD	BEAUFORT	NC		28516	
WILLIAMSON,TAMMY HARDISON	2158	US HIGHWAY 70 E	BEAUFORT	NC	7842	28516	

SECTION 20 Special Use Permits

A) *General.*

Special uses are practices which are not permitted by right in any zoning district in the Town of Beaufort, but may only be granted after due consideration by the Board of Commissioners (BOC). The consideration of a special use application is a quasi-judicial function requiring evidentiary hearings and specific findings of fact. Special use permits may only be granted by the BOC following a recommendation by the planning board and the quasi-judicial review process as stipulated in this section.

B) *Special Use Permit Application Procedures.*

- 1) A written application for a special use permit in all zones shall be submitted to the Town's Planning and Inspections Department in accordance with the requirements of section 1-M of this Ordinance and all applicable administrative regulations. The application shall include:
 - a) A proposed use site plan which contains information documented in section 18-C of this Ordinance and the specific information features below:
 - i) A vicinity map and survey of the parcel which shall include the zoning and use of all adjacent properties;
 - ii) A legend identifying all symbols on the map;
 - iii) A North arrow and a scale;
 - iv) A preliminary design of the proposed use which shows all existing and proposed structures, parking layouts, driveways, buffering, landscaping, points of ingress and egress, easements, minimum building lines, and street rights-of-way;
 - v) A site data block of features which includes the proposed use(s), square footage of the proposed and existing structure(s), site zoning, total acreage, number of lots, minimum lot size, and average lot size;
 - vi) The map book, page number, and deed book information;
 - vii) A note stating whether any portion of the property is included in any adopted Town plan; and,
 - viii) Any other related information requested by Town staff, the planning board, or the BOC.
 - ix) All required environmental permit improvements needed for the property.
 - b) The special use permit sought; and,
 - c) Information supporting the existence of the required findings, and providing such plans or other relevant data as may be required by the Town.
- 2) Whenever an application is submitted for a special use permit in a residential zone, the applicant shall also include:
 - a) A narrative which illustrates the appropriateness of the proposed use in a residential zone. This narrative shall also describe all the architectural design features which make the proposed use and associated building compatible with the urban character of the residential neighborhood;
 - b) The submitted site plan shall also include all street front architectural elevation drawings to insure the building(s) compatibility with the surrounding residential structures; and,

- c) Additionally, the BOC and town staff may require a professional rendering or any other graphic illustration of the proposed structure.
- 3) The application shall be reviewed by town staff and submitted with comments and recommendation to the planning board for review. After the planning board makes its recommendation, the application shall be forwarded to the BOC for consideration.

C) *Quasi-Judicial Proceeding Notification Requirements.*

The Town shall schedule a quasi-judicial proceeding for the application and BOC consideration after reasonable opportunity for staff and planning board review by providing public notice no more than thirty days after receipt of the completed application. The notice of a quasi-judicial proceeding shall be given using the standards set forth in section 3-E of this Ordinance with the exception of the following:

- 1) The notice shall be given once a week for two successive calendar weeks and published in a newspaper having general circulation within Town. The first publishing shall not be less than ten days or not more than twenty-five days before the date affixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included as documented.
- 2) All property owners within two hundred feet (200') of the lot boundaries on all sides of the subject lot as listed in the county tax records shall be mailed by the Town a notice of the quasi-judicial proceeding on the proposed special use application by first class mail at the address listed for such owners on the county tax abstracts. The notice shall identify the location and briefly describe the proposed special use. Section 3-E (2) of this Ordinance gives direction on when the notices shall be mailed.
- 3) The Town shall prominently post a sign giving notice of the quasi-judicial proceeding on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed special use public hearing not more than ten days prior to the hearing date. The wording of such sign should be similar to what is in section 3-E (4) of this Ordinance.

D) *Procedures on Special Use Applications.*

In considering whether to approve an application for a special use permit, the BOC shall proceed as follows:

- 1) The BOC shall hold the quasi-judicial proceeding and consider relevant information regarding whether the required findings under subsection E of this section exist and whether the special use is appropriate in the proposed location. The BOC shall hear relevant information from the applicant, adjoining property owners, the Town Manager, the planning board, planning officials, and any interested or affected members of the public. Parties may appear in person, by designee, or by attorney to present information relevant to the requirements of the Ordinance.
- 2) The BOC shall consider whether the application complies with each individual required finding specified in subsection E of this section. The BOC need not make the required findings at the time of the hearing and may call for additional information if needed. If the special use permit application is approved, the BOC motion shall contain language showing all the required findings under subsection E of this section have been met, and in the absence of specific findings, it shall be conclusively presumed the application complies with all the findings in subsection E of this section.
- 3) The BOC shall render a decision within a reasonable period of time not to exceed ninety days after holding the quasi-judicial proceeding for the proposed special use application.

The BOC need not issue a decision at the time of the hearing if additional information is needed and may continue said hearing until a later date.

- 4) If the application is found not to be in compliance with one or more of the required findings of subsection E of this section or any other applicable section of this Ordinance, the application shall be denied. Such motion shall specify the particular findings the application fails to meet. It shall be conclusively presumed the application complies with all requirements not noted by the BOC in their motion to deny the application.
- 5) Notwithstanding the specific requirements of this Ordinance, the BOC may impose additional conditions and reasonable requirements upon the requested special use permit in order to ensure the use is consistent with the required findings as specified under subsection E of this section. The BOC may place an expiration date on the special use permit if a building permit is not secured within a certain period of time. If the special use permit is not renewed periodically by the recipient of the permit, it will expire on the date given to the permit by the BOC.
- 6) After the BOC renders its decision on the special use permit application, the reasons for granting or denying the application shall be made in writing. A written copy of the conclusion(s) of the BOC about the facts of the case and the board's corresponding decision shall be forwarded to the applicant within ten days.

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.
- 2) The BOC shall make its findings based on "competent evidence" as described in N.C.G.S. 160A-393 (k) and will be cognizant the statute provides in part "competent evidence" shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:
 - a) The use of property in a particular way would affect the value of other property.
 - b) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.

- c) Matters about which only expert testimony would generally be admissible under the rules of evidence.
- 3) **Compatibility Standards for Special Uses in Residential Zones:**
In deciding whether the architectural elements of the proposed special use in a residential zone will be compatible with the adjoining buildings, the BOC shall review said proposal in reference to the following architectural elements:
 - a) Size (footprint);
 - b) Height;
 - c) Proportion and scale;
 - d) Roof shape(s);
 - e) Setbacks;
 - f) Location, size, and number of openings (doors and windows);
 - g) Materials;
 - h) Color; and,
 - i) Texture.

F) ***Special Use Guidelines.***

1) **Adult Establishments.**

- a) No building, structure, or any portion thereof nor any portion of a lot or parcel or property shall be used for an adult establishment at a location closer than one thousand feet (1000') from any other adult establishment; or closer than one thousand feet (1000') from any residentially zoned property, pre-school, child care, nursery school, day care, K-12 school, public playground, or church situated within the Town limits or the ETJ.
- b) Plans are required and must show:
 - i) Locations of buildings and signs and the size of the plan;
 - ii) Proposed points of access and egress and patterns of circulation;
 - iii) Layout of parking spaces;
 - iv) Lighting plan inclusive of wattage and illumination; and,
 - v) Landscape plan.

2) **Day Care Centers (Including Kindergarten).**

- a) One parking space shall be provided for each adult attendant and one parking space provided for every six children or fraction thereof.
- b) Section 19 of this Ordinance gives the screening/buffering and fencing guidelines required for this application.
- c) Plans are required and must show:
 - i) Location and approximate size of all existing and proposed structures and buildings within the site and on the lots adjacent thereto;
 - ii) Proposed points of access and egress and pattern of circulation;
 - iii) Layout of parking spaces;
 - iv) Location and extent of open play area(s);
 - v) Day care center shall provide one hundred square feet (100 ft²) of play area space per pupil.

- vi) Outdoor play area shall be enclosed by a solid or open fence or wall at least four feet (4') in height. Where the outdoor play area is directly adjacent to a residentially used or zoned lot, a solid fence or wall at least six feet (6') high or the maximum applicable fence or wall height limitation for the district or an open fence at least four feet high (4') and a screen planting designed to grow three feet (3') thick and six feet (6') high shall be created. The BOC may at its discretion, require additional screening/buffering and/or fencing elements to be located adjacent to abutting nonresidential land uses.
 - vii) In residential districts, a day care center shall not be operated between the hours of 7:00 p.m. and 7:00 a.m. unless with written approval by the BOC.
 - viii) Landscape plan.
- 3) Radio or Television Transmitter.
- a) Minimum lot area – at least three acres in area.
 - b) One parking space is required at the site.
 - c) Plans are required and must show:
 - i) Location and approximate size of all existing and proposed structures within the site and within one thousand linear feet in all directions;
 - ii) Proposed points of access and egress;
 - iii) Proposed off-street parking spaces; and,
 - iv) Protective fencing at least six feet (6') high with three stands of barbed wire turned out and ten feet (10') from the perimeter of the antenna base shall be established.
- 4) Telecommunication Tower.
- a) Guy-wire towers shall not be permitted.
 - b) Co-location towers shall be permitted.
 - c) Height of communication towers shall be regulated by the Federal Aviation Administration (FAA).
 - d) Communication towers are prohibited in front yards and shall be in compliance with the Telecommunication Act of 1996.
 - e) Local governments have no ability to prohibit towers on the basis of environmental or health issues according to the Federal Radio Frequency Emission Standards.
 - f) The BOC may deny a permit based upon a tower's influence on property value or aesthetics.
 - g) A minimum lot size of one-half acre per tower shall be met; however, the Telecommunication Tower shall be placed on a lot of sufficient size, and in a position on the lot, if the tower falls, no part of it will fall onto adjacent property. Variances shall not be allowed.
 - h) Landscaping and screening/buffering are required as approved by the planning board and according to section 15 and section 19 of this Ordinance.
 - i) A six-foot (6') high protective barrier shall be required around the base of the tower. The barrier shall be a masonry wall, chain link fence, solid wood fence, or opaque barrier as described in section 19 of this Ordinance.
 - j) Setback requirements shall be according to the district in which the tower is located.
 - k) Towers shall be lighted to satisfy the FAA requirements.

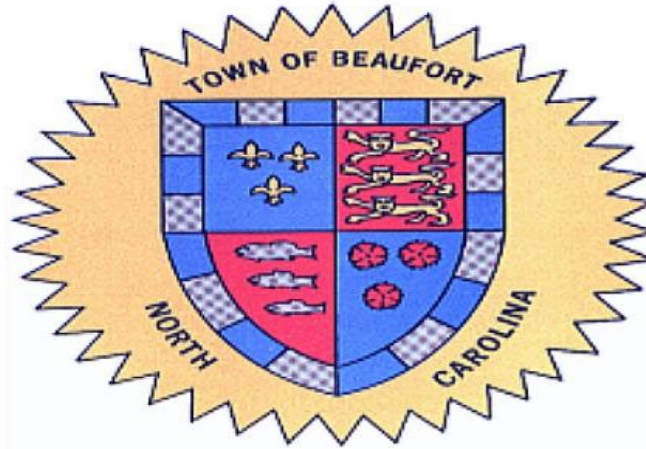
Land Development Ordinance for the Town of Beaufort

- l) Towers shall be removed within ninety days following abandonment of such towers.
 - m) Towers shall be removed by the property owner within one hundred eighty days following damage or termination of operation resulting in inoperable towers or towers where the owner of the tower shows no intent to repair said tower. Blown over towers shall also be removed by the owner of such tower under this guideline.
 - n) Any advertising signage is strictly prohibited on towers.
 - o) Towers shall be painted blue or gray if not otherwise required by the FAA.
 - p) The owner must provide adequate insurance coverage for any potential damage caused by or caused to the tower.
 - q) For permitting purposes, site plans are required as defined in section 18 of this Ordinance and shall show all of the following additional features:
 - i) Identification of intended user of tower.
 - ii) Documentation by registered engineer shows tower has sufficient structural integrity to accommodate more than one user.
 - iii) Statement from owner indicating his intent to allow shared use of the tower and how others will be accommodated.
 - iv) Evidence the property owners of residentially zoned/used property within three hundred feet of the base of the proposed tower, would be notified prior to the special use application being heard by the BOC.
 - v) Documentation which shows towers over a certain height are absolutely necessary for the provision of service (i.e., a tower up to one hundred ninety-six feet (196') cannot provide a reasonable level of service).
 - r) The BOC shall determine if a tower is in harmony with the area and compatible with adjacent properties and may consider the aesthetic effects of the tower as well as mitigating factors concerning aesthetics. The BOC may disapprove a tower based on the grounds the aesthetic effects are unacceptable and a new site should be proposed. The following factors shall be considered:
 - i) Protection of the view in scenic areas, unique natural features, scenic roadways, historic sites, etc.
 - ii) Prevention of a concentration of towers in one certain area; and,
 - iii) Height, design, placement, and other characteristics could be modified to have a less intrusive visual impact.
- 5) Marinas.
The requirements below are for marinas and for proper disposal of sewage from boats:
- a) All slips over thirty feet (30') shall provide a permanent pump-out connection so a hose of not more than thirty feet (30') can reach the mid-point of the slip.
 - b) Any vessel with a permanently installed marine sanitation devise shall be located so the holding tank can be pumped-out using a hose not to exceed thirty feet (30').
 - c) Mobile pump-out equipment may not be used to meet the requirements of subsections 5a) and 5b) of this section.
 - d) A marina may not charge marina tenants an additional fee to pump-out their holding tanks.
 - e) When a T-head of a dock is unoccupied during regular business hours, the marina shall provide public access to the pump-out facility for a nominal fee.

6) Office: Small Business.

Property owners may be granted a special use permit for an Office: Small Business in a Residential Zoning District if identified as a *Small Business* as defined in section 4 of this Ordinance.

- a) In addition to application requirements outlined in subsection B of this section, special use permit applications must include the following:
 - i) Detailed narrative describing the activities associated with the requested use;
 - ii) Number of employees requested to work on site;
 - iii) Requested business hours of operation;
 - iv) Estimated number of clients served on site per day; and,
 - v) Detailed drawing or photographs, including measurements, of signage if requested.
- b) Signage will be reviewed by the BOC at the time of the special use permit and will meet the following standards:
 - i) Not more than one sign is permitted;
 - ii) Sign will not exceed an area of two square feet (2 ft²);
 - iii) Colors will be compatible with those of the structure and will not detract from the residential characteristics of the structure;
 - iv) Sign will be affixed flatly against the building; and,
 - v) Directly lighted and/or neon signage is not permitted.
- c) Conditions: The BOC may impose reasonable conditions as it deems necessary for the protection of the public health, general welfare, and public interest regarding:
 - i) Compatibility. The compatibility of the proposal, regarding both use and appearance, with the surrounding neighborhood;
 - ii) Hours of Operation. The frequency and duration of indoor/outdoor activities and the impact of the surrounding area;
 - iii) Noise. The added noise level created by activities associated with the request;
 - iv) Parking. The request will not generate a need for additional parking; and,
 - v) Appearance. The general appearance will not be adversely affected by the location of the proposed use on the property.



Case # 22-06
Special Use Permit - Mini Storage
2150 & 2176 Live Oak

•Location: 2150 & 2176 Live Oak

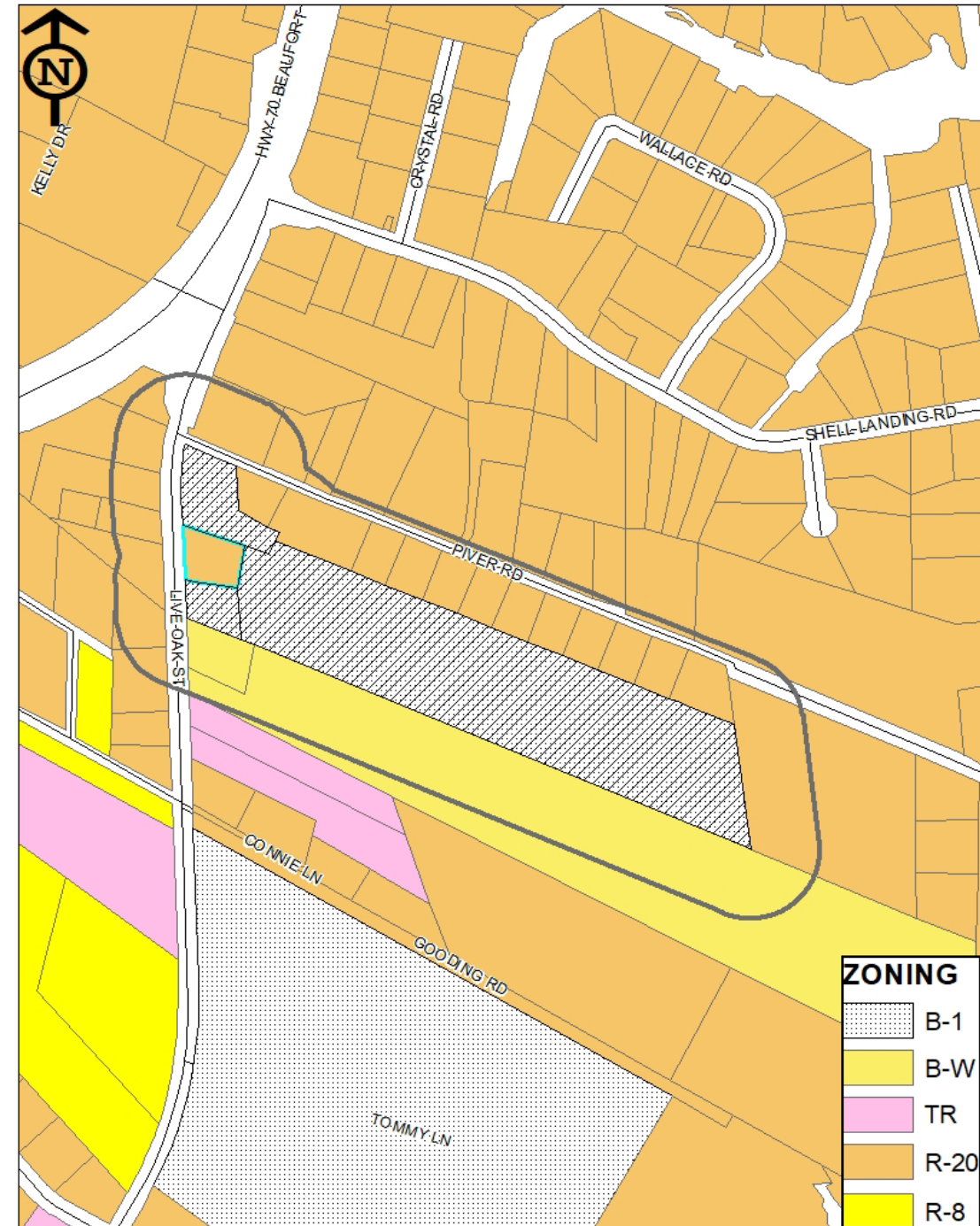
Acreage: 12.18 Acres

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

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

Signs - Posted on March 3rd

Legal Advertisement – Wednesday March 2nd & 9th 2022



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

Case No. 22-05

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