



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

Town of Beaufort Planning Board Regular Meeting 6:00 PM Monday, July 19, 2021 - Held Virtually Via Zoom due to the COVID-19 Pandemic Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Public Comment

Old Business

- [1.](#) Case #20-17 Special Use Permit for a Gas/Service Station at 1550 Lennoxville Road

Public Hearing

- [1.](#) Rezoning from B-1 to R-8 302 Cedar Street
Case #21-21

Commission / Board Comments

Staff Comments

Adjourn



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**Town of Beaufort Planning Board Regular Meeting
6:00 PM Monday, July 19, 2021 – Virtual Meeting via Zoom**

AGENDA CATEGORY: New Business
SUBJECT: Case #20-17 Special Use Permit for a Gas/Service Station at 1550 Lennoxville Road

BRIEF SUMMARY:

The applicant wishes to apply for a Special Use Permit for a Gas/Service Station for 1550 Lennoxville Road. A description of the operation is included the packet and Staff Report.

REQUESTED ACTION:

Recommendation to Board of Commissioners

EXPECTED LENGTH OF PRESENTATION:

15 Minutes

SUBMITTED BY:

Kyle Garner, AICP
Planning & Inspections Director

BUDGET AMENDMENT REQUIRED:

N/A

PLANNING BOARD STAFF REPORT

To: Planning Board Members
From: Kyle Garner, AICP, Planning Director
Date: July 9, 2021
Case No.: 21-17

THE REQUEST: Special Use Permit for Jim Dandy Community Store

BACKGROUND:

Location: 1550 Lennoxville Road
Owner: Sara Austin
Applicant: Jim Dandy Stores
Requested Action: Provide Recommendation to Board of Commissioners
CAMA Land Use: Medium Density Residential
PIN: 730507699596000
Size: .478 Acres
Existing Land Use: Austin vet. Clinic
Adjoining Land Use & Zoning: North - Single-Family Residences; Zoned R-8 (Briar Patch)
South – Beaufort Walk Subdivision – Zoned TR (Transitional)
West – The Oaks Subdivision - Zoned RC-5
East – Single-Family Residences; Zoned R-8 (Ocean)

SPECIAL INFORMATION: This is an existing building and a vet business already exists. Prior to the vet office the site was previously used as a convenience store operation for over 20 years.

Public Utilities: Water Existing Service
Sanitary Sewer Existing Service

ACTION:

1. Provide consistency statement to the Board of Commissioners; and
2. Provide comments, concerns and suggestions to the Board of Commissioners



STAFF COMMENTS:

This application is for a Special Use Permit for Gas/Service Station per the Light Industrial Zoning District. This is an existing building and a vet business already exists. Prior to the vet office the site was previously used as a convenience store operation for over 20 years. Even though the use is not consistent with the future land use plan the use is consistent with the current zoning in place with a Special Use Permit.

Section 6-F - Height & Area Supplements & Exceptions allows the encroachment of the canopy to the property line (Lennoxville Road) See Section 6-F Exhibit.

Section 20-B - Special Use Permits (Special Use Permit Application Procedures) requires a complete application to include a site plan.

This item was tabled at the June 21st Planning Board meeting due to delay in publishing the agenda to the website and public notice concern. Since the June meeting staff has received many email request to deny the proposed use and we have included them in your packet in alphabetical order by last name. Also, a information letter (reviewed by the Town Attorney) was sent to each owner within 200 feet as before as well as each person who sent an email. Staff is also putting a list together of the residents who wish to speak at the meeting and will include this in the email to those residents who sent emails.

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.



CAMA Core Land Use Plan

Generally, growth and land development is anticipated to occur in all future land use categories except for the Conservation/Open Space classification. The type and density/intensity of projected development varies within each Future Land Use Map classification. Future Land Use projections are delineated in Figure 8, Future Land Use Map. The Future Land Use Map classifications are considered part of the Land Use Plan’s policy.

Future Land Use Map Classifications

- **Medium Density Residential Classification.** The Medium/High Density Residential classification encompasses approximately 0.8 square miles (483 acres) or about 10 Percent of the total planning jurisdiction. The majority of the properties classified as Medium Density Residential are generally located immediately surrounding the Beaufort downtown area as well as north and east of the downtown area.
- The Medium Density Residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or two-family developments. The residential density within this classification is generally 3 to 5 dwelling units per acre. Minimum lot sizes vary from 8,000 to 10,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Land uses within Medium Density Residential designated areas are generally compatible with the R-10, One or Two-family Residential; R-10MH, Single-family Residential and Manufactured Home; R-8, Medium Density Residential; and R-8A Single-family Medium Density Residential zoning districts. Public water is widely available and sewer service is required to support the higher residential densities in this classification. Streets with the capacity to accommodate higher traffic volumes are also necessary to support Medium Density Residential development.
- The Town’s goals and policies support the use of land in Medium Density-classified areas for single-family and two-family dwellings where adequate public utilities and streets are available or can be upgraded to support the higher residential densities encouraged in this classification.

Use of the Future Land Use Plan Map to Guide Development

In preparing the Future Land Use Map, consideration was given to land development objectives and policies, land suitability, and the ability to provide the infrastructure to support growth and development. The Future Land Use Map depicts the general location of projected patterns of future land uses. The Future Land Use Map is a plan or guideline for the future.

The ultimate use and development of a particular parcel of land will be determined by property owners’ desires, overall market conditions, implementation tools employed by the Town to regulate land use and development (such as the Town’s zoning ordinance, subdivision regulations, flood hazard regulations), the absence of specific natural constraints to development, and the availability of the necessary infrastructure (water, sewer, roads, etc.) to support development. Consequently, even though the Future Land



particular location, many factors come into play to determine if the projected use is appropriate and the land can be developed as projected. Also, formal amendments to the zoning ordinance and subdivision ordinance will be required to specifically authorize the type of mixed use development envisioned in this Land Use Plan.

Achieving the projected patterns of land use indicated by the Future Land Use Map will be greatly impacted by timing. Much of the projected land use indicated on the Future Land Use Map will not come to fruition without market demand. Therefore, market and economic conditions must be conducive for growth and development. While the Land Use Plan attempts to provide a general expectation of growth based upon projected population change, it simply cannot predict the economic future. The demand for houses, businesses, industries, etc. will fluctuate widely with economic conditions.

The timing of the provision of infrastructure improvements, particularly water and sewer services and roads, will also have a tremendous impact on growth and development. Development will occur where infrastructure is available or can be made available to sustain that development. Consequently, achieving the Future Land Use Map land use projections will depend in large part upon if and when infrastructure is provided. The provision of public infrastructure depends upon the capability to provide the service and demand for the service. Economic climate will be a major factor in both the capability to make infrastructure available and the level of service demand (*Core Land Use Plan*, Section IV: Plan for the Future, pg. 100).

Guide for Land Use Decision Making

The Land Use Plan, as adopted by the elected officials of the Town of Beaufort and as may be amended from time to time, will serve as the primary guide upon which to make land use policy decisions. Every land use policy decision, such as a rezoning request or approval of a conditional or special use permit, will be measured for consistency with the goals, policies, and recommendations of the Plan. The elected officials, Planning Board, Board of Adjustment, and Town staff should utilize the Land Use Plan as the basic policy guide in the administration of the zoning ordinance, subdivision regulations, and other land development regulatory tools. Persons involved in the land development business as well as the general public can also utilize the Land Use Plan to guide private decisions regarding land use and land development.

The policy statements and recommendations of the Land Use Plan can also be of assistance to the elected officials in making long-range decisions regarding such matters as the provision of municipal services, thoroughfare planning, storm water planning and management, implementation of economic development strategies, recreational facility planning, and preparation of capital and operating budgets.

It should be noted, however, that the Land Use Plan is one of a variety of guides in making a public policy decision. The Plan should be viewed as a tool to aid in decision making and not as the final decision (*Core Land Use Plan*, Section V: Tools for Managing Development, pg. 102).

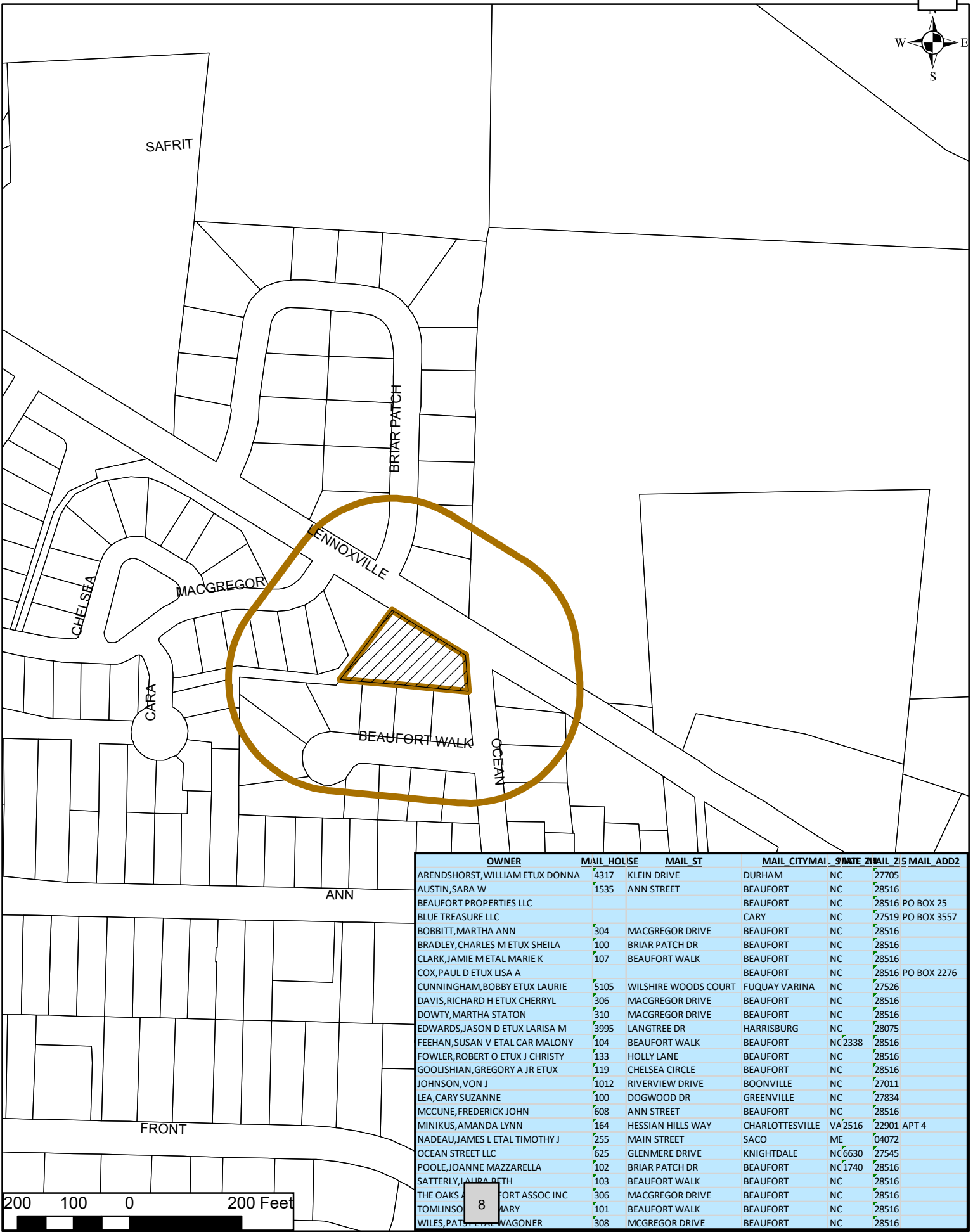


Exhibits:

- B- Vicinity Map
- C - Zoning Map
- D - CAMA Land Use Map
- E - Application
- F - Site Plan
- G - Elevation Drawing
- H - List of Property Owners within 200 feet
- I - Section 6-F (LDO)
- J – Light Industrial Zone Information
- K – Section 20 Special Use Permit Information
- L – Emails from concerned residents

Case 21-17 Special Use Permit - Vicinity Map With Owners Within 200 Feet

1.

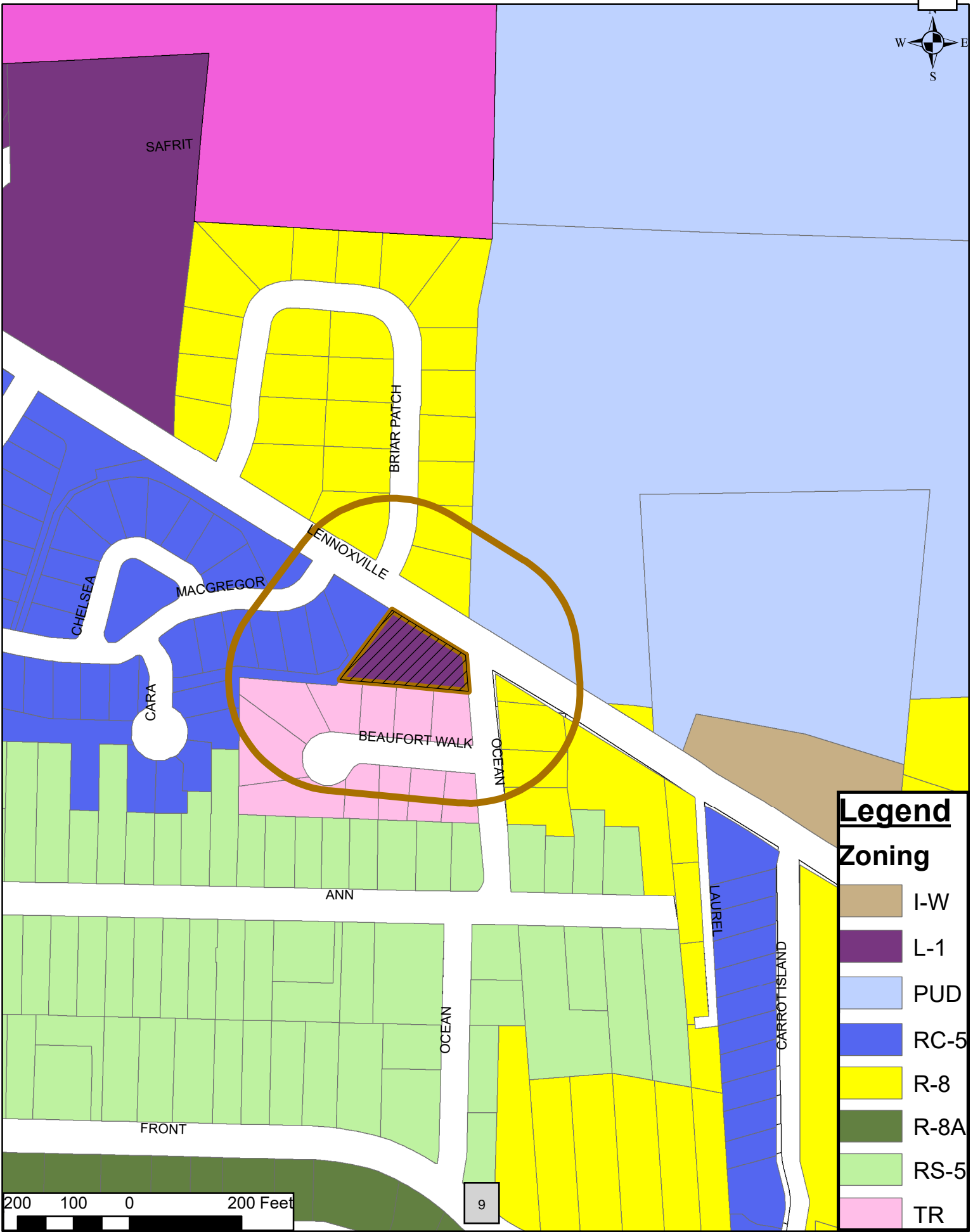


OWNER	MAIL HOUSE	MAIL ST	MAIL CITY/STATE	MAIL ZIP	MAIL ADD2
ARENDHORST, WILLIAM ETUX DONNA	4317	KLEIN DRIVE	DURHAM NC	27705	
AUSTIN, SARA W	1535	ANN STREET	BEAUFORT NC	28516	
BEAUFORT PROPERTIES LLC			BEAUFORT NC	28516	PO BOX 25
BLUE TREASURE LLC			CARY NC	27519	PO BOX 3557
BOBBITT, MARTHA ANN	304	MACGREGOR DRIVE	BEAUFORT NC	28516	
BRADLEY, CHARLES M ETUX SHEILA	100	BRIAR PATCH DR	BEAUFORT NC	28516	
CLARK, JAMIE M ETAL MARIE K	107	BEAUFORT WALK	BEAUFORT NC	28516	
COX, PAUL D ETUX LISA A			BEAUFORT NC	28516	PO BOX 2276
CUNNINGHAM, BOBBY ETUX LAURIE	5105	WILSHIRE WOODS COURT	FUQUAY VARINA NC	27526	
DAVIS, RICHARD H ETUX CHERRYL	306	MACGREGOR DRIVE	BEAUFORT NC	28516	
DOWTY, MARTHA STATON	310	MACGREGOR DRIVE	BEAUFORT NC	28516	
EDWARDS, JASON D ETUX LARISA M	3995	LANGTREE DR	HARRISBURG NC	28075	
FEEHAN, SUSAN V ETAL CAR MALONY	104	BEAUFORT WALK	BEAUFORT NC	28516	28516
FOWLER, ROBERT O ETUX J CHRISTY	133	HOLLY LANE	BEAUFORT NC	28516	
GOOLISHIAN, GREGORY A JR ETUX	119	CHELSEA CIRCLE	BEAUFORT NC	28516	
JOHNSON, VON J	1012	RIVERVIEW DRIVE	BOONVILLE NC	27011	
LEA, CARY SUZANNE	100	DOGWOOD DR	GREENVILLE NC	27834	
MCCUNE, FREDERICK JOHN	608	ANN STREET	BEAUFORT NC	28516	
MINIKUS, AMANDA LYNN	164	HESSIAN HILLS WAY	CHARLOTTESVILLE VA	2516	22901 APT 4
NADEAU, JAMES L ETAL TIMOTHY J	255	MAIN STREET	SACO ME	04072	
OCEAN STREET LLC	625	GLENMERE DRIVE	KNIGHTDALE NC	27545	27545
POOLE, JOANNE MAZZARELLA	102	BRIAR PATCH DR	BEAUFORT NC	28516	28516
SATTERLY, LAURA BETH	103	BEAUFORT WALK	BEAUFORT NC	28516	
THE OAKS AT BEAUFORT ASSOC INC	306	MACGREGOR DRIVE	BEAUFORT NC	28516	
TOMLINSON, MARY	101	BEAUFORT WALK	BEAUFORT NC	28516	
WILES, PATRICIA WAGONER	308	MCGREGOR DRIVE	BEAUFORT NC	28516	

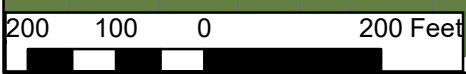
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Case 21-17 Special Use Permit - Zoning Map With Owners Within 200 Feet

1.

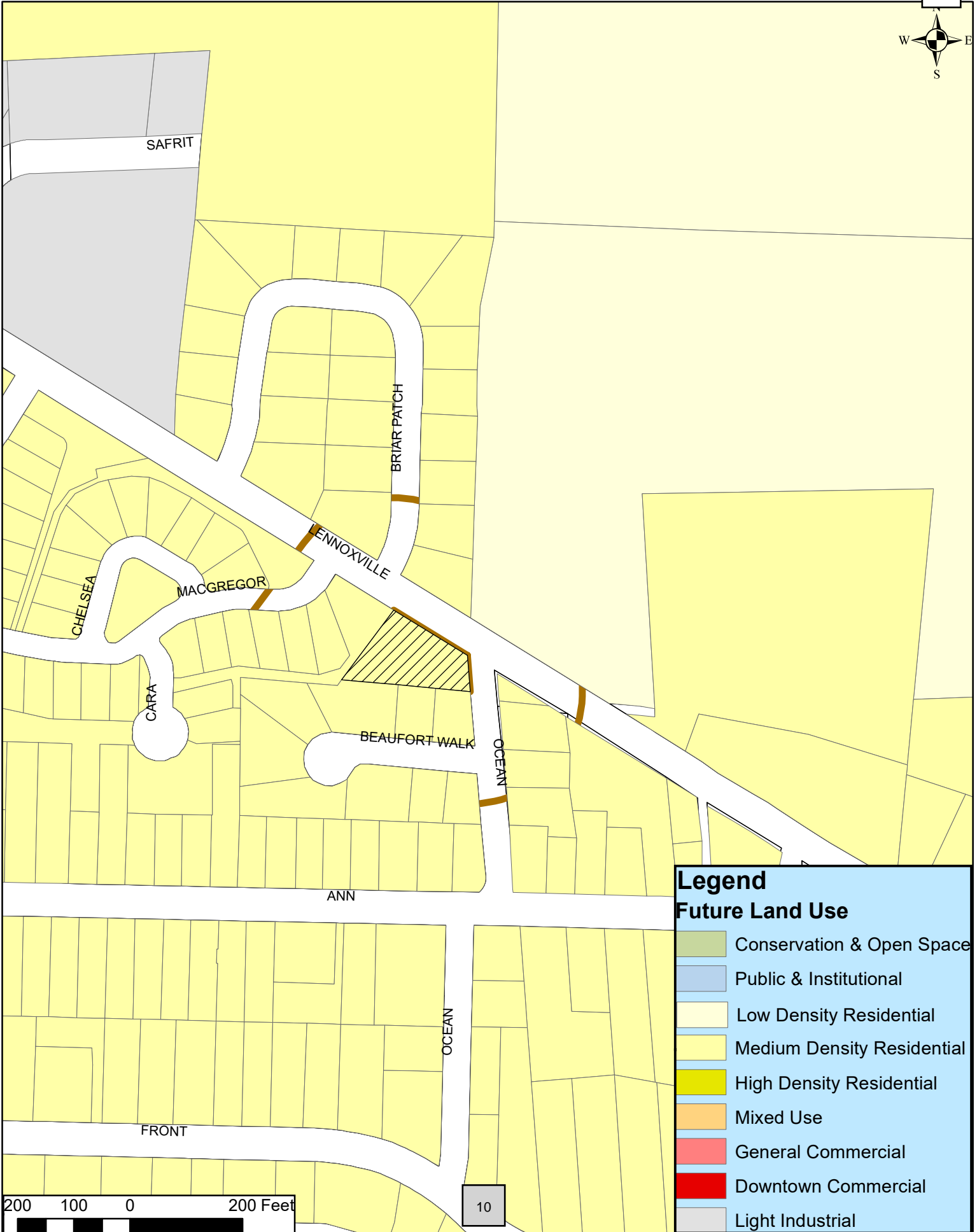
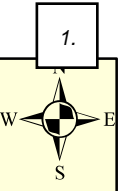


Legend	
Zoning	
	I-W
	L-1
	PUD
	RC-5
	R-8
	R-8A
	RS-5
	TR



9

Case 21-17 Special Use Permit - CAMA Map With Owners Within 200 Feet



Legend

Future Land Use

- Conservation & Open Space
- Public & Institutional
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mixed Use
- General Commercial
- Downtown Commercial
- Light Industrial



APPLICATION FOR A SPECIAL USE PERMIT

Instructions:

Please complete the form below including all required attachments, a **\$400.00 application fee**, and return to the Beaufort Town Hall; 701 Front Street; P.O. Box 390; Beaufort, N.C.; 28516. Incomplete applications will not be processed but will be returned to the applicant. Please call Planning and Inspections at (252) 728-2142 if there are any questions.

APPLICANT INFORMATION

Applicant Name: Jim Dandy Stores
 Applicant Address: 812 Arendell Street Morehead City NC 28557
 Phone Number: 252-247-6902 Email: jmdavisoil@outlook.com
 Property Owner Name: Sara W. Austin
 Address of Property Owner: 1550 Lennoxville Road Beaufort NC 28516
 Phone Number: 252-838-9028 Email: N/A

PROPERTY INFORMATION

Property Address: 1550 Lennoxville Road Beaufort NC 28516
 15-Digit PIN: 730507699596000 Lot/Block #: N/A
 Size of Property (in square feet or acres): .478 Acres Current Zoning: L-1
 Current Use of Property: Veterinarian Requested Use: Convenience Store

An application fee of **\$400.00**, either in cash, money order, or check made payable to the "Town of Beaufort" must accompany this application (a credit card payment can be made in person at Town Hall). The complete application, payment, and supporting materials must be received by Town Staff at least 15 working days prior to a regularly scheduled Planning Board meeting date.

Please refer to the Town's **Land Development Ordinance**, Sections 20 & 27, and all other pertinent sections of the Ordinance for information required to accompany this application. Any plans or documents submitted should be submitted in an electronic or digital format and one printed color copy of such documents submitted with the application.

The town's website address is www.beaufortnc.org.

J. M. [Signature]
 Applicant Signature
Sara W. Austin DVM
 Property Owner Signature (if different than above)

5-17-21
 Date of Applicant's Signature
6-1-21
 Date of Owner's Signature

OFFICE USE ONLY

Revised 8/2020

Date: _____

Reviewed for Completeness By: _____

Received by: _____

11 Date Deemed Complete and Accepted: _____

Members of the Beaufort Planning Board,

As part of a planned real estate purchase between Dr. Sara Austin and my family’s business, J.M. Davis Industries Inc. dba “Jim Dandy Stores” and “Davis Fuels”, I am pleased to apply for a special use permit for 1550 Lennoxville Road. Our intention is to adapt the existing Austin Veterinary Clinic building and parking area into a community store and filling station. This intended use is permissible within the current L-I zoning but requires a special use permit.

Our company was founded in 1939 by my grandfather, with its original location strategically positioned on the Beaufort waterfront where Still Water Café is today. In the years since we have slowly and purposefully grown through mergers and acquisitions remaining ever mindful to never lose focus of our values and our long standing commitment to the communities we support and call home. My mother is from Beaufort and grew up in the Easton House directly across from our old office. Previously a long-time resident of Ann Street, mom recently moved out to Olga Road to be closer to me (also on Olga) and my sister who recently bought in Tiffany Woods.

Since my childhood, Beaufort has undergone many subtle but significant changes. I remember at one point Beaufort had six convenience stores, 3 of which my family owned or operated. Over time, a combination of factors including planned highway improvements, more suitable uses, and unfavorable lease agreements left us without a location in our home town. I have been patiently searching for the right property to mark our return home, and I know I have found it at 1550 Lennoxville Road. The location is ideal for countless reasons but most notably for its proximity to a developed and ever-growing residential area that would undoubtedly benefit from our services. While we still own and operate 8 other locations, this store would be different in most every way to not only our other locations, but also to the traditional convenience store concept you likely are most familiar with. Our vision for this location is not as a typical “convenience store” but instead as a quaint community store with gasoline and diesel fuel as an additional offering. Our greatest commitment will be to create a store front stocked with goods and capable of services that fit our town in every visible and perceivable way.

As you are already aware, the Town of Beaufort is in critical need of an additional location to fuel vehicles with regular gasoline, non-ethanol gasoline, highway diesel, and even diesel exhaust fluid...all of which we intend to provide. Also, amongst our offering will be fresh, made to order biscuits and sandwiches, fried chicken for boaters, premium coffee and beverage offerings, snacks and all the daily essentials. We do not see value in extended hours of operation. We like to open early for our patrons that commute to Cherry Point or perhaps those that might be headed out fishing but we close early at night. Our outside lighting will be controlled by photo - cell sensors and adjusted to provide sufficient and safe lighting with minimal to zero effect on the surrounding properties during those hours they are switched on. In times of emergency such as hurricanes, we will be prepared to support our entire community, its residents, and most importantly our emergency services with all the goods and services detailed above powered by an existing, enclosed super quiet generator.

Additional improvements we intend to make include, but are not limited to, replacement of the old fence along the back property line, refreshed landscaping with native plants and trees, and a canopy to shelter our customers while they fuel their vehicles. Our focus will be to create and maintain a concept that fits seamlessly into the existing neighborhood while also providing daily and potentially critical needs to the town and its residents.

We welcome any questions, comments, or concerns that may arise during the review process. Thank you kindly for your consideration of this request,

James Morton Davis III, President
Jim Dandy Stores and Davis Fuels

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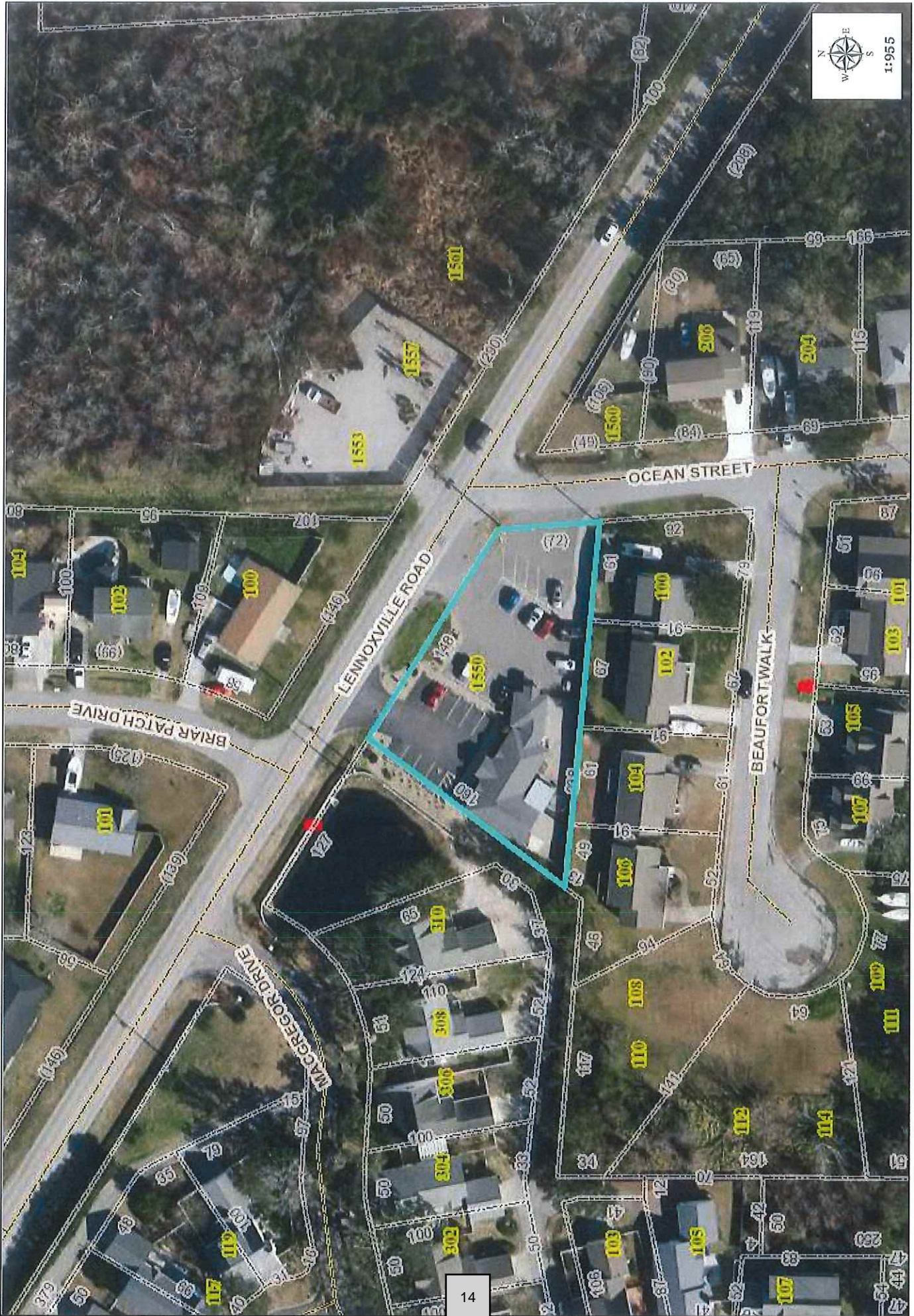
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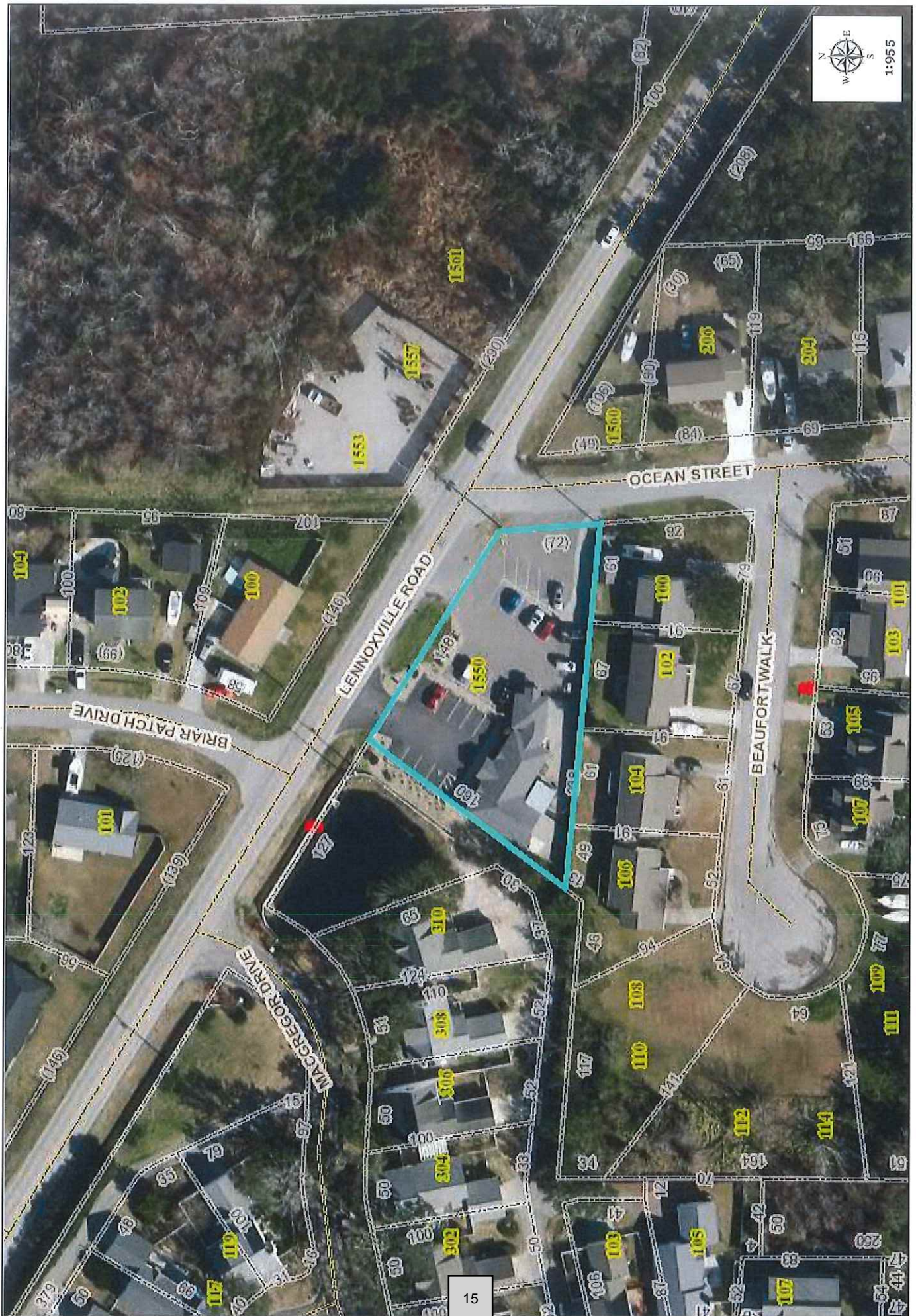
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We welcome any questions, comments, or concerns that may arise during the review process. Thank you kindly for your consideration of this request,

James Morton Davis III, President
Jim Dandy Stores and Davis Fuels



The information displayed by this website is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned public printing sources should be consulted for verification of the information contained on this site. Carteret County assumes no legal responsibility for the information contained on this site. Carteret County may modify or remove map services and access methods at will.



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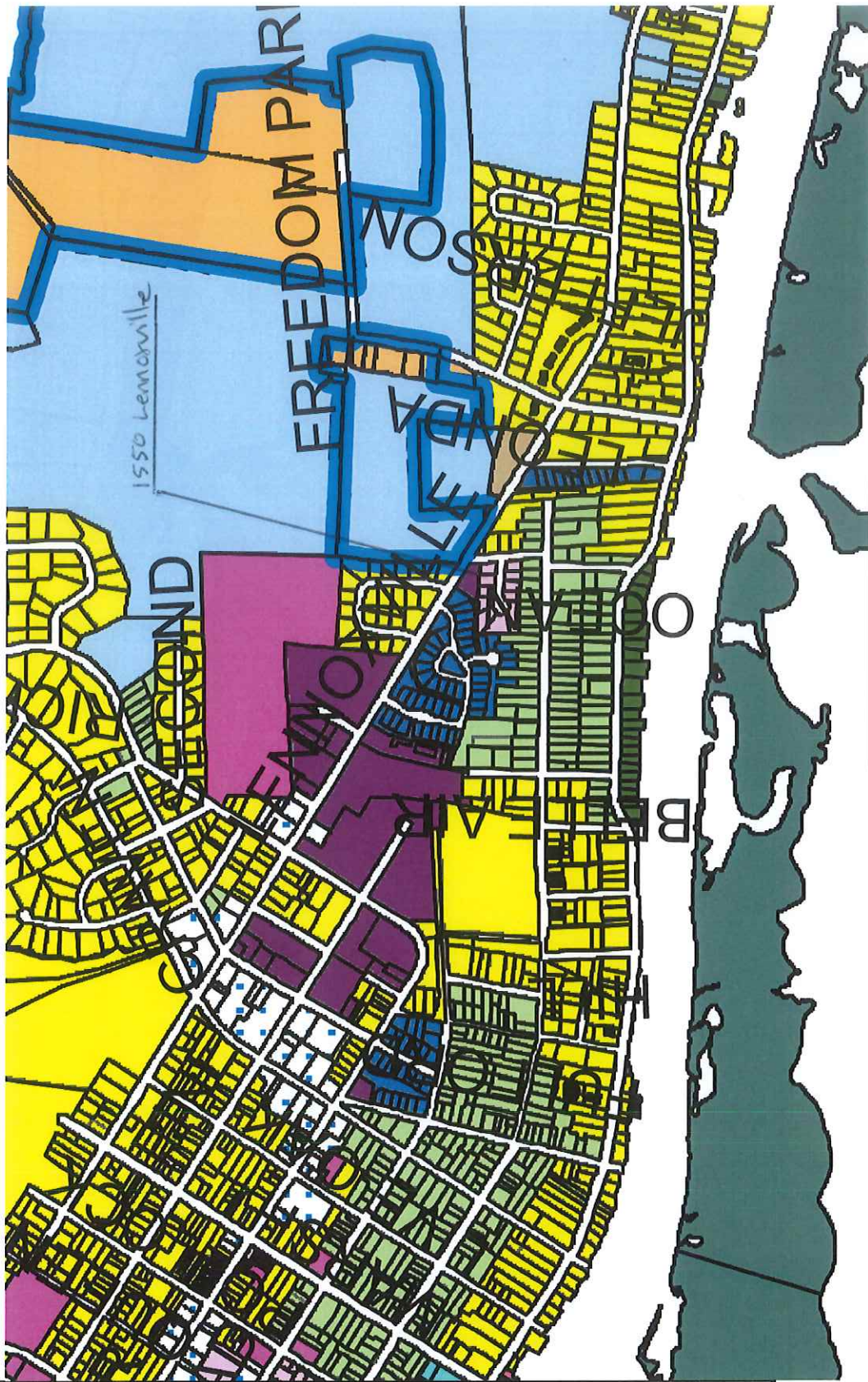
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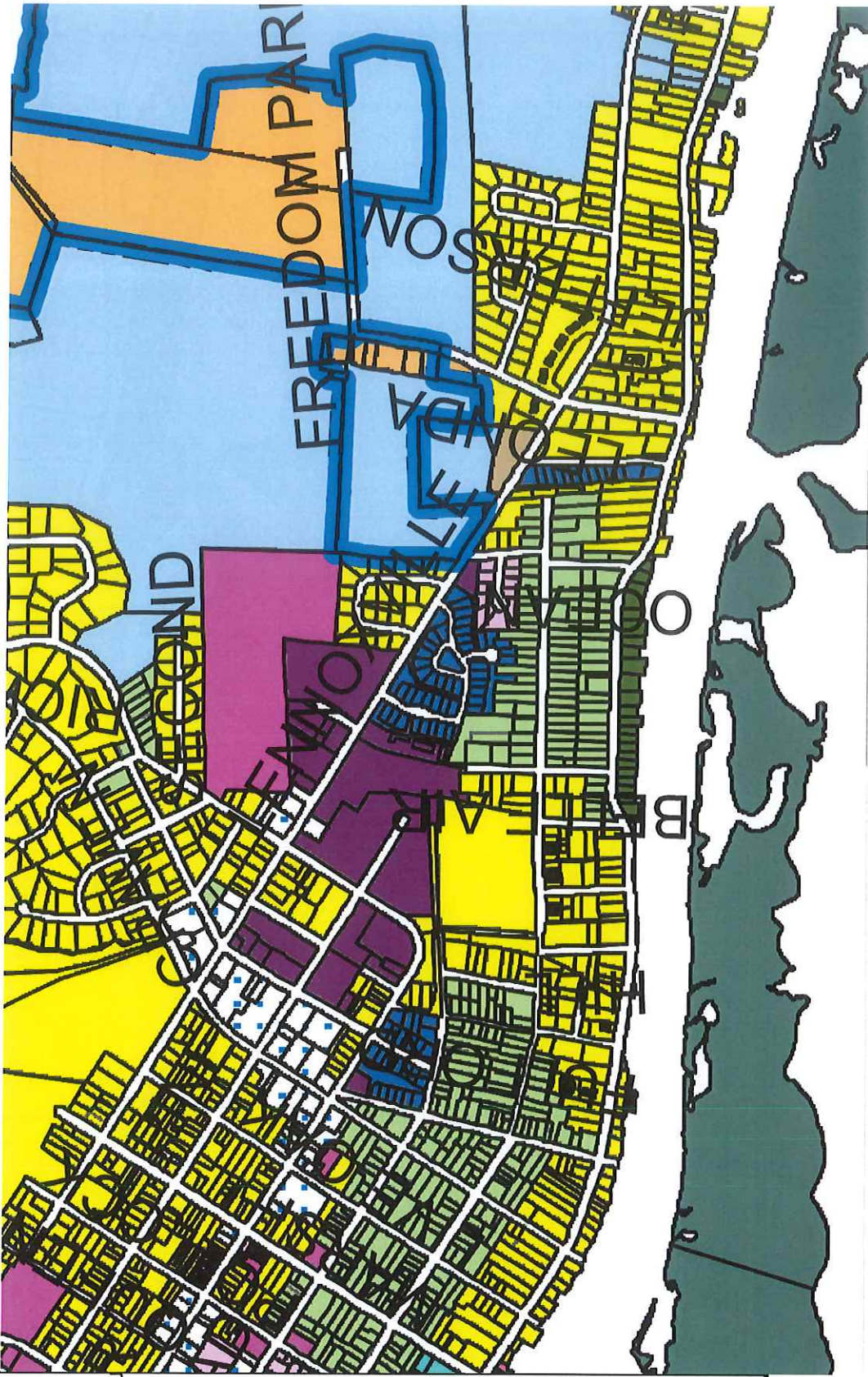
City Limits

- BEAUFORT
- BEAUFORT ET J.

Zoning

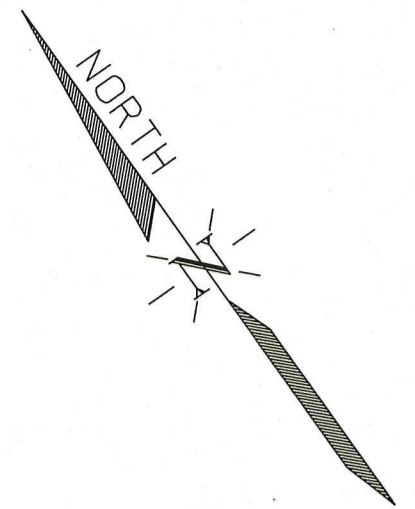
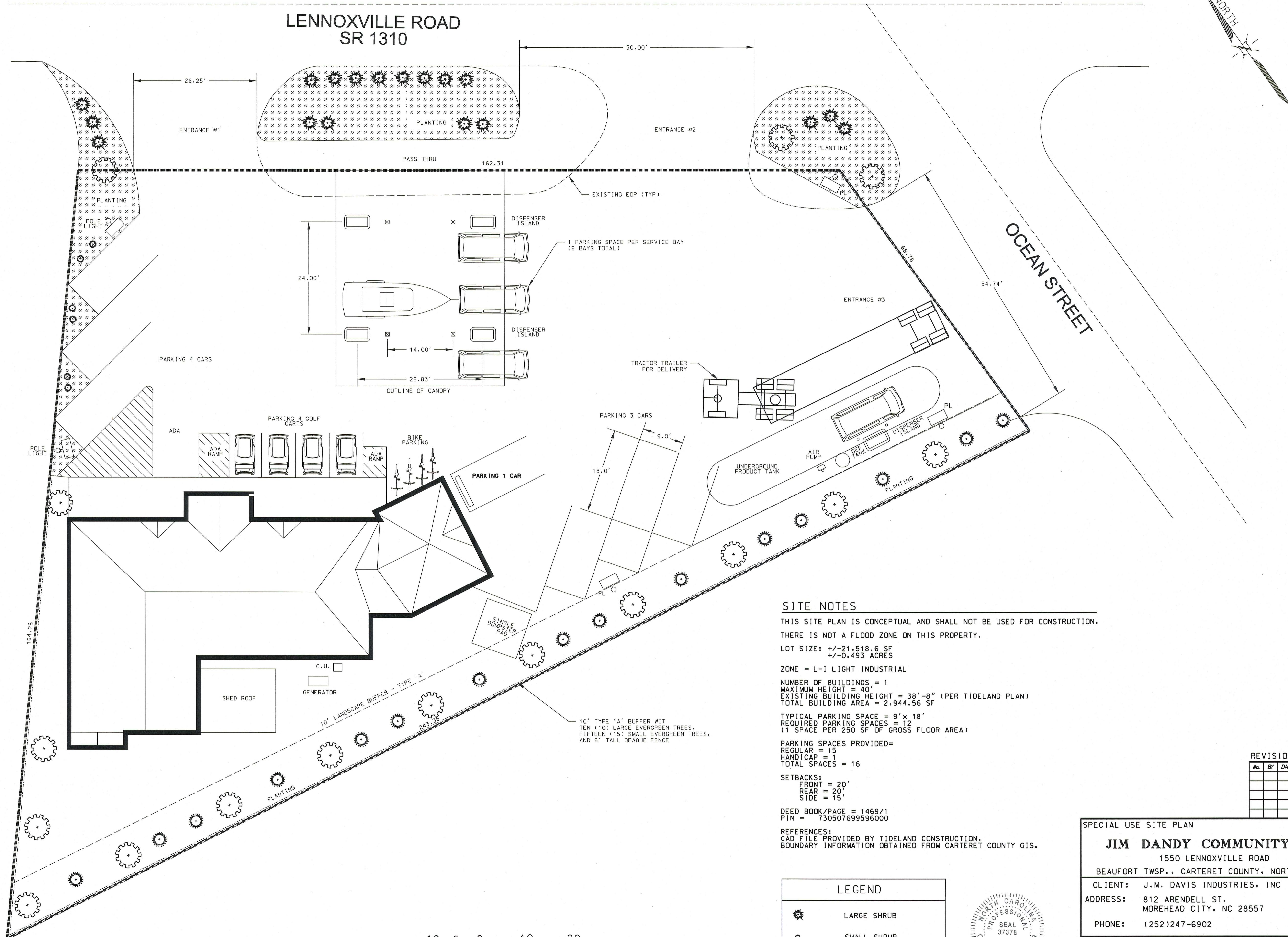
- BW
- B-1
- H-BD
- I-W
- L-1
- O-S
- PUD
- R-20
- RC-5
- R-8
- R-8A
- R-8MH
- TCA
- RS-5
- TR
- H-WBD







VICINITY MAP N.T.S.



SITE NOTES

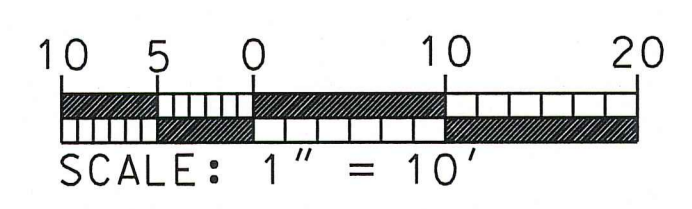
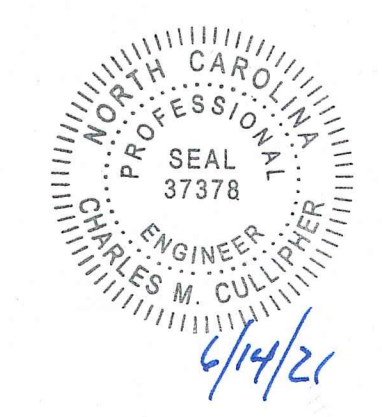
THIS SITE PLAN IS CONCEPTUAL AND SHALL NOT BE USED FOR CONSTRUCTION.
 THERE IS NOT A FLOOD ZONE ON THIS PROPERTY.
 LOT SIZE: +/-21,518.6 SF
 +/-0.493 ACRES
 ZONE = L-1 LIGHT INDUSTRIAL
 NUMBER OF BUILDINGS = 1
 MAXIMUM HEIGHT = 40'
 EXISTING BUILDING HEIGHT = 38'-8" (PER TIDELAND PLAN)
 TOTAL BUILDING AREA = 2,944.56 SF
 TYPICAL PARKING SPACE = 9' x 18'
 REQUIRED PARKING SPACES = 12
 (1 SPACE PER 250 SF OF GROSS FLOOR AREA)
 PARKING SPACES PROVIDED=
 REGULAR = 15
 HANDICAP = 1
 TOTAL SPACES = 16
 SETBACKS:
 FRONT = 20'
 REAR = 20'
 SIDE = 15'
 DEED BOOK/PAGE = 1469/1
 PIN = 730507699596000
 REFERENCES:
 CAD FILE PROVIDED BY TIDELAND CONSTRUCTION.
 BOUNDARY INFORMATION OBTAINED FROM CARTERET COUNTY GIS.

REVISIONS:

No.	BY	DATE	DESCRIPTION

LEGEND

	LARGE SHRUB
	SMALL SHRUB
	LARGE DECIDUOUS TREE



SPECIAL USE SITE PLAN

JIM DANDY COMMUNITY STORE
 1550 LENNOXVILLE ROAD
 BEAUFORT TWP., CARTERET COUNTY, NORTH CAROLINA

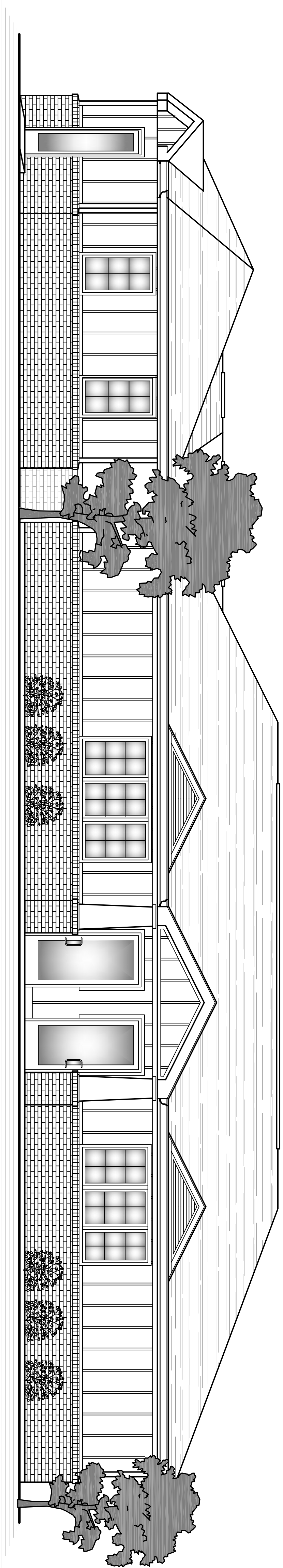
CLIENT: J.M. DAVIS INDUSTRIES, INC
 ADDRESS: 812 ARENDELL ST.
 MOREHEAD CITY, NC 28557
 PHONE: (252)247-6902

DESIGNED:
 DRAWN:
 CHECKED: CMC
 APPROVED: CMC

THE CULLIPHER GROUP P.A.
 ENGINEERING & SURVEYING SERVICES
 151A HIGHWAY 24
 MOREHEAD CITY, N.C. 28557
 (252) 778-0090 LICENSE NO. C-4482

CHARLES M. CULLIPHER P.E.

DATE: 6/14/21
 SCALE: 1"=10'



EXISTING FRONT ELEVATION OF AUSTIN VETERINARY
 SCALE: 1/4" = 1'-0"

19

REVISIONS		
NO.	DATE	BY



PAUL SUTTON
 (P): 252-524-1644
 (E): psutton@tidelandco.com

WILL CLARK
 (P): 252-814-7979
 (E): wclark@tidelandco.com

A NEW PROPOSED SITE PLAN FOR:
JIM DANDY #4

AUSTIN VETERINARY 1550 LENNOXVILLE ROAD BEAUFORT, NORTH CAROLINA

DATE	06.01.2021
SCALE	AS NOTED
DRAWN BY	JBC
B1	

<u>OWNER</u>	<u>AIL_HOU</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>L_SMAIL_Z</u>	<u>MAIL_ZI</u>	<u>MAIL_ADD2</u>
ARENDSHORST,WILLIAM ETUX DONNA	4317	KLEIN DRIVE	DURHAM	NC	27705	
AUSTIN,SARA W	1535	ANN STREET	BEAUFORT	NC	28516	
BEAUFORT PROPERTIES LLC			BEAUFORT	NC	28516	PO BOX 25
BLUE TREASURE LLC			CARY	NC	27519	PO BOX 3557
BOBBITT,MARTHA ANN	304	MACGREGOR DRIVE	BEAUFORT	NC	28516	
BRADLEY,CHARLES M ETUX SHEILA	100	BRIAR PATCH DR	BEAUFORT	NC	28516	
CLARK,JAMIE M ETAL MARIE K	107	BEAUFORT WALK	BEAUFORT	NC	28516	
COX,PAUL D ETUX LISA A			BEAUFORT	NC	28516	PO BOX 2276
CUNNINGHAM,BOBBY ETUX LAURIE	5105	WILSHIRE WOODS COURT	FUQUAY VARINA	NC	27526	
DAVIS,RICHARD H ETUX CHERRYL	306	MACGREGOR DRIVE	BEAUFORT	NC	28516	
DOWTY,MARTHA STATON	310	MACGREGOR DRIVE	BEAUFORT	NC	28516	
EDWARDS,JASON D ETUX LARISA M	3995	LANGTREE DR	HARRISBURG	NC	28075	
FEEHAN,SUSAN V ETAL CAR MALONY	104	BEAUFORT WALK	BEAUFORT	NC 2338	28516	
FOWLER,ROBERT O ETUX J CHRISTY	133	HOLLY LANE	BEAUFORT	NC	28516	
GOOLISHIAN,GREGORY A JR ETUX	119	CHELSEA CIRCLE	BEAUFORT	NC	28516	
JOHNSON,VON J	1012	RIVERVIEW DRIVE	BOONVILLE	NC	27011	
LEA,CARY SUZANNE	100	DOGWOOD DR	GREENVILLE	NC	27834	
MCCUNE,FREDERICK JOHN	608	ANN STREET	BEAUFORT	NC	28516	
MINIKUS,AMANDA LYNN	164	HESSIAN HILLS WAY	CHARLOTTESVILLE	VA 2516	22901	APT 4
NADEAU,JAMES L ETAL TIMOTHY J	255	MAIN STREET	SACO	ME	04072	
OCEAN STREET LLC	625	GLENMERE DRIVE	KNIGHTDALE	NC 6630	27545	
POOLE,JOANNE MAZZARELLA	102	BRIAR PATCH DR	BEAUFORT	NC 1740	28516	
SATTERLY,LAURA BETH	103	BEAUFORT WALK	BEAUFORT	NC	28516	
THE OAKS AT BEAUFORT ASSOC INC	306	MACGREGOR DRIVE	BEAUFORT	NC	28516	
TOMLINSON,RITA MARY	101	BEAUFORT WALK	BEAUFORT	NC	28516	
WILES,PATSY ETAL WAGONER	308	MCGREGOR DRIVE	BEAUFORT	NC	28516	

SECTION 6 Height and Area Exceptions and Supplements

The following requirements or regulations qualify or supplement, as the case may be, the zone regulations or requirements appearing elsewhere in this Ordinance.

A) *Allowed Projections into Required Yards.*

Certain architectural features, fences, walls, and hedges may project into required yards as follows as long as the corner lot visibility provisions as specified in subsection D of this section shall be observed;

- 1) Cornices, eaves, and sills – not more than two feet (2') into any required yard;
- 2) Balconies, bay windows, and chimneys – not more than three feet (3') into any required yard;
- 3) Planted buffer strips, hedges, fences, or walls, not exceeding four feet (4') in height, shall be exempt from the front yard and front building setback line requirements of this Ordinance;
- 4) Planted buffer strips, hedges, fences, or walls, not exceeding six feet (6') in height, erected in side and rear yards shall be exempt from the yard and building setback requirements of this Ordinance; and,
- 5) Open or enclosed fire escapes, outside stairways, balconies, and other necessary unenclosed projections, protruding into a minimum yard not more than thirty-two inches (32") may be permitted where such projections are so placed as not to obstruct the light and ventilation.
- 6) Paved driveways and walkways at grade as long as all impervious surface limits are met.
- 7) Trees, shrubs, and vegetation.
- 8) Every part of a required yard shall be open from its lowest point to the sky unobstructed except as permitted in sections A- 1 through A-7 of this subsection.
- 9) When adjacent lots of record are under single control by a lease agreement or a combination of ownership and lease agreement, temporary structures such as manufactured homes, manufactured offices, utility buildings, accessory buildings, etc., may extend across any common lot line(s) of the adjacent lots of record under such lease agreement. The location of such structures shall not conflict with any off-street parking requirements, on-site traffic circulation, or other applicable regulatory codes. Upon the expiration of the lease agreement, such structure must be removed to conform to the standard side or rear yard setbacks of the district within sixty days of expiration of the lease agreement.

B) *Vacant Lot Exceptions.*

If a vacant lot is adjacent to an existing lot containing an existing dwelling on the lot, and such dwelling is situated less than the required front building setback line, the required minimum front building setback line for the vacant lot shall be a line projected along the front wall of the main building to the adjacent lot and across the vacant lot. In cases where existing dwellings are situated on both sides of the vacant lot and each exists less than the

required minimum front building setback line, the required minimum front building setback line for the vacant lot shall not be less than the average of the two front building setbacks of the existing dwellings.

C) Board Action.

In the case of a housing project consisting of a group of two or more buildings to be constructed on a plot of ground of at least two acres and not subdivided into the customary streets and lots, and where the existing or contemplated street and layout makes it impractical to apply the requirements of this Ordinance to the individual buildings in such housing project(s), the application of such requirements for such housing project(s) may be adjusted by the Board of Adjustment (BOA) in a manner which will be in harmony with the characteristics of the neighborhood, will substantially insure the same kind of occupancy, when the density of land use will be no higher than allowed by this Ordinance , and a standard of open space will be at least as high as required by this Ordinance in the district in which such proposed project is to be located. In no case shall the BOA authorize a use, a building height, or a building area prohibited in the district where the housing project is to be located, provided; however, the BOA shall not exercise the authority permitted by this subsection unless or until the Board of Commissioners (BOC) has approved such housing project(s) after receiving a recommendation from the planning board.

D) Height Restrictions.

- 1) Height restrictions will be determined by the specific zoning district whether inside the Town corporate limits or within the ETJ area.
- 2) Fixtures and architectural features which are not capable of occupation, such as chimneys, cupolas, domes, elevator shafts, heating and air conditioning equipment, solar collectors, and similar equipment, fixtures and devices and antennae, and which extend no more than ten feet (10') above the highest point on the structure, shall be allowed if the base of such architectural feature or fixture has a square footage which is ten percent (10%) or less than the square footage of the highest habitable floor on the structure.
- 3) Any nonconforming residential structure in a specific zoning district which exceeds the height limitation for its specific zoning district and is damaged or destroyed by fire, flood, wind, or act of God, may be rebuilt to the dimension of such building or structure as it existed prior to the damage or destruction and according to the North Carolina State Building Codes.
- 4) Any building or structure in existence on the effective date of this Ordinance may be raised the minimum amount necessary to bring the structure into compliance with the prescriptive minimum flood elevation as determined by the National Flood Insurance program regulations, notwithstanding raising such building or structure will increase its overall height above the building height limitations established herein.

E) Exemptions.

In addition to those fixtures and architectural features allowed to extend above the maximum height limits provide in subsection D-2 of this section, the following are also exempted from the building height limit established in this Ordinance:

- 1) School gymnasiums,
- 2) The Carteret County Courthouse,
- 3) Public utility poles and towers (except towers may be subject to other limits or procedures in this Ordinance),
- 4) Municipal and public water towers,
- 5) Permitted communication towers,
- 6) Bell towers, steeples, and spires on structures used for religious purposes, elevator shafts, chimneys, and similar structural appendages not intended for occupancy or storage;
- 7) Flagpoles.

F) Canopies.

A canopy in a conforming nonresidential land use which is totally or partially supported by a structural pillar (upright support), such as but not limited to a canopy over gasoline pumps, may extend to the street right-of-way line or property line of a nonresidential use or nonresidential zone, provided such pillar is located at least ten feet (10') from a property line and the canopy is open on all four sides. Any side of a canopy may be enclosed provided the enclosed side meets the required building setback lines established herein.

E) ***L-I Light Industrial District.***

This district is established to provide for the industries and for certain commercial establishments which in their normal operations have little or no adverse effect upon adjoining properties.

1) Minimum Lot Size.

All lots in the L-I district shall be a minimum of eight thousand square feet (8,000 ft²).

2) Minimum Lot Width.

All lots in the L-I district shall have a minimum lot width of eighty feet (80') at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

Table 9-7 Lot Requirements

<i>District</i>	<i>Front Setback (Right-of-Way)</i>	<i>Rear Setback</i>	<i>Side Setback</i>	<i>Building Height Limitation</i>
L-I	20 feet	20 feet	15 feet	40 feet

4) Accessory Building Setback Requirements.

All accessory buildings must comply with the setback requirements as set forth in section 2-F of this Ordinance, section 6 of this Ordinance, section 15 of this Ordinance, and all sections of this Ordinance.

5) Permitted Uses.

- | | |
|--|--|
| Antenna Co-Location on Existing Tower | Kennel, Indoor Operation Only |
| Aquaculture | Kennel, Indoor/Outdoor Operation |
| Athletic Field, Public | Manufacturing, Light |
| Boat Sale/Rentals | Mini-Storage |
| Car Wash | Motor Vehicle Sale/Rentals |
| Club, Lodge, or Hall | Neighborhood Recreation Center, Public |
| Community Garden | Office: Business, Professional, or Medical |
| Concealed (Stealth) Antennae & Towers | Other Building Mounted Antennae & Towers |
| Dock | Outdoor Retail Display/Sales |
| Dry Boat Storage | Outdoor Storage |
| Farming, General | Park, Public |
| General Industrial Service | Parking Lot |
| Government/Non-Profit Owned/Operated Facilities & Services | Parking Structure |
| Heavy Equipment Sale/Rentals | Personal Service Establishment |
| Heavy Vehicle Repair | Public Safety Station |

Public Utility Facility
Religious Institution
Resource Conservation Area
Satellite Dish Antenna
Signs, Commercial Free-Standing
Temporary Construction Trailer
Towing & Vehicle Service

Transportation Facility
Utility Minor
Vehicle Charging Station
Vehicle Service
Warehousing and Distribution
Establishment
Wholesale Establishment

6) Special Use (*Special Uses* text may be found in section 20 of this Ordinance).

Adult Entertainment
Adult-Oriented Retail Establishment
Commercial Indoor Recreation Facility
Commercial Outdoor Amphitheater
Commercial Waterfront Facility
Commercial, Outdoor Recreation
Facility
Gas/Service Station
Golf Driving Range
Marina
Microbrewery

Microdistillery
Mixed Use
Other Freestanding Towers
School, Post-Secondary
Tavern/Bar/Pub with Indoor Operation
Tavern/Bar/Pub with Outdoor
Operation
Theater, Large
Theater, Small
Utility Facility

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,

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- 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.

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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.

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- 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.

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- 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.

Kyle Garner

From: Ann Bobbitt <abobbitt2@nc.rr.com>
Sent: Thursday, June 17, 2021 6:00 PM
To: Kyle Garner
Subject: Jim Dandy proposed gas station

I own 304 MacGregor and have several concerns. I have been in this home since 2011. Please share this email with the Planning Board and Town Commissioners.

I hear the one in Morehead was recently robbed. Putting this type of establishment where there is a high density of homes is not wise. There are other lots in Beaufort more suitable. Folks in our neighborhood are older with many living alone. Given what will be sold at the establishment and the opportunity for burglary/robbery, this is not a prudent/reasonable fit. We are a private community; however, with a clear path to take short cuts thru our neighborhood, we will be forced to take additional measures regarding protection which should not be necessary. Given the noise that will be generated by the big trucks with high powered loud attention getting motors, noise will be a problem. I have witnessed this many times where they leave their loud vehicles idling in the parking lot to attract attention. The clientele is in no way comparable to the current establishment. There are concerns regarding large gas tanks in the ground so close to many homes. I hear the prior tanks had issues. Has this been investigated relative to the water table in the area, prior issues, etc. Just because there was a gas station there before doesn't mean this should be rubber stamped. Many years have passed and more has changed than has remained constant. Further, no two gas stations are alike. There are different hours, different lights, different items being sold, etc. It is similar to comparing apples to oranges. Keep in mind we are talking about a two lane road and not an area which is predominantly businesses. There will be a great deal of increased traffic on what has become a compromised roadway during certain times. This is a safety concern for everyone. Clearly, the recommended location is not in the best interest of Beaufort, residents or visitors. Yes we need another gas facility. Putting it where the vet hospital is today is not the right answer.

Thank you for your consideration.

Sent from my iPhone

Kyle Garner

From: Arendshorst, William J <william_arendshorst@med.unc.edu>
Sent: Monday, June 21, 2021 3:34 PM
To: Kyle Garner
Subject: Special Use Permit

Hello Kyle,

Thank you for your hard work on preparing for the 1550 Lennoxville Road Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available today. We note that materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion about Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.

I live in the Oaks at Beaufort subdivision immediately adjacent to the property being considered. I am opposed to the Jim Dandy store with gasoline pumps to be located at the 1550 Lennoxville Road location in a primary residential neighborhood. It will promote unnecessary traffic to Lennoxville Rd that is currently overtaxed by the addition of new homeowners at the high density residency of BeauCoast.

Regards,

William Arendshorst, PhD
103 Cara Lane, Beaufort, NC 28512
Arends@med.unc.edu 919-475-2753

William J. Arendshorst, PhD
Professor of Cell Biology & Physiology
6341-B Med Blomolecular Res Bldg
CB # 7545, School of Medicine
UNC-Chapel Hill
Chapel Hill, NC 27599-7545

arends@med.unc.edu
919-966-1067

Kyle Garner

From: Barbara Buckley <barbjbuckley@gmail.com>
Sent: Wednesday, July 07, 2021 3:16 PM
To: Kyle Garner; John Day
Subject: Health and Environmental Concerns - Special Use Permit for 1550 Lennoxville Rd
Attachments: Health and Environmental Concerns - Gas Stations.docx

Mr. Kyle Garner, Director of Planning and Inspections, and Mr John Day, Town Manager-

On Monday July 5, I sent you two emails expressing my opposition to the special use permit for the Jim Dandy gas station and convenience store at 1550 Lennoxville Rd. On those occasions, I was writing as a homeowner (111 MacGregor Dr) in The Oaks subdivision. In this email, I am writing as a toxicologist and public health professional. I recently retired (May 29, 2021) from the U.S. Environmental Protection Agency where I spent 13 years working on assessments of health effects related to air pollution exposure. This work was conducted under the umbrella of the Clean Air Act. This background enabled me to take a closer look at the potential health and environmental effects related to gas stations. The information below (also attached as a separate file) provides context for understanding these issues. As prevention is always better than the cure or the treatment, I am strongly of the opinion that the special use permit should be denied.

Thank you for your consideration.

Barbara Buckley, Ph.D.

Retired Toxicologist (U.S. EPA)

Health and Environmental Concerns– Gas Stations

Health

Hazard: Gasoline vapors contain numerous toxic chemicals including benzene, toluene, ethyl benzene, and xylene. Benzene is a known carcinogen in humans. It is considered the most carcinogenic constituent of gasoline. There is a large body of epidemiologic and toxicological evidence linking benzene exposure to leukemia.

Exposure: Gasoline can be volatilized, making its constituents available for inhalation. Benzene is measurable in the air around gas stations. Some of the benzene in the air is related to the delivery of fuel from tanker trucks to the storage tanks, while some is related to pumping of fuel into vehicles. Venting of underground storage tanks, which has become a common practice related to reducing exposures at the pump, is also a source of benzene in the air around gas stations.

Gas station attendants have the greatest exposures since their exposures are occupational (many hours per day over many days/weeks/months). Individuals pumping their own gas are also exposed, but generally only for a few minutes. People living, working, or going to school near gas stations may also be exposed to benzene, but this depends on the degree to which concentrations of benzene decline with distance from the gas station.

Risk: Risk is a function of the degree of the hazard and the duration and the amount of the exposure. Risk may be greater in some populations, for example children, the elderly, people with specific diseases, due to factors specific to those populations.

Regulatory/Advisory bodies:

Recommendations and standards are generally based on the collective body of evidence rather than an individual study.

The World Health Organization considers there to be no safe level of benzene.

Agencies in the U.S. have defined standards and other defined levels of concern for occupational and other kinds of situations where there is exposure to benzene. These established thresholds are generally specific for the duration of exposure. Examples include:

- American Industrial Hygiene Association Emergency Response Planning Guidelines defines a level for short-term exposures of first responders.
- The Agency for Toxic Substances and Disease Registry has defined a minimum risk level for benzene exposure for 2 weeks to a year.
- California Office of Environmental Health Hazard Assessment has defined a reference exposure level for a continuous 1-hour exposure.
- National Institute of Occupational Safety and Health has defined a recommended exposure level for an 8-hour exposure.

Some states/municipalities require gas stations to be located no less than 100-1500 feet from residential areas or other places where people congregate. California Air Resources Board adopted a 300-foot setback in 2005.

Results of Two Recent Studies:

A 2019 study (<https://www.sciencedirect.com/science/article/abs/pii/S0048969718337549>) conducted in the U.S. found that emissions from gas vent pipes were approximately 10-fold higher than thought based on past research. The previous research formed the basis for the 300-foot setback adopted by the California Air Resource Board in 2005, calling into question the adequacy of a 300-foot setback. This study also estimated exposures at different distances from the gas stations. It found that there was potential to exceed the established thresholds for benzene defined by 2 of 3 of the U.S. agencies mentioned above.

A 2021 study (<https://doi.org/10.3390/ijerph18041872>) conducted an exposure assessment of 34 individuals filling their own vehicle gas tanks in a U.S. urban area. These individuals wore backpacks containing sampling equipment that was used to measure exposure while pumping their own gas. This study also conducted a risk assessment based on the measured exposures. It found that the cancer risk associated with exposure to benzene while pumping gas was below the 1 in a million excess risk management threshold for consumer scenarios and below the 1 in ten thousand excess risk management threshold for occupational scenarios.

Other:

There is the potential for exposure to high concentrations of vehicle exhaust emissions in the gas station setting. Vehicle exhaust emissions are associated with a wide variety of health effects, notably effects on the cardiovascular system. One source of vehicle exhaust at a gas station is idling fuel delivery trucks.

Environmental

Leakage from underground storage tanks is a big concern. However, spills at the pump or leakage from lines connecting the pump to the tanks also happens.

The contamination of soil and groundwater that occurred at the previous gas station located at 1550 Lennoxville Road was documented and remediated between 2008 and 2012. The contamination occurred in the vicinity of the dispensing island and appeared to be caused by leakage from the pumps/lines rather than from the underground storage tanks. This information was taken from documents related to the violation that are available on the state Department of Environmental Quality website (searchable database for underground storage tanks - <https://deq.nc.gov/about/divisions/waste-management/waste-management-rules-data/waste-management-gis-maps/rust-map>).

Contamination of the soil can lead to contamination of ground water and surface water. In the case of the previous gas station at 1550 Lennoxville Road, engineering and geology consultants determined which nearby groundwater and surface water sites could be impacted by the contamination of the soil. These sites included the surrounding ditches that lead to Turner Creek, the adjoining retention pond located in The Oaks neighborhood, and several nearby wells that are not used for drinking water.

The remediation of this issue involved removal of the underground storage tanks and roughly 450 ton of soil. A Notice of Residual Petroleum was recorded at the Carteret County Register of Deeds for this site.

Additional References:

<https://www.indianaenvironmentalreporter.org/posts/gas-stations-emit-10-times-more-benzene-than-previously-recorded>

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Health and Environmental Concern – Gas Stations

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<https://deq.nc.gov/about/divisions/waste-management/waste-management-rules-data/waste-management-gis-maps/rust-map>).

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<https://www.indianaenvironmentalreporter.org/posts/gas-stations-emit-10-times-more-benzene-than-previously-recorded>

Kyle Garner

From: Barbara Buckley <barbjbuckley@gmail.com>
Sent: Monday, July 05, 2021 1:43 PM
To: Kyle Garner
Subject: speaking at July 19 hearing

Hello Kyle-

I would like the opportunity to speak at the July 19 hearing regarding the special use permit for 1550 Lennoxville Rd.

Thank you

Barbara Buckley
111 MacGregor Dr
Beaufort, NC 28516
919-210-0482

Kyle Garner

From: Barbara Buckley <barbjbuckley@gmail.com>
Sent: Monday, July 05, 2021 1:41 PM
To: Kyle Garner; John Day
Subject: Re: Special Use Permit for 1550 Lennoxville Road

Hello Kyle-

I am writing to express my opposition to the special use permit for 1550 Lennoxville Road. This is to follow up on my previous email dated June 20, 2021, which is seen below.

I am a property owner of The Oaks at Beaufort, a neighborhood adjoining this property. I am also one of the Board of Directors of the homeowners association. I would very much like the opportunity to speak at the public hearing scheduled for July 19, 2021.

There are many reasons why I do not support locating a Jim Dandy gas station and convenience store at 1550 Lennoxville Rd.

My concerns include the following:

- 1) Increased traffic, noise, and light pollution in proximity to my home and neighborhood
- 2) Increased foot, bicycle, and golf cart traffic through my neighborhood as folks use the existing golf cart path as a shortcut to the convenience store
- 3) The likelihood of gasoline contaminating soil and groundwater, as happened with the previous gas station at this location
- 4) The likelihood of increased benzene in the air, posing a health hazard to homes on Beaufort Walk and Ocean which are in close proximity
- 5) The potential for crime, as convenience stores are often a target for robberies
- 6) The uncertainty about the gas station and convenience store remaining locally owned in the future
- 7) Impacts on property values of my home and other homes in proximity to 1550 Lennoxville Rd

Thank you very much for your attention to this matter.

Regards,

Barbara Buckley
111 MacGregor Dr
Beaufort, NC 28516
919-210-0482

On Sun, Jun 20, 2021 at 2:13 PM Barbara Buckley <barbjbuckley@gmail.com> wrote:

Hello Kyle,

Thank you for your hard work preparing for the 1550 Lennoxville Road

Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available Wednesday.

Materials are required to be available 7 days before the meeting date according to the Town's ordinance. Therefore, I support postponing the Public Hearing discussion to the July 19 Planning Board meeting.

For your information, I do not support locating a Jim Dandy store with gasoline pumps at 1550 Lennoxville Road because of the additional light pollution, noise, and traffic that will result.

I also have concerns about the potential for crime and for the possibility of leaks from an underground gasoline storage tank.

Regards,

Barbara Buckley

111 MacGregor Dr Beaufort, NC 28516

919-210-0482

Kyle Garner

From: Barbara Buckley <barbjbuckley@gmail.com>
Sent: Sunday, June 20, 2021 2:13 PM
To: Kyle Garner
Subject: Special Use Permit for 1550 Lennoxville Road

Hello Kyle,

Thank you for your hard work preparing for the 1550 Lennoxville Road

Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available Wednesday.

Materials are required to be available 7 days before the meeting date according to the Town's ordinance. Therefore, I support postponing the Public Hearing discussion to the July 19 Planning Board meeting.

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I also have concerns about the potential for crime and for the possibility of leaks from an underground gasoline storage tank.

Regards,

Barbara Buckley

111 MacGregor Dr Beaufort, NC 28516

919-210-0482

Kyle Garner

From: bobacunningham@gmail.com
Sent: Monday, July 05, 2021 9:52 AM
To: Kyle Garner
Cc: info@nodandy.org
Subject: No to Jim Dandy at 1550 Lennoxville

PLEASE ADDRESS EMAIL TO Kyle Garner (k.garner@beaufortnc.org) AND ADD CC TO info@nodandy.org. Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.

I am strongly opposed to the approval of the Special Use Permit for Case#20-17 for the following reasons:

- 1) The proposed location is in a residential area not conducive to a convenience store and gas station
- 2) Traffic and congestion will increase and surrounding neighborhoods will be adversely affected
- 3) Environmental, health and safety impact to the surrounding residents from vapors, gas spills and contamination
- 4) Noise and light pollution affects on surrounding residents
- 5) Potential for increase in crime and impact to safety of residents, families and children in the surrounding neighborhoods

Respectfully,

Bob Cunningham

100 Beaufort Walk

Beaufort, NC 28146

Kyle Garner

From: bparks2@northstate.net
Sent: Friday, July 09, 2021 7:07 AM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.
I use Ocean every day and was relieved when Austin Vet was moving. The intersection with Lennoxville is dangerous because of the old railroad track that crosses Ocean. That combined with traffic from the business on the corner is especially troubling in a residential neighborhood.

Sent from my iPhone

Kyle Garner

From: Brady <bradyterrents@hotmail.com>
Sent: Monday, June 21, 2021 3:48 PM
To: Kyle Garner
Cc: Amy Terrents
Subject: Opposition to proposed gas station

Hi Kyle. Hope you are doing great.

My name is Brady Terrents and my wife Amy and I own the restored home at 1600 Ann Street. We purchased the home in September of 2020.

We recently learned of the proposed gas station at 1550 Lennoxville Road. We wanted to share with you our strong opposition to this special use permit. A gas station in this residential part of town is simply not a good fit for the community. A lot of homeowners have , or are in the process of, renovating older homes to revitalize this end of Ann Street.

Putting a gas station here will potentially lead to a decrease in property values and increased traffic down Ocean St which would be used a cut through from Front St to the gas station. We have children who love to bike and walk in the area.

It could also create health and safety risks. There are plenty of gas stations off the island and commercial land for new a new gas station that are right in the middle of a residential area.

Thank you for hearing our concerns and I trust you will do the right thing and reject this proposal.

Thanks,
Brady & Amy Terrents

Sent from my iPhone

Kyle Garner

From: Bruce Chappell <peapod2018a@gmail.com>
Sent: Friday, July 02, 2021 12:31 PM
To: Kyle Garner
Cc: John Day
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner And Mr Day (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17 I would appreciate that this be read into the record on July 19 meeting.

I believe the planning boards right to defend and continue with the proposed future plans to our town. A special exemption would only be needed for a hardship case! I do not see any hardship to the land owner or Jim Dandy organization! After all what is proposed is a change of use for one parcel in a neighborhood which is mostly conforming and residential. For all the possible future headaches that will develop if the exceptions is granted, I would firmly believe the Board should deny this application for just cause, and stay with the plans already adopted!

Sincerely
Bruce and Judy Chappell
302 MacGregor dr
Beaufort

Sent from my iPhone
Please forgive typos

Kyle Garner

From: Bruce Chappell <peapod2018a@gmail.com>
Sent: Sunday, June 27, 2021 2:49 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17

Bruce Chappell
302 MacGregor. Dr. Beaufort
860 575 2085

<http://nojimdandylennoxville.org/>

Sent from my iPhone

Kyle Garner

From: Bruce Chappell <peapod2018a@gmail.com>
Sent: Thursday, June 17, 2021 4:55 PM
To: Kyle Garner
Subject: Jim Dandy

k.garner@beaufortnc.org

Hello Kyle,

Thank you for your hard work on preparing for the [1550 Lennoxville Road Special Use Permit Public](#) Hearing.

Materials for the [June 21](#) Planning Board Meeting became available today. Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the [July 19](#) Planning Board meeting.

For your information, I do not support the Jim Dandy store with gasoline pumps to be located at the [1550 Lennoxville Road](#) location.

Regards,

NAME Bruce. Chappell
ADDRESS 302. MacGregor Dr. Beaufort
8605752085

Sent from my iPhone

Kyle Garner

From: Carol Malony <camalony@yahoo.com>
Sent: Tuesday, July 06, 2021 9:39 AM
To: Kyle Garner
Subject: Request to be added as a speaker for July 19th Planning Board meeting

Hi Kyle,

As previously mentioned, I am very opposed to the idea to grant a Special Use Permit for 1550 Lennoxville for the use of a gas/convenience store.

Please add me to the list of people who get a chance to speak at the July 19th Planning Board meeting.

Thanks!

Carol Malony

On Thursday, June 17, 2021, 07:18:00 AM EDT, Kyle Garner <k.garner@beaufortnc.org> wrote:

Hi Carol,

As I have shared with your neighbors, I have recommend to the Planning Board that this item be tabled and that a new notification letter and information be sent.

The item should be the first thing the Board does at their meeting on Monday night and the next scheduled meeting is Monday July 19th.

Again thanks for your email.

Kyle

From: Carol Malony [mailto:camalony@yahoo.com]
Sent: Wednesday, June 16, 2021 10:08 PM

To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Special Use Permit - 1550 Lennoxville

Hi Kyle,

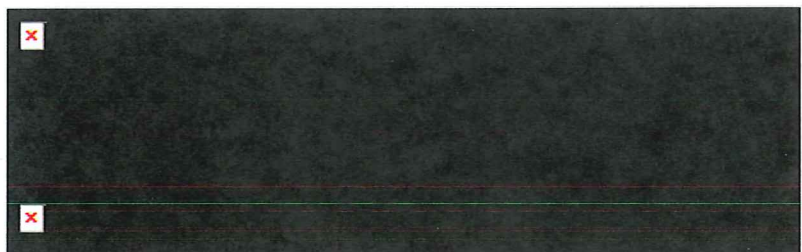
Thank you for calling me back and leaving your voicemail regarding the Jim Dandy application for a Special Use Permit for 1550 Lennoxville Road.

I would like to request that this item be removed from the June 21 Planning Board Meeting agenda. The agenda packet was not available for a full 7 days before the meeting date. Please postpone this item until the July 19 Planning Board meeting.

Just so you are aware, we do not support the idea of locating a Jim Dandy store at this location. We purchased our house knowing that the location behind us was zoned as a business property. Austin Veterinary has been a good neighbor - keeping noise, light pollution, and garbage to a minimum. They are a professional business that serves the community well.

Unfortunately, we believe that a Jim Dandy would greatly increase traffic, noise, garbage, and would attract crime to our neighborhood location. Less than a month ago, the Jim Dandy in Morehead City was robbed at 8am on a Wednesday morning. The man that was arrested was charged with four counts of kidnapping and robbery with a dangerous weapon.

[Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City](#)



Authorities arrest Carteret County man for Wednesday armed robbery of Ji...

ELISE CLOUSER

MOREHEAD CITY — Law enforcement officials have arrested and charged the subject involved in an armed robbery of ...

Adding bright lights to attempt to deter loitering and crime would create light pollution that directly shines into our bedroom, impacting our sleep and our health.

Even a cursory search in PubMed brings up scores of medical publications that show the health risks of gasoline exposure, either in liquid or vapor form. Leukemia, multiple myeloma and kidney cancer are cited often as health risks in these types of publications.

We are also concerned about the environmental impact of gas and oil spillage, with runoff to our local creeks and storm drains likely.

This is a residential area and this type of business does not match the surroundings.

Regards,

Carol and Matthew Malony

104 Beaufort Walk

252-773-3301

Kyle Garner

From: Carol Malony <camalony@yahoo.com>
Sent: Wednesday, June 16, 2021 10:08 PM
To: Kyle Garner
Subject: Special Use Permit - 1550 Lennoxville

Hi Kyle,

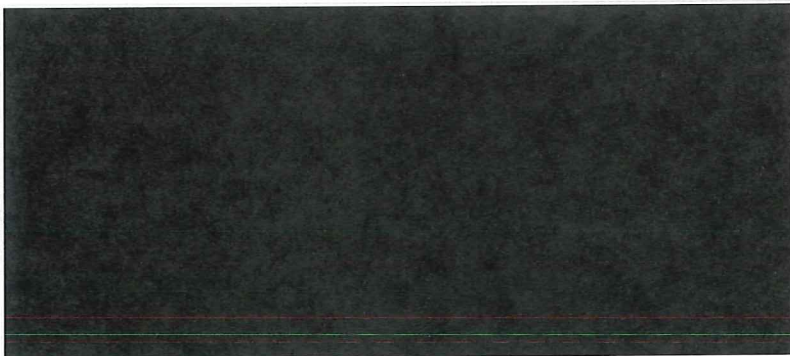
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Regards,

Carol and Matthew Malony
104 Beaufort Walk
252-773-3301

Kyle Garner

From: Cindy Cash <cindy.cash1117@icloud.com>
Sent: Tuesday, July 06, 2021 7:15 PM
To: Kyle Garner
Cc: info@nodandy.org
Subject: No to Jim Dandy at 1550 Lennoxville

Hi Kyle,

Putting a gas station and convenience store in the middle of a residential area is a very bad idea. We do not agree with this proposal.

Please deny the Special Use Permit for Case #20-17.

Cindy and Jim Cash
1013 Front Street
Unit 102
Beaufort, NC 28516

Sent from my iPhone

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Wednesday, July 07, 2021 4:49 PM
To: Kyle Garner; ryan.neve@gmail.com; E Newton; John Day
Subject: Letter for Planning Board, Case #21-17 (also #20-17
Attachments: LeaLetter_case20-17_SUP_1550Lennoxville.pdf

Kyle,

Attached is my letter for the meeting packing on July 19, 2020.

Please include in the meeting packet.

Thank you,
Suzanne Lea

Opposition to Case # 21-17, Special Use Permit (SUP)

Dear Planning Board,

My name is Suzanne Lea and I am the owner of 206 Ocean Street, and 1560 Lennoxville Rd, which are the lots at the corner of Ocean Street and Lennoxville Road -- located across Ocean Street from the proposed gas station. My mother currently lives in the home. I visit most weekends as she is elderly and lives alone. I plan on retiring at the home and am involved in the local community. I have owned the residential property since June 2012.

I am an epidemiologist by training, having earned a Masters in Public Health in Environmental Health from Yale University and a PhD in Epidemiology from University of California, Berkeley School of Public Health. I am currently an associate professor of epidemiology at the Brody School of Medicine at East Carolina University, and specialize in conducting public health studies both for infectious diseases, such as COVID-19, and diseases resulting from man-made environmental hazards.

At the time I purchased the property, the convenience store was closing, the underground storage tanks had been removed, including 40+ tons of contaminated soil. As an epidemiologist with a degree in environmental health, I was aware that leaking gas station pumping equipment and related tanks can cause groundwater contamination that is not repairable. I was glad to learn that the Town had approved a Vet Clinic at the location. I was truly stunned to learn the Town would consider a Special Use Permit (SUP) for a gas station at the location that caused permanent groundwater contamination. As you know the Town's water is from wells. For a Town that proposes to be progressive, isn't this idea a step backwards? The subject property has been a veterinary clinic, with posted hours of 8 to 8 Monday through Thursday, 8 to 5 on Fridays, 9 to 3 on Saturdays and closed on Sundays. Austin Vet has, heretofore, been a fine and respectful neighbor.

The Current Application

The application identifies the "Requested Use" as a "Convenience Store," however, the intended use is really for a gas station, as identified by the Staff in its Comments, and as a restaurant, cooking and serving fried chicken and other foods, as noted by the applicant in his supporting letter. The face of the application is also inconsistent with the narrative supplied by the applicant, that states that Beaufort "is in critical need of an additional location to fuel vehicles." The omission of both the gas station and restaurant operations in the application should be sufficient for a denial of the application. The proposed uses require three SUPs, one for each use, not the single one for a convenience store.

These omissions are central to some of the critical failures of this application that I will discuss.

Town of Beaufort Land Development Ordinance, Section 20, Criteria for Special Use Permits

Section 20 related to Special Use Permits requires the Board of Commissioners (BOC) to make seven specific findings. The current application meets none of the requirements and should not be approved. I will address these in reverse.

Criteria (g).

The proposed use will not materially endanger the public health or safety of the community if located where proposed and the developed according to submitted and approved plans.

Criteria (g) requires a finding that the proposed use will not materially endanger the public health or safety of the community, and denial of the application if it does not meet this criteria. Location of a gasoline station and permitting the fueling of vehicles within 300 feet of residences is inconsistent with the public's health. Multiple studies have determined that significant adverse health effects are caused by hydrocarbon releases, vent pipe releases, that are a normal part of fuel storage and vehicle refueling that takes place at gas stations. These cannot be attenuated or avoided and occur as part of the normal operations of any gas station. Vent pipe emissions occur naturally as underground storage tanks are filled and emptied, and during vehicle refueling operations. These emissions cannot be recaptured with any current technologies and are released into the atmosphere.

In a study conducted by researchers at Johns Hopkins University in 2015 detailed this problem and the health effects of benzene, a component of gasoline. Benzene results in significant increases of blood cancers, including various forms of leukemia. Health exposure risk is even higher for children, and numerous children live within 300 feet of the proposed station.

Building on these findings, researchers at Johns Hopkins and the Columbia University School of Health proposed setback distances for the safe operation of gas stations, based upon studies of vent pipe emissions and the health hazards posed by such emissions. In a study released in 2019, Hilpert and et al determined that vent pipe emission factors were more than ten times higher than previous estimates. The authors of the 2019 study found that setback distances should be set based upon the total volume of sales at a station, due to the direct result of vent pipe emissions to total fuel delivery volume. Studies indicated that setbacks of between 50 and 120 meters might be required in order to alleviate some of the worst health effects of benzene and other harmful emissions from gas stations. Neither the instant application nor the staff comments make any attempt to address these health effects, and the location of this proposed gas station is much closer to many homes than the distances studied in this research.

In fact, the public health dangers of gas stations have led to several governmental actions restricting the distance between gas stations and residences. Current US Federal Housing Administration (FHA) guidelines prohibit FHA loans for the purchase of residences within 300 feet of a gas station. The City of Raleigh itself has recognized the negative health impacts of gas stations and has prohibited the operation of gas stations within 300 feet of residences.

Cooking of fried chicken and other foods also generates vapors and cooking particles that are hazardous to public health unless properly ventilated, and the current application does not address how the applicant proposes to handle these emissions to minimize the impact on surrounding residences. Studies of cooking vapors on human health are available.

In addition to the harmful effects of the vent pipe emissions from refueling vehicles and storage tanks are the soil and groundwater contamination issues related to gas stations. As this Board is aware, this site long ago had a gas station located on it, and the operation of the gas station led to the site becoming a toxic plume of contaminated groundwater and soil. To this day, we do not know the reach of the plume since the monitoring well was closed in 2011. Even though tens of tons of petroleum contaminated soil were removed from the site, the groundwater continues to be contaminated and water cannot be drawn from the surrounding area due to this contamination. This Board should reject this application adding a new source of contamination to an area still in recovery.

Traffic and road quality must be mentioned.

The applicant seeks to use Ocean St as a means to drive a standard 53 foot refueling truck next to the underground storage tank(s) (could hold a total of 40,000 gallons) because there is no turning radius on Lennoxville. That underground refueling tank is proposed to be buried as close as 30 feet from someone's home. Of course, the tank truck will need to drive down Beaufort Walk to make a u-turn to be able to pull next to the refueling tank. There are many more problems that are more obvious, such as no shoulder and no turning lane and not traffic control at that busy intersection of Ocean and Lennoxville. Has a fire marshal signed off on any of this plan?

Criteria (f)

Criteria (f) requires denial if the proposed use is not "compatible and in harmony with adjoining land uses." Currently the location is operated as a veterinary clinic and is surrounded on all sides by single and multiple family residences, including a pond with fish that is 6 feet from the property line (in The Oaks). The Council, in apparent recognition of the adjoining land uses and concentration of residences in the immediate vicinity has slated to convert the subject property to multiple family residences this Fall 2021, when the new Land Use Ordinance is scheduled to be voted on by the Board of Commissioners. Our tax payer money has paid the consultants to make recommendations fitting with the current and intended future uses. The neighborhoods affected are comprised of primarily year-round residents who are retirees (sheriff), long time Beaufort residents (Pastor's family on Briar Patch), and young families (police officer). The impacted families are not seasonal visitors nor rent their homes for weekend profit.

The current application is a last minute attempt to circumvent the pending BOC action by converting the location into a hazardous and high-volume commercial establishment immediately prior to it being rezoned to a use consistent with the surrounding neighborhood. This Board should not approve this non-conforming proposed use as operation of a convenience store, gas station and restaurant which are not conforming uses to an otherwise strictly residential community.

Criteria (e)

Criteria (e) requires rejection of a proposed special use permit if the use will “substantially injure the value of adjoining or abutting properties.” The proposed use – a gas station – will undeniably permanently injure the value of scores of abutting residential properties. As I noted before, the FHA prohibits the financing for purchase of residences located within 300 feet of a gas station. Once approved, homeowners’ residences located within three hundred feet of the proposed gas station will be prohibited from selling their homes to prospective purchasers who will be relying on FHA financing. The negative impact of this fact on home values is obvious.

Numerous studies have also found that property values are negatively impacted by up to 24% when located in close proximity to gas stations. Would our property taxes be reduced if land value was reduced? The location of a gas station within three hundred feet of numerous residences will clearly negatively impact the value and ability to resell these residences. Accordingly, this application must be rejected pursuant to Criteria (e).

Criteria (c)

The location is not in conformity to the Town’s land use plan and other comprehensive plan. See argument for Criteria (f).

This is just the wrong solution for the wrong location. The Town has already wisely planned to change the zoning of this lot that has long been abandoned as a site for a gas station and has never been used as a site for a restaurant, to residential recognizing the changing and long-standing character of the surrounding neighborhood. The Town should turn away this last-ditch attempt to go backwards in time and re-introduce industrial/restaurant/heavy commercial uses into a lot that has not been used for any of those purposes for a long time.

Nothing in the application defends the applicant’s choice of location. There are other locations close to the current request that are for sale, have better traffic access and are located in areas consistent with the surrounding land usage, particularly where neighborhood health and safety impacts issues are minimized.

Criteria (b)

The application also does not meet Criteria (b). The application is both misleading and incomplete. The proposed use requires three SUPs, not one, for its various proposed operations of a convenience store, a gas station and restaurant operation cooking and serving fried chicken and other items. The application is also incomplete as it does not even attempt to address any of the criteria I have discussed so far. Accordingly, it must be rejected as filed, and under Criteria (e), (f) and (g), a SUP cannot be granted to this location for the operation of a gas station regardless of the showing in any SUP.

I agree we need a second gas station. 1550 Lennoxville is not the right location.

Best wishes,

Suzanne Lea
206 Ocean St. and 1560 Lennoxville Rd.
Beaufort, NC 28516

(Citations available)

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Wednesday, July 07, 2021 3:58 PM
To: Kyle Garner
Cc: John Day; Rita Tomlinson; Laurie Cunningham; Lisa Cox; Ryan Butt; ryan.neve@gmail.com; E Newton
Subject: Re: Case 20-17 Neighborhood packet - Planning Board meeting July 19
Attachments: Case21-17_SUP_1550LxvilleRdNeighborsOpposeJDGasStationStore-7-7-21Revfinal.pdf

Hi Kyle,

As a side note -- can you clarify which case number this case actually is? In the June packet agenda it is case #20-17 and in the attached documents, the case number is 21-17.

I labelled the original submission as case #20-17. For accuracy, I attach case #21-17. Thank you, Suzanne Lea

On Wed, Jul 7, 2021 at 3:32 PM CS Lea <cslea98@gmail.com> wrote:

Dear Kyle,

Our neighbors have come together to oppose the Special Use Permit proposed for 1550 Lennoxville Rd.

Attached is our packet for the Planning Board meeting on July 19. We request that you include the full packet as submitted related to case 20-17. The first page is a cover letter.

On a related note, many of us have requested to speak at the Planning Board meeting and look forward to receiving confirmation from you.

Thank you for your service.

Best wishes,

Suzanne Lea
206 Ocean Street

--

Warm breezes,
Suzanne

July 7, 2021 -- revised to reflect case #21-17

Mr. Kyle Garner
Town Planning Director
Town of Beaufort
701 Front Street
Beaufort, NC 28516

Re: Materials for Planning Board in reference to Case #21-17, 1550 Lennoxville Road
Special Use Permit application

Mr. Garner: Attached you will find data that numerous residents in the Beaufort Walk / Ocean St neighborhood, The Oaks, and Carrot Island Lane have agreed to send to the Planning Board as a basis to oppose the Special Use Permit for 1550 Lennoxville Road. This information packet documents and provides the following factual evidence concerning this special use permit request:

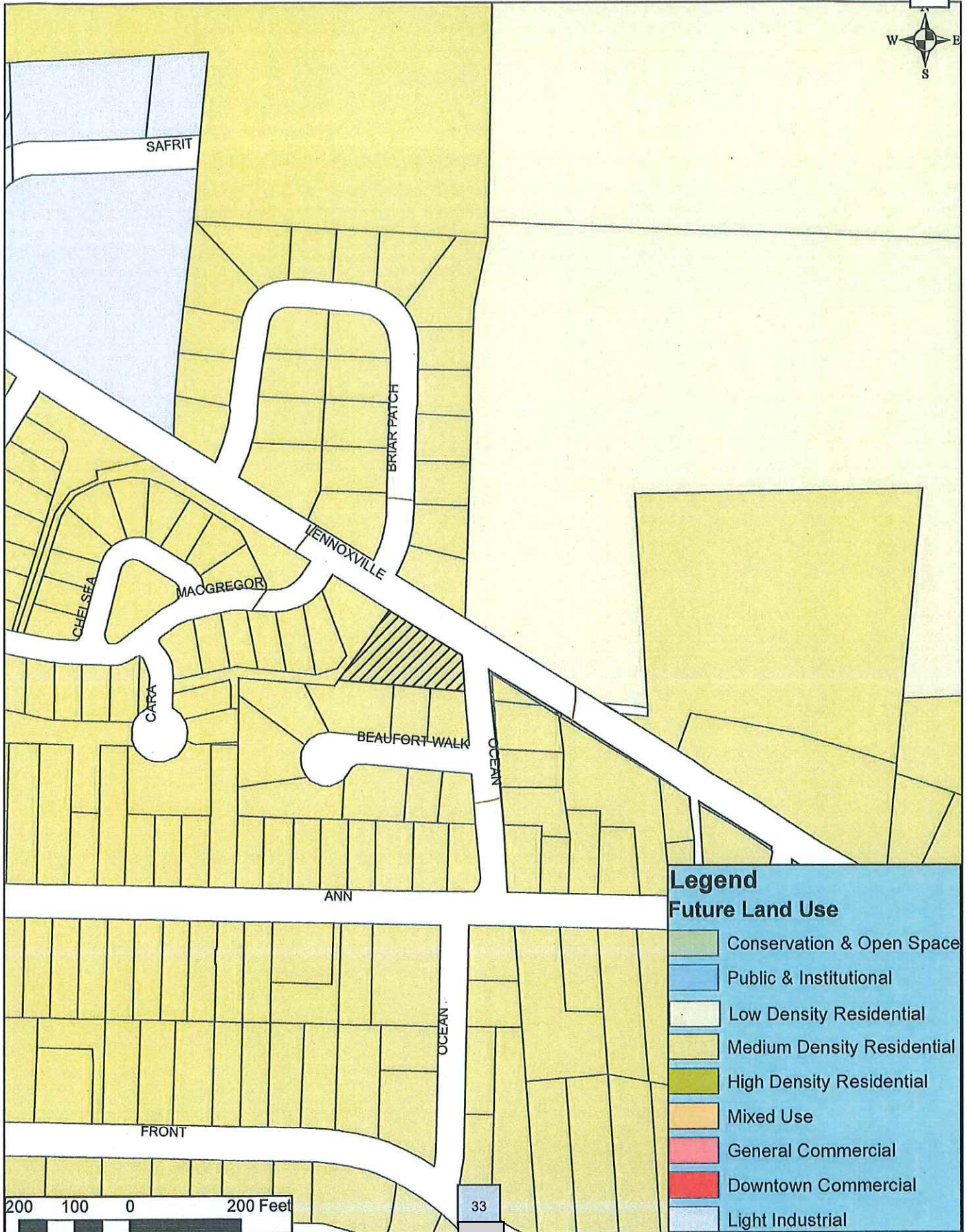
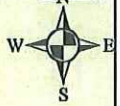
- (1) The special use permit is not compatible with the current use and residential development patters of the immediate area, including a proposed pedestrian/bike path that will cross Lennoxville at Ocean St into Beau Coast. In addition, this special use permit is not consistent with the Future Land Use Plan which the Town Board of Commissioners is scheduled to vote on before the end of 2021.
- (2) The proposed convenience store and gas station development will materially endanger the public health and safety of the community and potentially further degrade and expand the existing groundwater contamination under and surrounding the property. Jim Dandy gas stations have a history of DEQ violations.
- (3) This proposed convenience store and gas station development will substantially injure the marketability and value of adjacent and nearby properties.

We oppose issuance of a Special Use Permit at 1550/1505 Lennoxville Road. If you require follow-up concerning the attached information, please contact Laurie Cunningham at lauriec819@gmail.com.

Sincerely,

Concerned Beaufort Walk and Ocean St. Homeowners
The Oaks Homeowners
Carrot Island Lane Homeowners

Case 21-17 Special Use Permit - CAMA Map With Owners Within 200 Feet



200 100 0 200 Feet

33
66

Legend
Future Land Use

- Conservation & Open Space
- Public & Institutional
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mixed Use
- General Commercial
- Downtown Commercial
- Light Industrial

The Oaks at Beaufort
Opposing proposed development at 1550 Lennoxville Rd., Beaufort, NC 28516

The Oaks supports Points 1-2-3 of cover letter.

The Oaks at Beaufort and surrounding area residents,

Below, from CEDS, are a credible evidence-base and research-informed guidance indicating the multiple negative impacts of convenience-store/gas stations in close proximity to residential areas. The links are to source data. *This information, taken in the aggregate, supports the widely held opposition to the currently proposed development concept at 1550 Lennoxville Rd.*

Visit <https://ceds.org/> for more information.



<https://ceds.org/gasstation/>

CEDS

Community & Environmental Defense Services (CEDS) helps individuals, nonprofits and other groups with a long list of threats to a neighborhood or the environment. We are a nationwide network of attorneys, engineers, planners, scientists and other professionals dedicated to helping communities gain the benefits of growth without sacrificing quality of life. We help with threats big and small. With two unique approaches developed by CEDS – [Equitable Solutions](#) and [Smart Legal Strategies](#) – our clients win 90% of their battles vs. the 20% success rate using conventional approaches. To learn how we can help with an issue of concern to you contact CEDS at 410-654-3021 or Help@ceds.org or visit us at: ceds.org.

Gas Station & Convenience Store Potential Impacts

How Do Gas Stations Affect Property Value

A convenience store or gas station can lower the value of nearby homes. One of the most plausible effects is on mortgages. Federal Housing Administration (FHA) insured mortgages are not available for properties located within 300 feet of tanks capable of storing 1,000 gallons or more of gasoline or other flammable-explosive materials. This restriction appears in Section 2-2M of the HUD Handbook *Valuation Analysis for Single Family One- to Four- Unit Dwellings*. Most gas station storage tanks have a capacity far in excess of 1,000 gallons. The following excerpt from [another U.S. Department of Housing & Urban Development document](#) shows that while gas station fires-explosions may not be common, they do occur often enough to be a concern for nearby residents:

“During the five-year period of 2004-2008, NFPA [National Fire Protection Association] estimates that U.S. fire departments responded to an average of 5,020 [fires] in service or gas station properties per year. These fires caused an annual average of two civilian deaths, 48 civilian fire injuries, and \$20 million in direct property damage.”

The Oaks at Beaufort
Opposing proposed development at 1550 Lennoxville Rd., Beaufort, NC 28516

A [Georgia study](#) noted that commercial development in general can depress residential property value when first completed then the effect diminishes with time. However, this study examined homes located 0.5- to 1.0-miles distant. [Several studies](#) documented that commercial uses can depress nearby property value but not at a distance. In [King County, Washington](#) commercial uses were found to depress residential properties within 300 feet but not beyond 1,000 feet or so.

Alcohol Sales & Crime

One of the concerns which often arises with regard to proposed convenience stores is the possibility of beer, wine, and other alcohol sales. CEDS compiled an initial review of scientific studies relevant to the potential effect of convenience stores with off-sale (alcohol to be consumed elsewhere) liquor licenses on crime and public health. The review can be downloaded at: <https://ceds.org/wp-content/uploads/2020/09/Crime-Alcohol-Studies.pdf>

A large and growing body of research has documented a strong relationship between crime and alcoholic beverage outlets. The [Robert Wood Johnson Foundation](#) lists the following benefits of [Alcohol outlet density restrictions](#):

- Reduced excessive drinking,
- Reduced crime,
- Reduced underage drinking,
- Reduced intimate partner violence,
- Reduced child maltreatment,
- Reduced suicide, and
- Reduced gun violence.

Crime

Convenience store hold-ups account for about 6% of all robberies in the nation. One study noted that: *“Convenience store employees suffer from high rates of workplace homicide, second only to taxicab drivers.”* A [study](#) of the relationship between violence of other factors found an increasing trend as the number of alcohol outlets in an area rose. Following is a principal finding from this study: *“A larger number of alcohol outlets and a higher rate of violence might be expected in poorer neighborhoods or in neighborhoods with a larger population of young people. But as the research described above shows, even when levels of poverty and the age and the ethnic background of residents are taken into account, a high density of outlets is strongly related to violence regardless of a neighborhood’s economic, ethnic or age status.”* Another [study](#) only noted an increase in crime in relation to number of alcohol outlets in low-income communities.

Health Effects: Is It Safe to Live Near a Gas Station

A number of compounds injurious to human health are released from gas stations during vehicle fueling and from underground storage tank vents. [These compounds include: benzene, toluene, ethyl benzene, and xylene \(BTEX\).](#) Measures to reliably resolve these adverse health effects are not employed at new gas stations.

Benzene is the gasoline constituent most harmful to human health. Adverse health effects of benzene include nausea, cancer, anemia, increased susceptibility to infections, and low birth weight. According to the *World Health Organization Guidelines for Indoor Air Quality* there is *no safe level for benzene*. The following research documents the extent of benzene releases from gas stations as well as adverse health effects:

- A [1993 study](#) published by the Canadian petroleum industry found average benzene concentrations of 146 and 461 parts per billion (ppb) at the gas station property boundary in summer and winter, respectively.
- *A [2001 study](#) noted median ambient benzene levels of 1.9 ppb in houses up to 328 feet from a service station.*
- A [2003-2004 study](#) conducted in France documented a significant relationship between childhood leukemia and living near a gas station.
- A [2010 study](#) conducted in Spain documented elevated air pollution within 100 meters (328 feet) of a gas station.
- In [2012, Brazilian researchers](#) found that air quality was significantly degraded up to 150 meters (492 feet) from gas stations.

In 2005, the California Air Resources Board probably became the first in the U.S. to recommend a minimum public health safety zone between new gas stations and “sensitive land uses.” The recommendation appeared in *Air Quality and Land Use Handbook: A Community Health Perspective*. The pre-2005 studies referenced above and other research prompted the Board to recommend a minimum 300-foot separation distance between new gas stations and “sensitive land uses such as residences, schools, daycare centers, playgrounds, or medical facilities.”

Control Measures Do Not Resolve Health Threat

The two most common control measures are Stage II Vapor Recovery and Onboard Refueling Vapor Recovery (ORVR). A decade ago most gas pump nozzles were designed to capture vapors released during refueling. The vapors were then sent to the 10,000- to 20,000-gallon underground tanks where gasoline is stored. These Stage II vapor recovery systems were phased out beginning in 2012 as a result of the widespread use of [Onboard Refueling Vapor Recovery](#) (ORVR) systems.

As the name implies, Onboard Refueling Vapor Recovery systems are built into new cars. The system captures vapors during refueling which are then stored in canisters within the vehicle. A [study published in February, 2020](#), examined the effectiveness of Onboard Refueling Vapor Recovery systems. The researchers found that 88% of vehicles monitored released vapors during refueling despite the presence of Onboard Refueling Vapor Recovery systems.

The unfortunate conclusion from these studies is that we cannot rely upon controls required for new gas stations to resolve the health and safety threat to those who living in the vicinity of a proposed gas station.

Good & Bad Convenience Store-Station Locations

Given the impacts and corrective measures described above, an optimum convenience store -gas station location would have the following characteristics:

The Oaks at Beaufort
Opposing proposed development at 1550 Lennoxville Rd., Beaufort, NC 28516

- *At least 500 feet from the nearest home; or*
- *Buffered so the store cannot be seen or heard from the nearest home;*
- *To preserve public health a minimum of 500 feet from homes and 1,000 feet from schools;*
- *Not within view of historic resources;*
- *At least 500 feet from wells, springs, streams, reservoirs or other highly sensitive ground or surface water resources;*
- *Accessible by foot and bike as well as cars;*
- *Convenience stores should be located at least a 10-minute walk (0.5 miles) from schools;*
- *Located in a downtown or neighborhood commercial area;*
- *Well lit, but not to the point of causing light trespass into nearby homes;*
- *In an area with many passersby and few escape routes for criminals; and*
- *In an area where the market can accommodate a new store without putting existing ones out of business.*

Preventing Impacts Through Zoning

Zoning is used by many local governments to guide growth to locations where benefits are maximized with minimal harm to quality of life. Zoning ordinances also contain height limits, separation distances, use restrictions and other requirements to further enhance compatibility. Ensuring that your local zoning ordinance contains these safeguards is the best way to minimize the possibility of a new gas station impacting a neighborhood.

It is difficult to envision a situation where a convenience stores and gas station would be a compatible use in or adjacent to a residential area. This is why most zoning ordinances restrict these uses to commercially-zoned properties. A number of localities also require a permit known as a special exception, conditional use or special use permit. The permitting process includes a public hearing to determine if the use will cause excessive impacts.

Minimum 500-Foot Public Health Safety Zone Needed

The research cited above indicates that the most reliable way to protect public health and safety from benzene and other harmful emissions is to guide new gas stations to sites where they will be at least 500 feet from residentially zoned properties, schools, and other locations where people live, learn or work. CEDS research frequently shows a third to half of potential gas station sites can meet a 500-foot public healthy safety zone. In other words, adopting this safeguard allows us to gain the benefits of new gas stations without jeopardizing the health of our neighbors.

Carrot Island Lane supports Points 1-2-3 of cover letter. Copy of letter previously sent to Kyle Garner.

**Kyle Garner, City Planning Director
& Beaufort City Planning Board
701 Front Street
Beaufort, NC 28516**

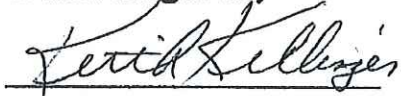
June 30, 2021

**Subject: Special Use Permit for 1550
Lennoxville Rd.**

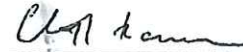
Dear Mr. Garner and Members of Beaufort Planning Board,

We, the Homeowners of the 1612 Front Street Homeowners Association, with 11 residences located on Carrot Island Lane have voted and do hereby unanimously oppose any zoning permit request to allow a Jim Dandy Service Station at 1550 Lennoxville Rd. While we believe that Beaufort certainly needs an additional gas station, placing one in the middle of a residential area will have an extremely negative impact and is not compatible with the surrounding family neighborhoods.

Warm Regards,



**Keith Killinger
President**



**Cliff Ransdell
Vice President**



**Tom Carter
Treasurer**



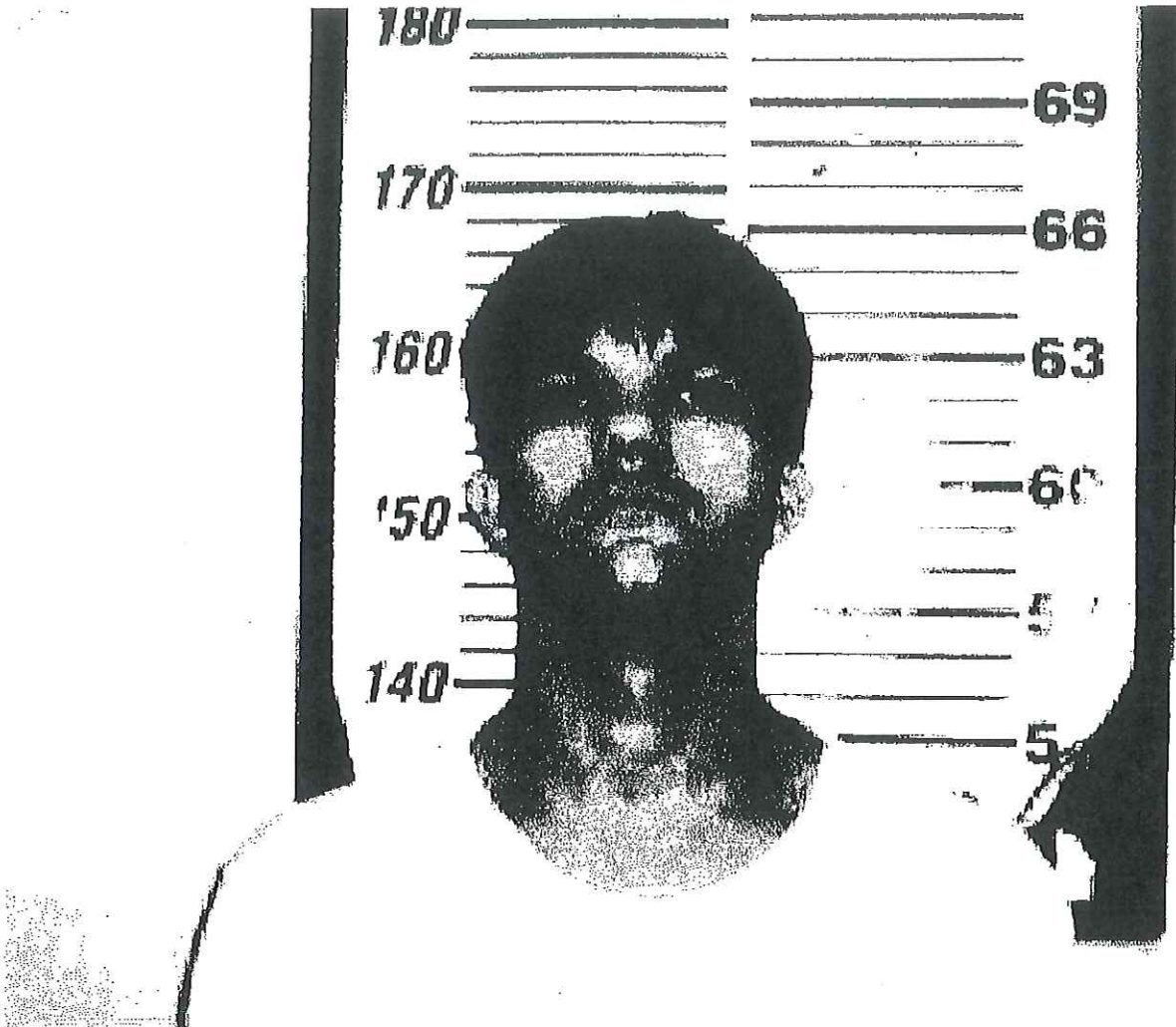
**Ralph Lyon
Secretary**

https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html

Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City

Robbery - Supports Point 2, threat to public safety.

ELISE CLOUSER
May 19, 2021



HUGHES

MOREHEAD CITY — Law enforcement officials have arrested and charged the subject involved in an armed robbery of the Jim Dandy convenience store on N 20th Street Wednesday morning.

According to a Morehead City release sent Thursday afternoon, Dale Lynn Hughes Jr., 19, was arrested Wednesday morning and later charged with four counts of kidnapping and robbery with a dangerous weapon.

Morehead City police officers responded to a call of an armed robbery at the Jim Dandy on N 20th Street around 7:56 a.m. Wednesday. The caller stated the suspect had pointed a gun at the clerk while several other customers were present in the store. The caller described the suspect as a lone male, dressed in all black and wearing sunglasses and a hoodie.

Morehead City police Capt. Tim Guthrie told the *News-Times* a store clerk handed over an undisclosed amount of cash, after which suspect allegedly fled on foot.

Officers, as well as several deputies from the Carteret County Sheriff's Office, responded to the scene and did not find the suspect, but Capt. Guthrie said officers recovered what they believed to be the weapon involved in the robbery, along with a small amount of cash.



Police say this Jim Dandy convenience store on N 20th Street in Morehead City was involved in a robbery with a firearm Wednesday morning. (Elise Clouser photo)

Within a couple hours, Morehead City police received information that the CCSO had arrested a person near the site of robbery who had violated pre-trial release by removing or disabling his GPS monitoring device. The person, later identified as Mr. Hughes, matched the description of the robbery suspect, including some clothing he was wearing at the time of arrest.

Wednesday afternoon, Morehead City Detective Franklin Rice obtained and served warrants on Mr. Hughes. His charges include four counts of kidnapping and one count of robbery with a dangerous weapon. Additionally, the CCSO charged him with one count of interfering with electronic monitoring device, one count of injury to personal property and one count of larceny.

He is being held at the Carteret County jail in Beaufort under a \$130,000 bond.

Reporter's note: This article was last updated at 2:35 p.m. Thursday, May 20, 2021.

Contact Elise Clouser at elise@thenewstimes.com; by phone at 252-726-7081 ext. 229; or follow on Twitter @eliseccnt.

Robbery - Point 2 and Point 3

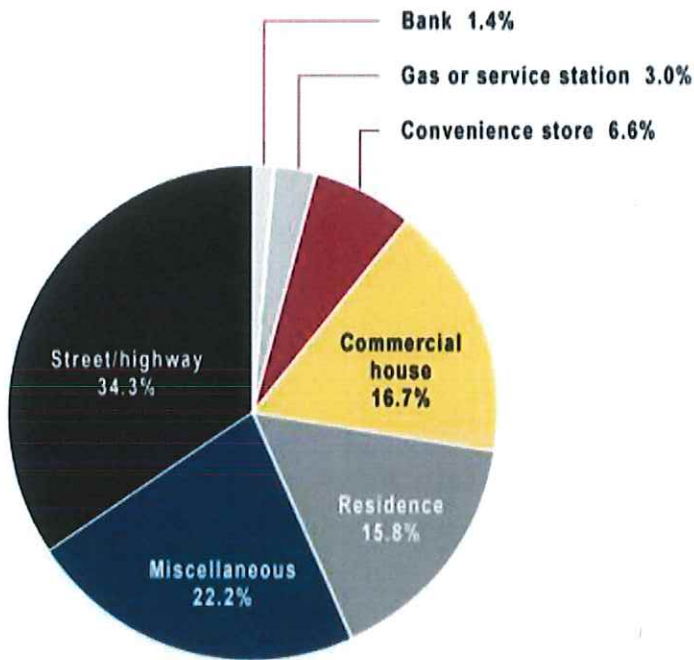
Robberies at gas stations and convenience stores comprised approximately 10% of all Robberies in the US . Robberies at Gas stations and convenience stores are so frequent the FBI created separate categories for each. Robbery at Jim Dandy Stores occur early in the morning, not just at night.

The FBI's Uniform Crime Reporting (UCR) Program defines robbery as the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Gas station and convenience store robberies:

- 2019 = 9.6%
- 2018 = 10%
- 2017 = 9.6%
- 2016 = 9.1%
- 2015 = 8.4%
- 2014 = 7.9%
- 2013 = 7.35%
- 2012 = 7.55%

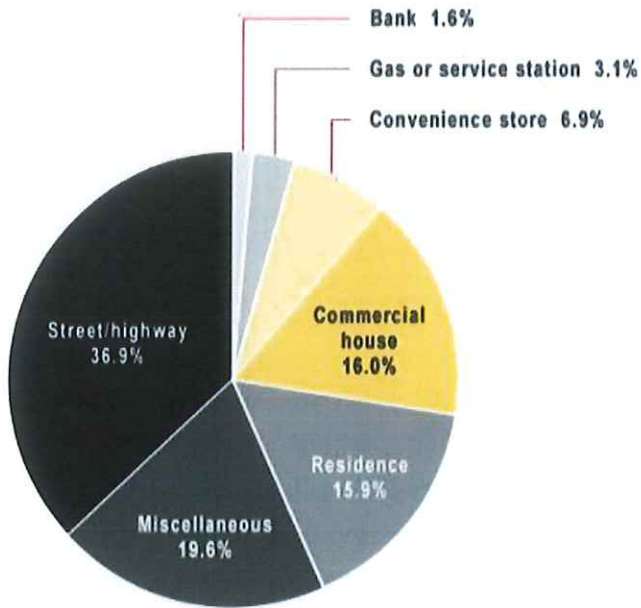
Robbery Location Figure
Percent Distribution, 2019



* Due to rounding, the percentages may not add to 100.0

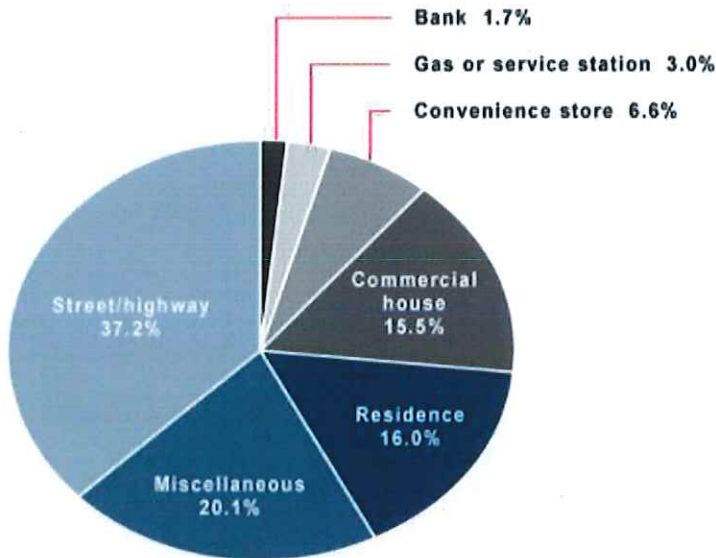
Robberies at Gas Stations and Convenience Stores, 2012 to 2019

Robbery Location Figure
Percent Distribution,¹ 2018



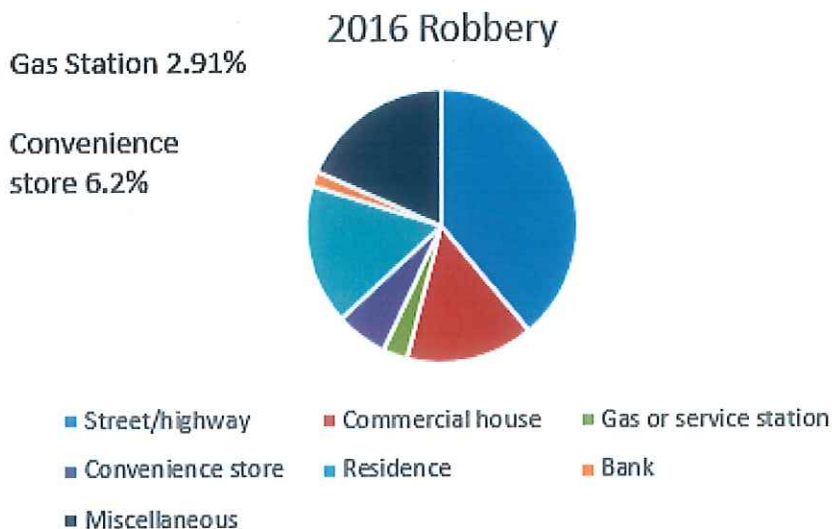
¹ Due to rounding, the percentages may not add to 100.0

Robbery Location Figure
Percent Distribution,¹ 2017

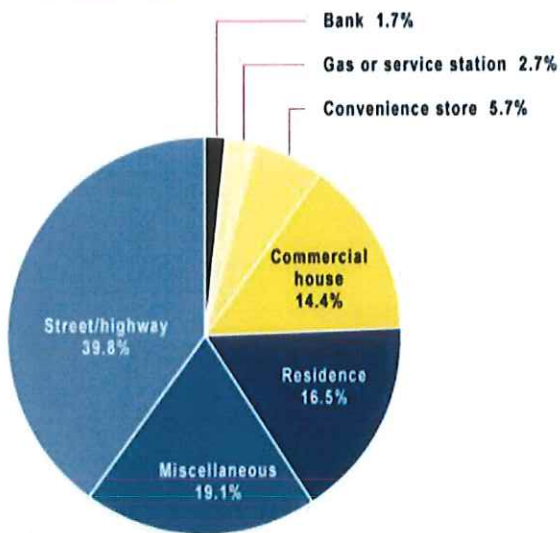


¹ Due to rounding, the percentages may not add to 100.0

Robberies at Gas Stations and Convenience Stores, 2012 to 2019



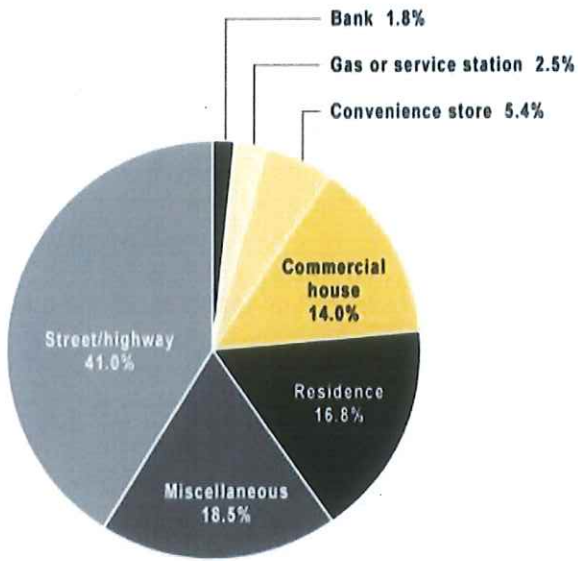
Robbery Location Figure
Percent Distribution, 2016



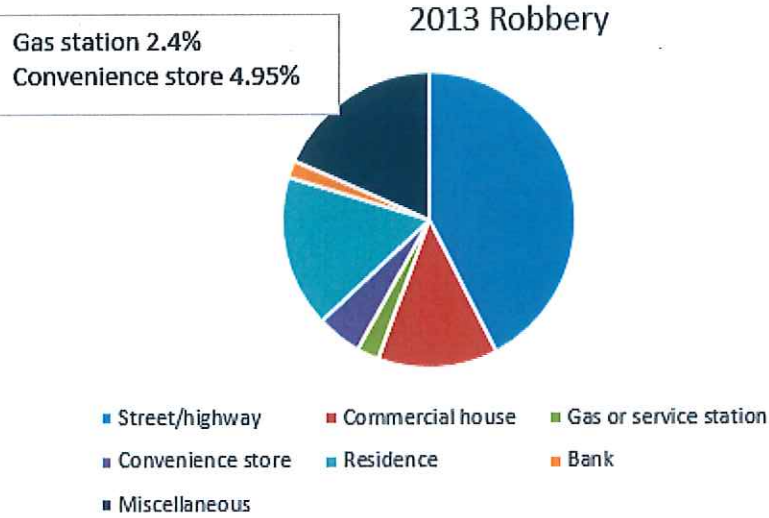
* Due to rounding, the percentages may not add to 100.0

Robberies at Gas Stations and Convenience Stores, 2012 to 2019

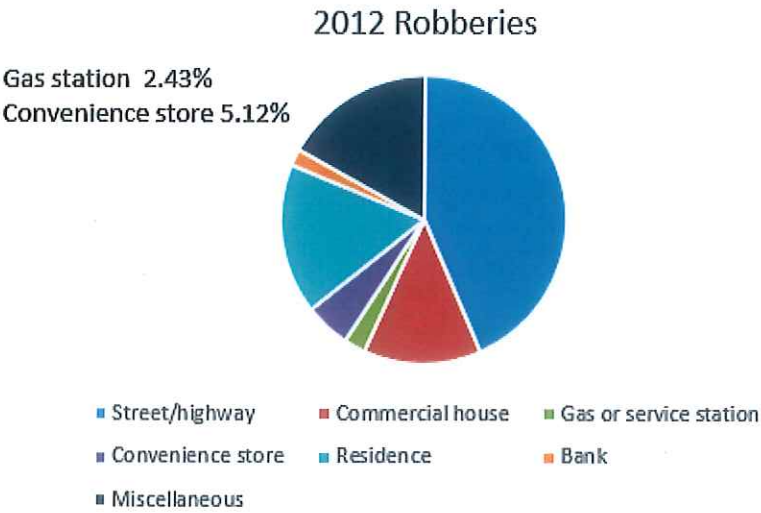
Robbery Location Figure
Percent Distribution,¹ 2014



¹ Due to rounding, the percentages may not add to 100.0



Robberies at Gas Stations and Convenience Stores, 2012 to 2019



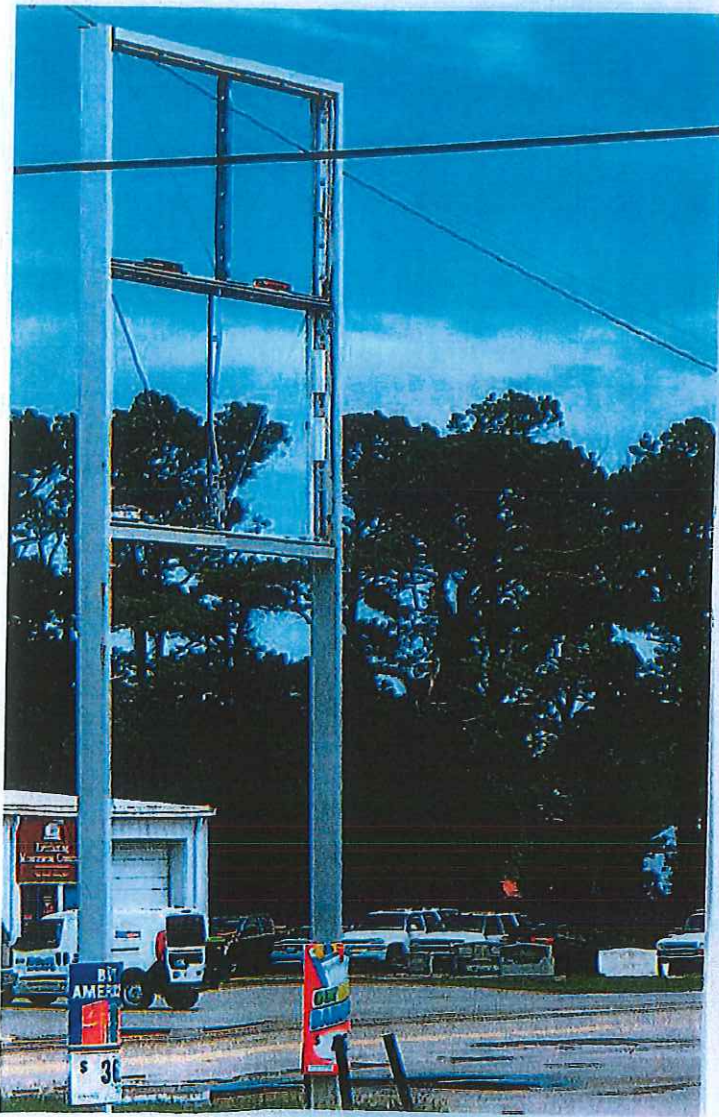
Jim Dandy 4068 Arendell St

7.0 miles away

Sunday 7am - 9pm
Mon-Sat 6am - 10pm

Currently operating Jim Dandy Stores in Morehead City area.

Supports Point 2 - public health and safety



4068 Arendell St

1.



81

4068 Arendell St

1.



4068 Arendell St

1.



Jim Dandy

5035 U.S.-70 E

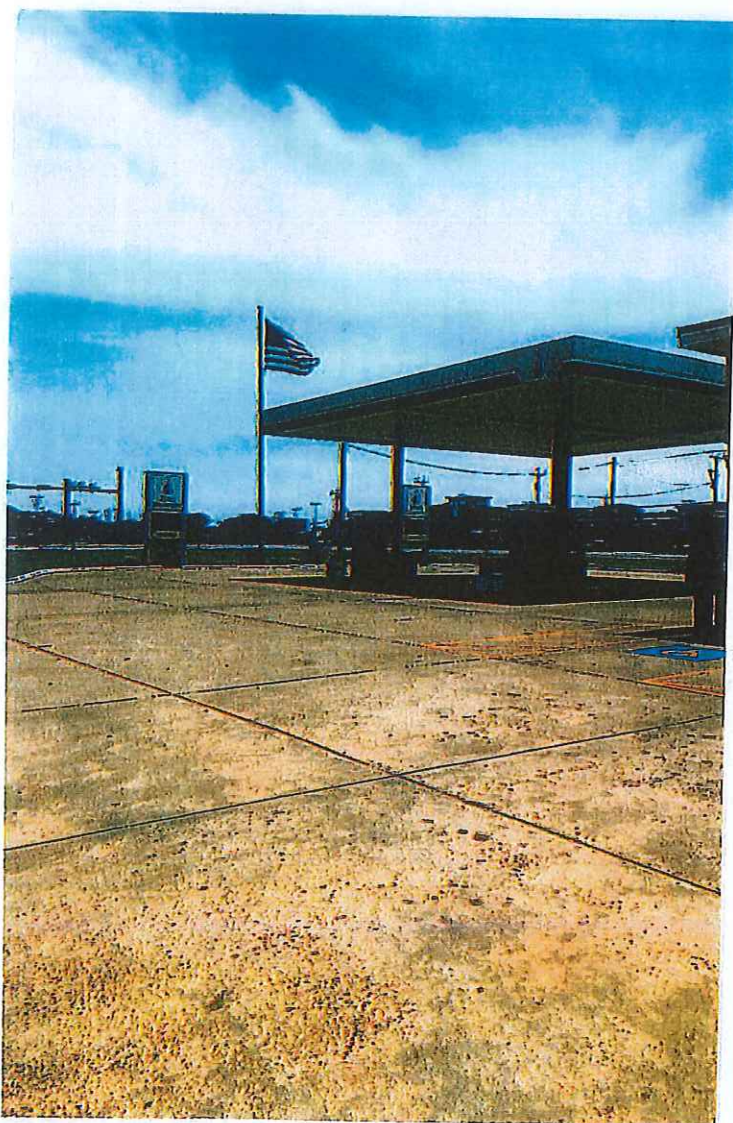
9.7 miles away

Sunday

7 am - 9 pm

Mon-Sat

6 am - 10 pm



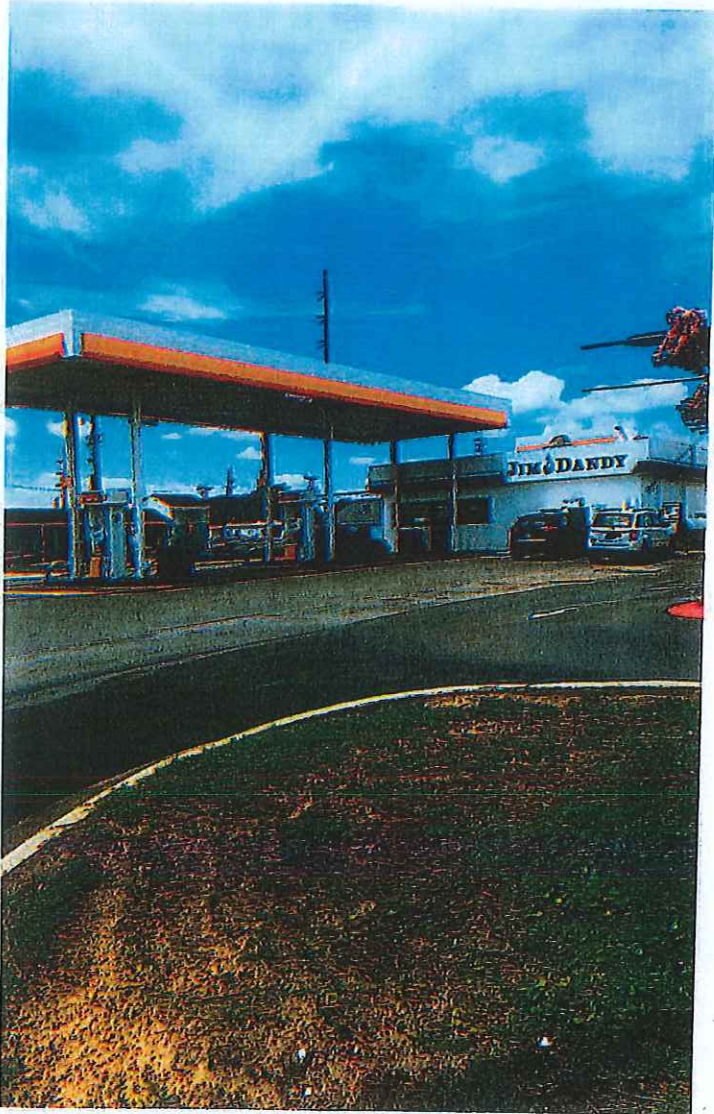
Jim Dandy
Shell

2310 Arendell St

5.1 miles away

Sunday 6am - 9pm

Mon-Sat 6am - 10pm



2310 Arendell St

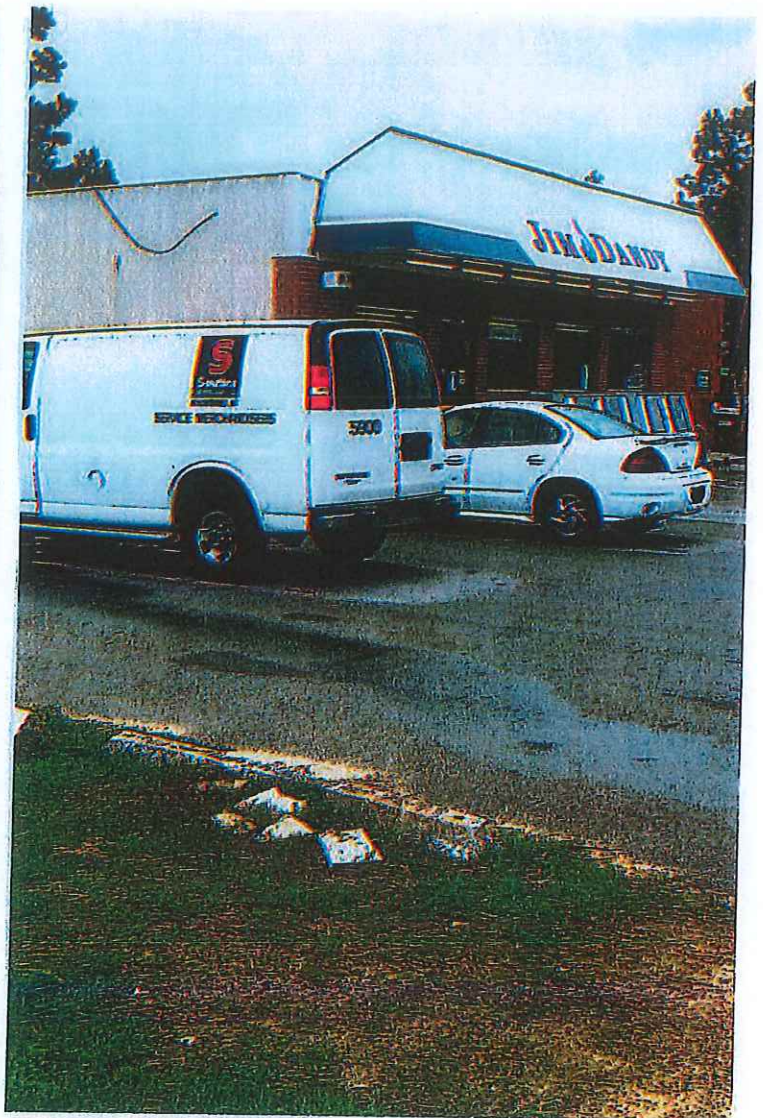


2310 Arendell St.



Jim Dandy 1023 N. 204th St

6.5 miles away
Everyday 6am-10pm

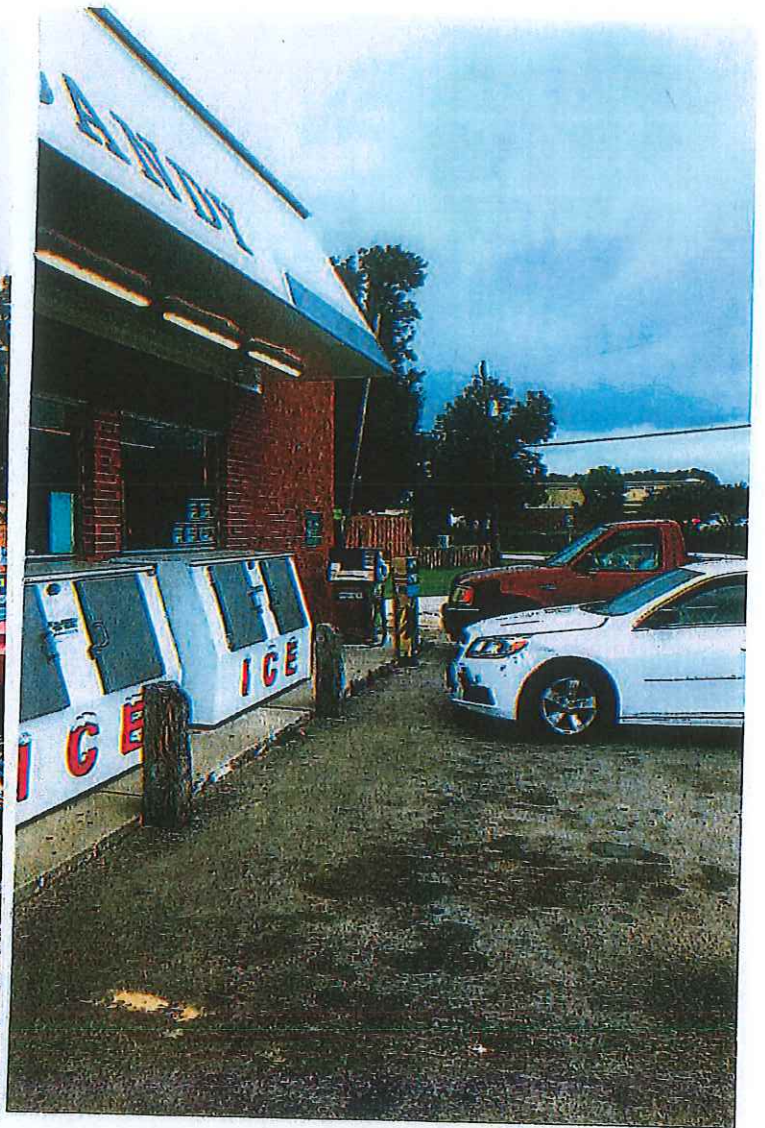


1023 N 20th St



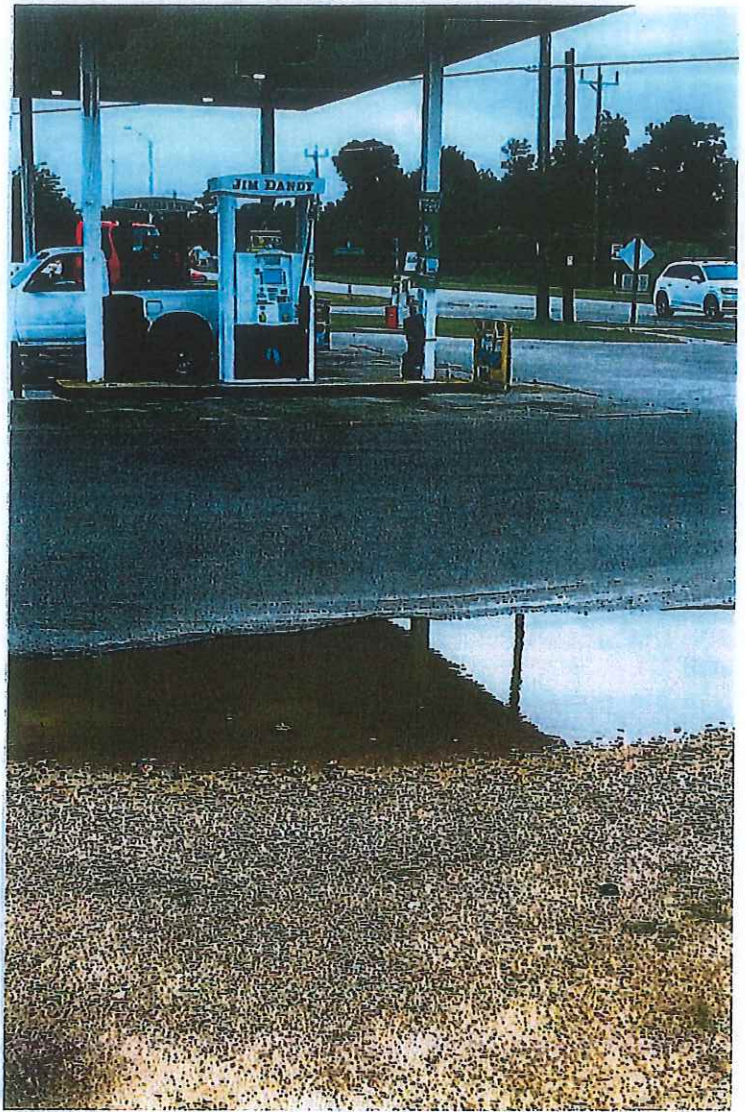
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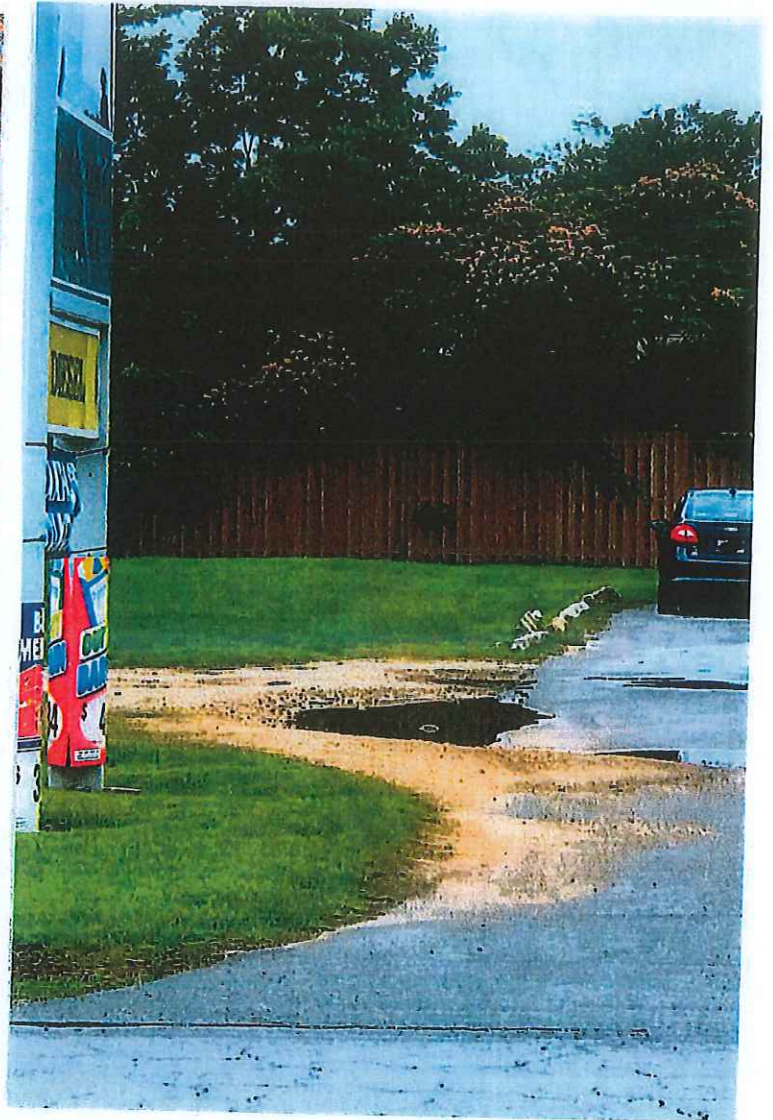
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1023 N 20th St

1.





North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue, Governor

Division of Waste Management
UST Section

Dee Freeman, Secretary
Dexter R. Matthews, Director

February 01, 2011

Attn: Troy Seymour, Marion Hunt
Exprezit Convenience Stores
548 Mary Esther Cutoff PMB 286
Fort Walton Beach, FL 32548

1550/1505 Lennoxville had past violations and groundwater is contaminated under and around that site.

Re: Notice of No Further Action
15A NCAC 2L .0407(d)
Risk-based Assessment and Corrective Action
for Petroleum Underground Storage Tanks

Exprezit # 213
1505 Lennoxville Rd, Beaufort
Carteret County
Incident Number: 32501
Risk Classification: Low
Ranking: L111D

Dear Mr. Seymour and Ms. Hunt:

The Soil Cleanup Report/ Site Closure Request received by the UST Section, Wilmington Regional Office on October 28, 2010 and the Notice of Residual Petroleum received on January 19, 2011 have been reviewed. The review indicates that groundwater contamination meets the cleanup requirements for a low-risk site but exceeds the groundwater quality standards established in Title 15A NCAC 2L.0202.

The UST Section determines that no further action is warranted for this incident. This determination shall apply unless the UST Section later finds that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment. Pursuant to Title 15A NCAC 2L .0407(a) you have a continuing obligation to notify the Department of any changes that might affect the risk or land use classifications that have been assigned.

Be advised that as groundwater contamination exceeds the groundwater quality standards established in Title 15A NCAC 2L .0202, groundwater within the area of contamination or within the area where groundwater contamination is expected to migrate is not suitable for use as a water supply.

As groundwater contamination exceeds the groundwater quality standards established in Title 15A NCAC 2L.0202 pursuant to NCGS 143B-279.9 and 143B-279.11, you must file the approved Notice of Residual Petroleum (attached) with the Register of Deeds in the county in which the release is located and submit a certified copy to the UST Section within 30 days of receipt of this letter. This No Further Action determination will not become valid until the UST Section receives a certified copy of the Notice of Residual Petroleum which is filed with the Register of Deeds.

As groundwater contamination exceeds the groundwater quality standards established in Title 15A NCAC 2L.0202 public notice in accordance with 15A NCAC 2L .0409(b) also is required. Thus, within 30 days of receipt of this letter, a copy of the letter must be provided by certified mail, or by posting in a prominent place, if certified mail is impractical, to the local health director, the chief administrative officer of each political jurisdiction in which the contamination occurs, all property owners and occupants within or contiguous to the area containing contamination, and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. Within 60 days of receiving this no further action letter, this office must be provided with proof of receipt of the copy of the letter or of refusal by the addressee to accept delivery of the copy of the letter or with a description of the manner in which the letter was posted. This No Further Action determination will not become valid until public notice requirements are completed. Interested parties may examine the Soil Cleanup Report/ Site Closure Request by contacting this regional office and may submit comments on the site to the regional office at the address or telephone number listed below.

This No Further Action determination applies only to the subject incident; for any other incidents at the subject site, the responsible party must continue to address contamination as required.

If you have any questions regarding this notice, please contact me at the address or telephone number listed below.

Sincerely,



Michele E. Croot
 Environmental Senior Technician
 Wilmington Regional Office

cc: Carteret County Health Department
 Henry Nemargut Engineering
 WiRO

UST Regional Offices

- Asheville (ARO) – 2090 US Highway 70, Swannanoa, NC 28778 (828) 296-4500
- Fayetteville (FAY) – 225 Green Street, Suite 714, Systel Building, Fayetteville, NC 28301 (910) 433-3300
- Mooresville (MOR) – 610 East Center Avenue, Suite 301, Mooresville, NC 28115 (704) 663-1699
- Raleigh (RRO) – 1628 Mail Service Center, Raleigh, NC 27699 (919) 791-4200
- Washington (WAS) – 943 Washington Square Mall, Washington, NC 27889 (252) 946-6481
- Wilmington (WIL) – 127 Cardinal Drive Extension, Wilmington, NC 28405 (910) 796-7215
- Winston-Salem (WS) – 585 Waughtown Street, Winston-Salem, NC 27107 (336) 771-5000
- Guilford County Environmental Health, 400 West Market Street, Suite 300, Greensboro, NC 27401, (336) 641-3771



REC'D JAN 19 2011

Henry Nemargut Engineering Services

2211 Chestnut St., Wilmington, NC 28405 Phone (910) 762-5475 FAX • (910) 762-3284

January 18, 2011

Ms. Michele Croot
NCDENR-WiRO UST Section
127 Cardinal Drive Extension
Wilmington, NC 28405

Statement of perpetual land
use restriction due to
Groundwater contamination,
Point 2

Reference: Filed Notice of Residual Petroleum (NRP) for
Exprezit! #213
1505 Lennoxville Road, Beaufort, Carteret County, North Carolina 28516
Incident #32501; Facility ID #0-007511

Dear Ms. Croot:

Enclosed is a certified copy of the filed NRP prepared for the above referenced site. After your review, please forward a copy of the NFA letter to my office so that I may perform public notification to complete closure activities for this site.

Please contact me at (910) 762-5475 if you have any questions concerning this matter.

Sincerely,

Henry Nemargut, P.E.
Henry Nemargut Engineering Services



FILE # 1364281

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

FOR REGISTRATION REGISTER OF DEEDS
Joy Lawrence
Carteret County, NC
January 14, 2011 12:34:01
COUNTER NOTICE 3 P
FEE: \$20.00
FILE # 1364281

By Joy Lawrence, Register of Deeds
Deputy, Register of Deeds

NOTICE OF RESIDUAL PETROLEUM

Exprezit! #213 1505 Lennoxville Road Beaufort, Carteret County, North Carolina

The property that is the subject of this Notice (hereinafter referred to as the "Site") contains residual petroleum and is an Underground Storage Tank (UST) incident under North Carolina's Statutes and Regulations, which consist of N.C.G.S. 143-215.94 and regulations adopted thereunder. This Notice is part of a remedial action for the Site that has been approved by the Secretary (or his/her delegate) of the North Carolina Department of Environment and Natural Resources (or its successor in function), as authorized by N.C.G.S. Section 143B-279.9 and 143B-279.11. The North Carolina Department of Environment and Natural Resources shall herein after be referred to as "DENR".

NOTICE

Petroleum product was released and/or discharged at the Site. Petroleum constituents remain on the site, but are not a danger to public health and the environment, provided that the restrictions described herein, and any other measures required by DENR pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, are strictly complied with. This "Notice of Residual Petroleum" is composed of a description of the property, the location of the residual petroleum and the land use restrictions on the Site. The Notice has been approved and notarized by DENR pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11 and has/shall be recorded at the Carteret County Register of Deeds' office Book _____, Page _____.

Safrit Properties, LLC, is the owner in fee simple of all or a portion of the Site, which is located in the County of Carteret, State of North Carolina, and is known and legally described as:

BEGINNING at a concrete monument in the southern right-of-way of Lennoxville Road, which monument can be found by proceeding from the concrete monument at the point in which the eastern right-of-way of Legion Drive intersects the northern right-of-way Lennoxville Road, south 50 degrees 34 minutes 30 seconds east 1,611.69 feet to a point; then running south 25 degrees 20 minutes 40 seconds west 61.81 feet to the point and place of beginning. From this point and place of beginning, running south 2 degrees 12 minutes 40 seconds west 82.75 feet to an iron pipe; then running north 76 degrees 38 minutes 40 seconds west 241.25 feet to a point; then running north 45 degrees 29 minutes east 173.04 feet to a point in the southern right-of-way of Lennoxville Road; then running south 50 degrees 34 minutes 30 seconds east 148.39 feet along the southern right-of-way of Lennoxville Road to the point and place of BEGINNING.

BOOK 1364 PAGE 281

For protection of public health and the environment, the following land use restrictions required by N.C.G.S. Section 143B-279.9(b) shall apply to all of the above described real property. These restrictions shall continue in effect as long as residual petroleum remains on the site in excess of unrestricted use standards and cannot be amended or cancelled unless and until the Carteret County Register of Deeds receives and records the written concurrence of the Secretary (or his/her delegate) of DENR (or its successor in function).

PERPETUAL LAND USE RESTRICTIONS

[Restrictions apply to activities on, over, or under the land.]

Groundwater: Groundwater from the site is prohibited from use as a water supply. Water supply wells of any kind shall not be installed or operated on the site.

ENFORCEMENT

The above land use restriction(s) shall be enforced by any owner, operator, or other party responsible for the Site. The above Land Use restriction(s) may also be enforced by DENR through any of the remedies provided by law or means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Site. Any attempt to cancel this Notice without the approval of DENR (or its successor in function) shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restriction(s) shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

IN WITNESS WHEREOF, Safrit Properties, LLC has caused this Notice to be executed pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, this 10th day of December, 2010.

By: [Signature]
(signature of responsible party, attorney or other agent if there is one)
Manager
(Title of agent for responsible party if there is one)

Signatory's name typed or printed: L.Y. Safrit, Jr.

NORTH CAROLINA
Carteret COUNTY

I certify that the following person personally appeared before me this day and acknowledged to me that she signed the foregoing document: L.Y. Safrit Jr.

Date: 12-16-10

Patty Arthur
Notary Public

[Signature]
Notary Public (signature)

(Official Seal)



My commission expires 10-9, 2011.

BOOK 1364 PAGE 281

Approved for the purposes of N.C.G.S. 143B-279.11

Gene Jackson
(Signature of Regional Supervisor)

Gene Jackson, Regional Supervisor
Wilmington Regional Office
UST Section
Division of Waste Management
Department of Environmental and Natural Resources

NORTH CAROLINA
Pender COUNTY

I, Beverly A. Rivenbark, a Notary Public for said County and State, do hereby certify that Gene Jackson, Regional Supervisor, personally appeared before me this day and acknowledged that he is the Regional Supervisor, UST Section, Division of Waste Management, Department of Environment and Natural Resources, and that by authority duly given and as an act of the agency, the foregoing instrument was signed in its name by him as Regional Supervisor of the agency.

WITNESS my hand and official seal, this the 30 Day of December, 2010.



Notary Public

My commission expires 4-15-2014, 20

NORTH CAROLINA, CARTERET COUNTY
Joy Lawrence, Register of Deeds of above said County and State, does hereby certify that the forgoing is a true and exact copy as taken from and compared with the records of this office, in Book 1364, Page 281.
Witness my hand and official seal, this 14 day of January, 2011



Joy Lawrence
Register of Deeds
Nickie B. Jones
Assistant, Deputy

BOOK 1364 PAGE 281

1550 Lennoxville Rd 1.



North Carolina Department of Environment and Natural Resources Underground Storage Tank Field Inspection Report

Facility ID: 0-0-0000007511
Facility Name: DBA EXPREZIT! 213

Inspection Date: 8/28/2012
Facility Address:
1505 LENNOXVILLE ROAD
BEAUFORT, NC, 28516-9025
Carteret County

The following issues were noted during this inspection.

Violations at closure of
prior site, Point 2

Tank#1(1)

Violation #1 Violation Code: CL8
Failure to notify DWM prior to permanent closure.
Required Corrective Action:
Submit closure notification prior to UST closure.

Violation #2 Violation Code: CL5
Failure to assess the site at permanent closure.
Required Corrective Action:
Assess the site of permanently closed UST system.

Tank#2(2)

Violation #3 Violation Code: CL8
Failure to notify DWM prior to permanent closure.
Required Corrective Action:
Submit closure notification prior to UST closure.

Violation #4 Violation Code: CL5
Failure to assess the site at permanent closure.
Required Corrective Action:
Assess the site of permanently closed UST system.

Tank#3(3)

Violation #5 Violation Code: CL8
Failure to notify DWM prior to permanent closure.
Required Corrective Action:
Submit closure notification prior to UST closure.

Violation #6 Violation Code: CL5
Failure to assess the site at permanent closure.
Required Corrective Action:
Assess the site of permanently closed UST system.

Tank#4(4)

Violation #7 Violation Code: CL8
Failure to notify DWM prior to permanent closure.
Required Corrective Action:
Submit closure notification prior to UST closure.

Violation #8 Violation Code: CL5
Failure to assess the site at permanent closure.
Required Corrective Action:

Assess the site of permanently closed UST system.

Tank#5(5)

Violation #9 Violation Code: CL8

Failure to notify DWM prior to permanent closure.

Required Corrective Action:

Submit closure notification prior to UST closure.

Violation #10 Violation Code: CL5

Failure to assess the site at permanent closure.

Required Corrective Action:

Assess the site of permanently closed UST system.

Tank#6(6)

Violation #11 Violation Code: CL8

Failure to notify DWM prior to permanent closure.

Required Corrective Action:

Submit closure notification prior to UST closure.

Violation #12 Violation Code: CL5

Failure to assess the site at permanent closure.

Required Corrective Action:

Assess the site of permanently closed UST system.

Please address each issue within the stated timeframe.

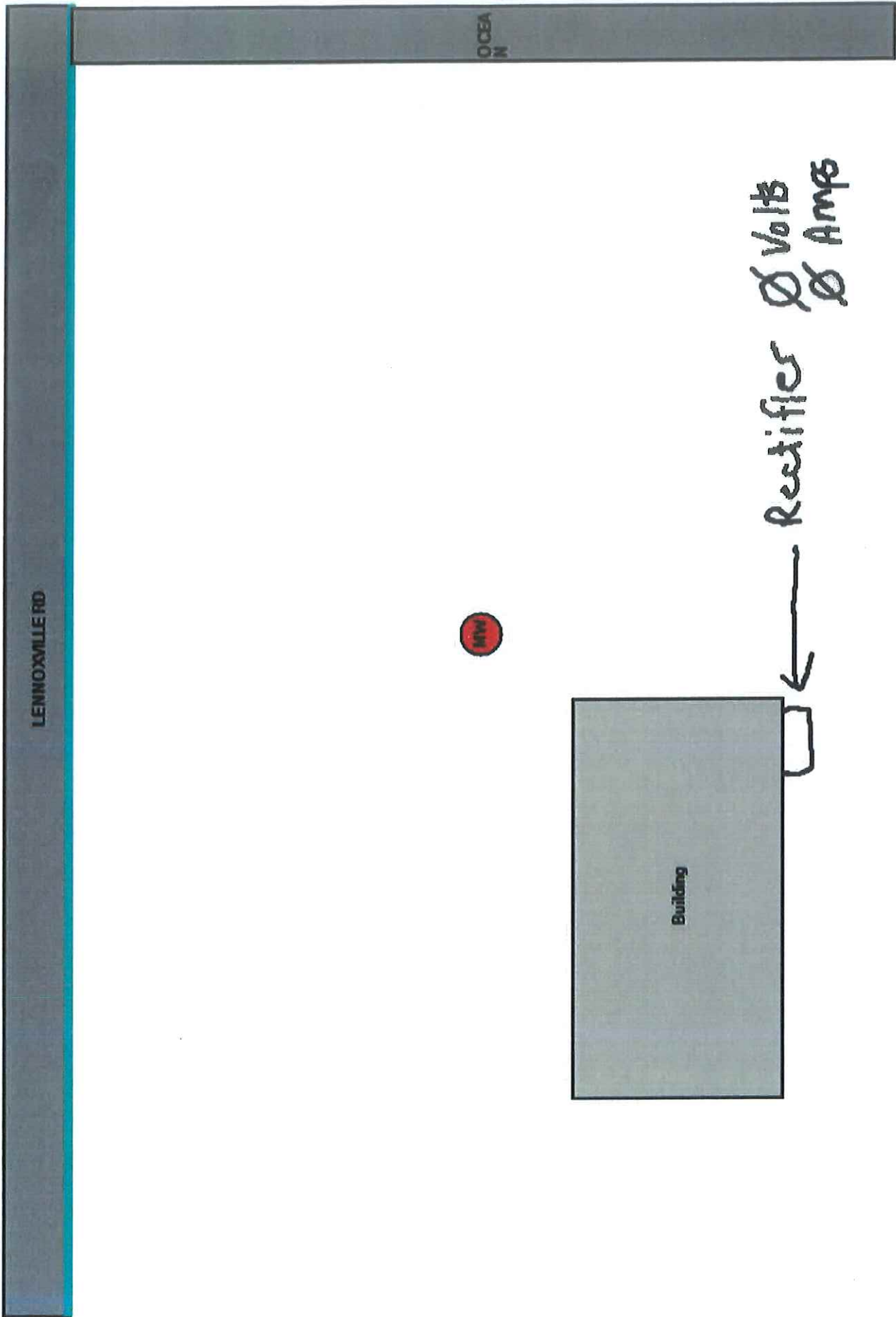
Inspector's Printed Name
Kim Cole

Signature



Date 8/29/2012

Disclaimer: This document is an informal evaluation of the deficiencies documented during the inspection and does not constitute a final determination of compliance status with either state or federal Underground Storage Tank (UST) regulations. A formal Notice of Violation listing the violations of the states UST regulations may be sent to the owner and/or operator of the facility.





NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
MICHAEL SCOTT
Director

February 04, 2020

CERTIFIED MAIL 9414811899561778946216
RETURN RECEIPT REQUESTED

Jim Dandy Stores have a history of DEQ violations at several existing stores.

Diane B Davis, Registered Agent
J. M. Davis Industries, Inc.
812 Arendall St
Morehead City, NC 28557

Re: NOTICE OF VIOLATION OF 15A NCAC 2N .0502(LD12), .0504(LD17), .0505(LD18)
Jim Dandy #1
5035 Hwy 70, Morehead City, NC 28557-4503
Carteret County
Facility ID#: 00-0-0000021591

Dear Diane B Davis:

On January 09, 2020, I conducted a compliance inspection at the above-referenced facility. I observed that underground storage tanks (USTs) at Jim Dandy #1 are not in compliance with North Carolina UST regulations (North Carolina Administrative Code [NCAC] 2N "Criteria and Standards Applicable to Underground Storage Tanks). According to those rules (15A NCAC 2N .0203) J. M. Davis Industries, Inc. is identified as the owner and/or operator of UST(s) at Jim Dandy #1.

The following violations of the state rules (15A NCAC 2N) were observed on January 09, 2020 at Jim Dandy #1. Following each violation are the actions required to correct the violations:

Violation 1: 15A NCAC 2N .0502 LD12; Failure to provide leak detection for pressurized piping systems associated with regulated tanks in accordance with federal regulation 40 CFR 280.41(b)(1)(ii) (as incorporated by 15A NCAC 2N .0502).

Corrective Action(s):

Leak detection must be provided for pressurized piping systems. Please complete one of the following requirements:
1) Conduct a line tightness test for each piping system associated with the regulated tank(s). Line tightness testing is required annually for pressurized piping systems. OR Conduct a line tightness test and apply an acceptable method of monthly monitoring for each piping system associated with the regulated tank(s). Within 30 days of receipt of this notice, please submit a copy of the line tightness test results to the inspector at the address provided. If you choose to implement monthly monitoring then you must also submit, within 30 days of receipt of this notice, copies of the results of your monthly monitoring for the month following the date of receipt of this notice to the inspector at the address provided.

Comment: No current line or leak detector testing.

Violation 2: 15A NCAC 2N .0504 LD17; Failure to conduct 0.2 gallons per hour leak rate tests, according to the automatic tank gauge requirements of federal regulation 40 CFR 280.43(d)(1) (as incorporated by 15A NCAC 2N .0504) at least every 30 days as required by federal regulation 40 CFR 280.41(a) (as incorporated by 15A NCAC 2N .0502).



Corrective Action(s):

1) The Division of Waste Management UST Section has determined that the 0.2 gallons per hour leak rate tests have not been conducted for the subject tank(s). The 0.2 gallons per hour leak rate tests are required to be conducted at least once a month. Within 30 days of receipt of this notice, submit copies of the tests for the month following the date of receipt of this notice to the inspector at the address provided. Please include in your response the date that monthly automatic tank gauge testing has been initiated. The Division of Waste Management UST Section recommends that you conduct tests as often as possible during the month to ensure that you will obtain tests that are conducted within the testing parameters established by the automatic tank gauge system's third party standard evaluation.

Comment: The Reg was missing tank leak detection for May 2019. Submit current month of tank leak detection for Tank 2 Reg.

Violation 3: 15A NCAC 2N .0505 LD18; Failure to conduct an annual test of the operation of an automatic line leak detector (MLLD or ELLD) of a pressurized piping system associated with a regulated tank in accordance with federal regulation 40 CFR 280.44(a) (as incorporated by 15A NCAC 2N .0505).

Corrective Action(s):

1) Please conduct a test of the operation of the automatic line leak detector and submit a copy of the results (on a UST-22B, Annual Leak Detection Equipment Operability Check, or equivalent form) within 30 days of receipt of this notice to the inspector at the address provided.

Comment: No line and leak detector testing.

Inspection Comment: NO UST-27. NO UST-23A. NO UST-22A. NO UST-22C. NO RECORDS SUBMITTED PRIOR TO INSPECTION.

Notice of Deficiency:

Deficiency 1: 15A NCAC 2N .0405 RCD1; Failure to notify or provide the Division of Waste Management UST Section with records of compliance with leak detection, periodic inspections, testing and/or upgrading requirements as required by federal regulation 40 CFR 280.34 (as incorporated by 15A NCAC 2N .0405).

Corrective Action(s):

The Division of Waste Management UST Section has noted the following deficiencies with your sites required notifications or record-keeping:

- 1) By June 1, 2020, please submit documentation of the spill bucket integrity test (Form UST-23A), to the inspector at the address provided.
- 2) By June 1, 2020, please submit documentation of the overfill operability check (Form UST-22A), to the inspector at the address provided.

Within 14 days of receipt, or other time frame mentioned above, of this notice, please complete and submit the form(s) checked above and/or provide copies of the records needed to complete the inspection to the inspector at the address provided. In addition you need to submit a copy of any forms listed above to the address located on the form(s). It is recommended that you also keep a copy for your records.

Comment: Tank #D: NO RECORDS SUBMITTED PRIOR TO INSPECTION OR AVAILABLE AT INSPECTION. NO UST-23A or UST-22A.

Deficiency 2: 15A NCAC 2N .0406 MT5; Failure to check the operability, proper operating condition, and proper calibration of overfill prevention equipment every three years, in accordance with the manufacturer's written guidelines and as required by federal regulation 40 CFR 280.35 (as incorporated by 15A NCAC 2N .0406).

Corrective Action(s):

1) Check overfill prevention equipment for operability, proper operating condition, and proper calibration in

accordance with the manufacturer's written guidelines and PEI RP 1200 "Recommended Practice for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities". Document the results on the UST-22A form.

By June 1, 2020, please submit a copy of the results of the annual check and other supporting documentation of the completed work on form UST-22A, Overfill Prevention Equipment Operability Check, to the inspector at the address provided.

Comment: NO UST-22A

Deficiency 3: 15A NCAC 2N .0406 MT6; Failure to perform a tightness test of a spill bucket every 3 years as required by federal regulation 40 CFR 280.35 (as incorporated by 15A NCAC 2N .0406).

Corrective Action(s):

1) Conduct a tightness test of the spill bucket for the listed tank(s) in accordance with the manufacturer's written guidelines and PEI RP 1200 "Recommended Practice for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities". Document results on a UST-6D/23A, "Triennial UST Spill Bucket Integrity Testing", form.

By June 1, 2020, please submit the test results on form UST-23A, Triennial UST Spill Bucket Integrity Testing, to the inspector at the address provided.

Comment: No UST-23A

Deficiency 4: 15A NCAC 2N .0407 MT8; Failure to perform periodic operation and maintenance walkthrough inspections as required by federal regulation 40 CFR 280.36 (as incorporated by 15A NCAC 2N .0407)

Corrective Action(s):

Periodic operation and maintenance walkthrough inspections must be conducted for the following:

1) Conduct a monthly inspection of your leak detection equipment (e.g. ATG console operation and leak detection records) in accordance with PEI RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems" and document the results on form UST-27, "Monthly Walkthrough Inspections".

2) Inspect the sump, whether or not they have containment, at the tank(s) and/or dispenser(s) for the presence of water or a regulated substance in accordance with PEI RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems" and document the condition on an annual sump inspection log (UST-22C, "Annual Sump Visual Inspections").

By June 1, 2020, please submit the inspection results on one of the following applicable forms: UST-22B, Annual Leak Detection Equipment Operability Check; UST-22C, Annual Sump Visual Inspections; and/or UST-27, Monthly Walkthrough Inspections, to the inspector at the address provided.

Comment: NO MONTHLY INSPECTION OF SPILL BUCKETS AND LEAK DETECTION. NO UST-22B, 22C, 27

Deficiency 5: 15A NCAC 2N .0407 RCD6; Failure to provide records demonstrating operation and maintenance walkthrough inspections have been completed as required by federal regulation 40 CFR 280.36 (as incorporated by 15A NCAC 2N .0407)

Corrective Action(s):

1) Provide records demonstrating that the operation and maintenance walkthrough inspections have been completed.

By June 1, 2020, please submit the operation and maintenance walkthrough inspection results on one of the following applicable forms: UST-22B, Annual Leak Detection Equipment Operability Check; UST-22C, Annual Containment Sump Visual Inspections; and/or UST-27, Monthly Walkthrough Inspections, to the inspector at the address provided.

Comment: NO MONTHLY INSPECTION OF SPILL BUCKETS AND LEAK DETECTION. NO UST-

22B, 22C, 27

Deficiency 6: 15A NCAC 2N .0501 MT9; Failure to check the operability, proper operating condition, and proper calibration of leak detection monitoring equipment annually in accordance with the manufacturer's written guidelines and as required by federal regulation 40 CFR 280.40 (as incorporated by 15A NCAC 2N .0501).

Corrective Action(s):

1) Check the leak detection equipment for operability, proper operating condition, and proper calibration in accordance with the manufacturer's written guidelines and PEI RP 1200 "Recommended Practice for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

By June 1, 2020, please submit a copy of the results of the annual check and other supporting documentation (e.g. alarm reports, invoice, repair records) of the completed work on form UST-22B, Annual Leak Detection Equipment Operability Check, to the inspector at the address provided.

Comment: NO UST-22B FOR ANNUAL CHECK OF LEAK DETECTION EQUIPMENT

Deficiency 7: NCGS 143-215.94NN-SS OPTR4; Failure to maintain compliance with UST regulations which requires Primary Operator retraining as required by NCGS 143-215.94NN - 143.215.94SS.

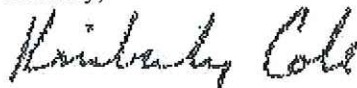
Corrective Action(s):

Please perform the following corrective action:

1) Within 30 days of receipt of this notice, the Primary Operator designated for this facility must go to the following website <http://tankschool.nc.gov> and register for one of the next Tank School courses being conducted over the next 90 days or take the NC DEQ on-line course for retraining. Retraining as a Primary Operator must be completed and a Primary Operator training certificate achieved within 90 days of receipt of this notice.

Corrective actions must be completed and reported to the inspector at the address provided **within 30 days** of receipt of this notice, unless otherwise noted in one of the corrective actions listed above. Assessment of civil penalties may be recommended for violations described in this NOV, as well as, operating permit revocation/denial unless the violations are corrected. If J. M. Davis Industries, Inc. believes that the inspection findings are in error, or if J. M. Davis Industries, Inc. has any questions pertaining to this NOV and/or corrective actions please have it contact me at (252) 975-1580 or kim.d.cole@ncdenr.gov.

Sincerely,



Kim Cole, Environmental Specialist
Division of Waste Management, NC DEQ

Enclosures

cc: Steve Booe w/ Enclosures (electronic)
Files (electronic)



Waste Management
ENVIRONMENTAL QUALITY

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

MICHAEL SCOTT
Director

October 16, 2017

CERTIFIED MAIL 701534300000282
RETURN RECEIPT REQUESTED

Diane B Davis, Registered Agent
J M Davis Ind Inc
201 Arendall Street
Morehead City, NC 28557

Re: Recommendation for Enforcement Action
Jim Dandy 8
1023 N 20th St, Morehead City, NC 28557
Carteret County
Facility ID#: 00-0-0000002190

Dear Diane B Davis:

This letter is to notify you that this office is considering recommending enforcement action to the Director of the Division of Waste Management. The recommendation for enforcement concerns the violations cited in the Notice of Violation (NOV) dated May 4, 2017 which was previously sent to you. Specifically: 15A NCAC 2N .0302 for Failure to meet corrosion protection requirements for flexible connectors and other metal pipe components for an 'existing tank system', 15A NCAC 2N .0901 for Failure to provide leak detection monitoring., NCSL 2010-154 for Failure to complete primary operator training.

If there is an explanation for the violations cited, or if you believe there are other factors which should be considered, please submit your response to me in writing **within 10 days of receipt** of this notice. Your explanation will be reviewed, and if enforcement action is still deemed appropriate, your explanation will be forwarded to the Director with the enforcement package for his consideration. In accordance with NCGS 143-215.94U, continued non-compliance can result in **revocation** of the current operating permit or **non-renewal** of future operating **permits** for this facility.

If you have any questions concerning this matter, please contact me at (252) 975-1580 or kim.d.cole@ncdenr.gov.

Sincerely,

Kim Cole, Environmental Specialist
Division of Waste Management, NC DEQ

cc: Ruth Strauss, Permits and Inspection Branch (electronic)
Files (electronic)



North Carolina Department of Environment and Natural Resources
Division of Waste Management

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

February 28, 2013

CERTIFIED MAIL 70110470000088873466
RETURN RECEIPT REQUESTED

Diane B Davis, Registered Agent
J.M. Davis Ind, Inc.
201 Arendall Street
Morehead City, NC 28557

Re: NOTICE OF VIOLATION OF 15A NCAC 2N .0302(UPG6, UPG9)
Jim Dandy Food Store 11
1712 Arendell Stret, Morehead City, NC 28557-4040
Carteret County
Facility ID#: 00-0-0000011121

Dear Diane B Davis:

On September 26, 2012, I conducted a compliance inspection at the above-referenced facility. I observed that underground storage tanks (USTs) at Jim Dandy Food Store 11 are not in compliance with North Carolina UST regulations (North Carolina Administrative Code [NCAC] 2N "Criteria and Standards Applicable to Underground Storage Tanks). According to those rules (15A NCAC 2N .0203) J.M. Davis Ind, Inc. is identified as the owner and/or operator of UST(s) at Jim Dandy Food Store 11.

The following violations of the state rules (15A NCAC 2N) were observed on September 26, 2012 at Jim Dandy Food Store 11. Following each violation are the actions required to correct the violations:

Violation 1: 15A NCAC 2N .0302 UPG6; Failure to meet the upgrade requirements of an internally lined UST as required by federal regulation 40 CFR 280.21(b)(1) (as incorporated by 15A NCAC 2N .0302).

Corrective Action(s):

The Division of Waste Management has determined that the following are deficiencies concerning the internal lining:

- 1) The periodic inspection of the lining has not been performed within 10 years of installation or every 5 years thereafter. Please perform an internal lining inspection in accordance with a national standard. If a corrosion protection system was installed at a later date, then the lining inspection must also include an integrity assessment of the UST to eliminate the requirement for future lining inspections.

If you do not complete one of the actions checked above you must permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Please immediately correct the above deficiencies of the internal lining. Within 30 days of receipt of this notice submit a copy of the invoice and the results of the repairs/inspection or a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service to the inspector at the address provided.

Violation 2: 15A NCAC 2N .0302 UPG9; Failure to provide an 'existing tank system' with corrosion protection as required by federal regulation 40 CFR 280.21 (as incorporated by 15A NCAC 2N .0302).

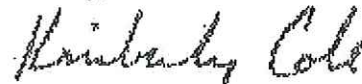
Corrective Action(s):

All UST systems installed before December 22, 1988 are defined as 'existing tank systems.' All 'existing tank systems' are required to have corrosion protection.

- 1) A. Please submit a copy of invoices, designs, and other documentation associated with the provisions for corrosion protection within 30 days of receipt of this notice to the inspector at the address provided which show the UST system met the corrosion protection requirements by December 22, 1998. If the UST system did not meet these corrosion protection requirements by that date then you must complete the actions listed in part B below. All field-installed cathodic protection systems must be designed by a corrosion expert. The qualifications for a corrosion expert are defined in federal regulation 40 CFR 280.12 (as adopted by 15A NCAC 2N .0203); OR B. Permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Within 30 days of receipt of this notice, please submit a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service. Within 30 days following closure, complete a UST-2 form Site Investigation Report for Permanent Closure or Change-In-Service and submit the form along with a tank closure report (UST-12 format is required as of February 1, 1995) to the inspector at the address provided. Permanent closure procedures must be completed within 60 days of receipt of this notice.

Corrective actions must be completed and reported to the inspector at the address provided **within 30 days** of receipt of this notice, unless otherwise noted in one of the corrective actions listed above. Assessment of civil penalties may be recommended for violations described in this NOV, as well as, operating permit revocation/denial unless the violations are corrected. If J.M. Davis Ind, Inc. believes that the inspection findings are in error, or if J.M. Davis Ind, Inc. has any questions pertaining to this NOV and/or corrective actions please have it contact me at (252) 975-1580 or kim.d.cole@ncdenr.gov.

Sincerely,



Kim Cole
Environmental Specialist

Enclosures

cc: Steve Booe w/ Enclosures (electronic)
Files (electronic)



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor
MICHAEL S. REGAN
Secretary
MICHAEL SCOTT
Director

February 08, 2020

CERTIFIED MAIL 9414811899561222587736
RETURN RECEIPT REQUESTED

Diane B Davis, Registered Agent
J. M. Davis Industries, Inc.
812 Arendall St
Morehead City, NC 28557

Re: NOTICE OF VIOLATION OF 15A NCAC 2N .0302(UPG6, UPG9), .0303(RGS1), .0402(MT1),
.0801(CL1, CL3)
Jim Dandy Food Store 11
1712 Arendell Stret, Morehead City, NC 28557-4040
Carteret County
Facility ID#: 00-0-000001121

Dear Diane B Davis:

On January 23, 2020, I conducted a compliance inspection at the above-referenced facility. I observed that underground storage tanks (USTs) at Jim Dandy Food Store 11 are not in compliance with North Carolina UST regulations (North Carolina Administrative Code [NCAC] 2N "Criteria and Standards Applicable to Underground Storage Tanks). According to those rules (15A NCAC 2N .0203) J. M. Davis Industries, Inc. is identified as the owner and/or operator of UST(s) at Jim Dandy Food Store 11.

The following violations of the state rules (15A NCAC 2N) were observed on January 23, 2020 at Jim Dandy Food Store 11. Following each violation are the actions required to correct the violations:

Violation 1: 15A NCAC 2N .0302 UPG6; Failure to meet the upgrade requirements of an internally lined UST as required by federal regulation 40 CFR 280.21(b)(1) (as incorporated by 15A NCAC 2N .0302).

Corrective Action(s):

The Division of Waste Management has determined that the following are deficiencies concerning the internal lining:

- 1) The periodic inspection of the lining has not been performed within 10 years of installation or every 5 years thereafter. Please perform an internal lining inspection in accordance with a national standard. If a corrosion protection system was installed at a later date, then the lining inspection must also include an integrity assessment of the UST to eliminate the requirement for future lining inspections.
- 2) The periodic lining inspection was not performed in accordance with a national standard. Please perform an internal lining inspection in accordance with a national standard.

If you do not complete one of the actions checked above you must permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Please immediately correct the above deficiencies of the internal lining. Within 30 days of receipt of this notice submit a copy of the invoice and the results of the repairs/inspection or a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service to the inspector at the address provided.

Comment: InternalLining for Tank #1(PREM): THE INTERNAL INSPECTION OF THE LINER IS



OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.,
InternalLining for Tank #2(REG): THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.

Violation 2: 15A NCAC 2N .0302 UPG9; Failure to provide an 'existing tank system' with corrosion protection as required by federal regulation 40 CFR 280.21 (as incorporated by 15A NCAC 2N .0302).

Corrective Action(s):

All UST systems installed before December 22, 1988 are defined as 'existing tank systems.' All 'existing tank systems' are required to have corrosion protection.

1) A. Please submit a copy of invoices, designs, and other documentation associated with the provisions for corrosion protection within 30 days of receipt of this notice to the inspector at the address provided which show the UST system met the corrosion protection requirements by December 22, 1998. If the UST system did not meet these corrosion protection requirements by that date then you must complete the actions listed in part B below. All field-installed cathodic protection systems must be designed by a corrosion expert. The qualifications for a corrosion expert are defined in federal regulation 40 CFR 280.12 (as adopted by 15A NCAC 2N .0203).; OR B. Permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Within 30 days of receipt of this notice, please submit a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service. Within 30 days following closure, complete a UST-2 form Site Investigation Report for Permanent Closure or Change-In-Service and submit the form along with a tank closure report (UST-12 format is required as of February 1, 1995) to the inspector at the address provided. Permanent closure procedures must be completed within 60 days of receipt of this notice.

Comment: Tank #PREM: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.,
Tank #REG: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.

Violation 3: 15A NCAC 2N .0303 RGS1; Failure to register or update the registration for a UST system as required by federal regulation 40 CFR 280.22 (as incorporated by 15A NCAC 2N .0303).

Corrective Action(s):

Tank owners and operators are required to register their regulated tanks. Please register or update the registration for the UST(s) within 5 working days of receipt of this notice by completing the following form(s):

- 1) Submit a UST-8 form Notification for Activities Involving USTs
- 2) Submit a UST-15 form Change of Ownership of UST systems

Please send the completed UST-8 and/or UST-15 form to the address located on the form and send a copy to the inspector at the address provided in this notice. It is recommended that you also keep a copy for your records.

Comment: Site#00-0-0000011121: ACCORDING JIM DAVIS, THE OWNERSHIP CHANGED BACK TO THE PROPERTY OWNER DUE TO EXPIRED LEASE. JIM WILL SUBMIT DOCUMENTATION THAT WILL BE SUBMITTED TO CENTRAL OFFICE TO UPDATE OWNERSHIP.,

Violation 4: 15A NCAC 2N .0402 MT1; Failure to operate and maintain a corrosion protection system to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground as required by federal regulation 40 CFR 280.31(a) (as incorporated by 15A NCAC 2N .0402).

Corrective Action(s):

Please perform the following corrective actions. In addition, please note that if the corrosion protection system is shown to be inoperative following the test by a qualified Cathodic Protection Tester, then additional corrective actions could be required in accordance with the attached guidance on Failed or Inoperative Corrosion Protection systems for the length of time without corrosion protection. If this is the case you should contact the inspector for guidance on the additional corrective actions required:

- 1) Ensure the integrity of the tank by performing an internal inspection in accordance with a national standard.
- 2) Complete the actions listed above or permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC 2N .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Within 30 days of receipt of this notice, please submit a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service. Within 30 days following closure, complete a UST-2 form Site Investigation Report for Permanent Closure or Change-In-Service and submit the form along with a tank closure report (UST-12 format is required as of February 1, 1995) to the inspector at the address provided. Permanent closure procedures must be completed within 60 days of receipt of this notice.

Unless otherwise noted above, within 30 days of receipt of this notice, please submit any invoices, test results, or a description of the work completed and the date that it was completed to the inspector at the address provided. If you do not complete the items listed above to repair the corrosion system and maintain continuous corrosion protection then you must permanently close the UST system.

Comment: Site#00-0-0000011121: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.,

Violation 5: 15A NCAC 2N .0801 CL1; Failure to permanently close a substandard UST system that has been temporarily closed for more than twelve months, or beyond December 22, 1999, whichever is earlier, according to federal regulation 40 CFR 280.70 (as incorporated by 15A NCAC 2N .0801).

Corrective Action(s):

The Division of Waste Management UST Section has determined that a substandard regulated tank(s) has not been permanently closed. The closure requirements are described in the state's UST regulations.

- 1) Please complete the requirements for permanent closure in accordance with 15A NCAC 2N .0802 and .0803 and the UST Section Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement.

Within 30 days of receipt of this notice, submit a UST-3 form (Notice of Intent: Permanent Closure or Change-of-Service). Within 30 days following closure, submit a UST-2 form (Site Investigation Report for Permanent Closure or Change-In-Service) along with a UST-12 (Tank Closure Report). Permanent Closure must be completed within 60 days of receipt of this notice. Please note that engineering and geological work must be performed under the supervision of a Professional Engineer (P.E.) or Licensed Geologist (L.G.), and subsequent reports must be signed and sealed by the P.E. or L.G. For information concerning the requirements of engineering or geological work, you may contact the appropriate licensing board.

Comment: Site#00-0-0000011121: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.

Violation 6: 15A NCAC 2N .0801 CL3; Failure to maintain and secure a UST system that has been temporarily closed in accordance with federal regulation 40 CFR 280.70(a) and (b) (as incorporated by 15A NCAC 2N .0801).

Corrective Action(s):

Please complete the corrective actions:

- 1) Ensure the integrity of the tank by performing an internal inspection in accordance with a national standard.
- 2) Complete the actions listed above or permanently close the UST system in accordance with federal regulation 40 CFR 280.71 (as incorporated by 15A NCAC 2N .0802). The tank closure procedure must be conducted in compliance with the requirements established in 15A NCAC 2N .0802 and .0803 and the UST Sections Guidelines for Site Checks, Tank Closure, and Initial Response and Abatement. Within 30 days of receipt of this notice, please submit a UST-3 form Notice of Intent: Permanent Closure or Change-In-Service. Within 30 days following closure, complete a UST-2 form Site Investigation Report for Permanent Closure or Change-In-Service and submit the form along with a tank closure report (UST-12 format is required as of February 1, 1995) to the inspector at the address provided. Permanent closure procedures must be completed within 60 days of receipt of this notice.

Unless otherwise noted above, within 30 days of receipt of this notice, please submit any invoices, test results, or a description of the work completed and the date that it was completed to the inspector at the address provided. If you do not complete the items listed above to put the tank in proper temporary closure and maintain continuous corrosion protection then you must permanently close the UST system. * Note: An alternative method of meeting

these requirements is to put your UST's in temporary closure. This alternative method requires removal of the metal piping and piping components (e.g. flex connectors) without replacing them until you bring the UST's out of temporary closure. At that time, double wall piping and containment sumps would need to be installed that meet the requirements of 15A NCAC 2N .0900. Additionally, the non-metal piping that is not removed must be drained and capped if this method is implemented. Documentation of the component removal and subsequent draining and capping of the non-metal piping must be provided to the inspector within 30 days of receipt of this notice.

Comment: Site#00-0-0000011121: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.,

Inspection Comment: THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.THE INTERNAL INSPECTION OF THE LINER IS OVERDUE AND THE TANKS MUST BE PERMANENTLY CLOSED.ACCORDING JIM DAVIS, THE OWNERSHIP CHANGED BACK TO THE PROPERTY OWNER DUE TO EXPIRED LEASE. JIM WILL SUBMIT DOCUMENTATION THAT WILL BE SUBMITTED TO CENTRAL OFFICE TO UPDATE OWNERSHIP.JIM STATED THAT THEY NO LONGER OWN THIS FACILITY

Notice of Deficiency:

Deficiency 1: NCGS 143-215.94NN-SS OPTR4; Failure to maintain compliance with UST regulations which requires Primary Operator retraining as required by NCGS 143-215.94NN - 143.215.94SS.

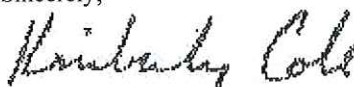
Corrective Action(s):

Please perform the following corrective action:

- 1) Within 30 days of receipt of this notice, the Primary Operator designated for this facility must go to the following website <http://tankschool.nc.gov> and register for one of the next Tank School courses being conducted over the next 90 days or take the NC DEQ on-line course for retraining. Retraining as a Primary Operator must be completed and a Primary Operator training certificate achieved within 90 days of receipt of this notice.

Corrective actions must be completed and reported to the inspector at the address provided **within 30 days** of receipt of this notice, unless otherwise noted in one of the corrective actions listed above. Assessment of civil penalties may be recommended for violations described in this NOV, as well as, operating permit revocation/denial unless the violations are corrected. If J. M. Davis Industries, Inc. believes that the inspection findings are in error, or if J. M. Davis Industries, Inc. has any questions pertaining to this NOV and/or corrective actions please have it contact me at (252) 975-1580 or kim.d.cole@ncdenr.gov.

Sincerely,



Kim Cole, Environmental Specialist
Division of Waste Management, NC DEQ

Enclosures

cc: Steve Booe w/ Enclosures (electronic)
Files (electronic)



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

July 08, 2015

CERTIFIED MAIL 70143490000034407082
RETURN RECEIPT REQUESTED

Diane B Davis, Registered Agent
J. M. Davis Industries, Inc.
812 Arendell St
Morehead City, NC 28557

Re: NOTICE OF VIOLATION OF NCSL 2010-154(OPTR2), 15A NCAC 2N .0301(UPG3), .0502(LD1, LD13), .0506(RCD5)
Jim Dandy Food Mart 12
1884 Hwy 24, Morehead, NC 28557
Carteret County
Facility ID#: 00-0-0000035849

Dear Diane B Davis:

On May 14, 2015, I conducted a compliance inspection at the above-referenced facility. I observed that underground storage tanks (USTs) at Jim Dandy Food Mart 12 are not in compliance with North Carolina UST regulations (North Carolina Administrative Code [NCAC] 2N "Criteria and Standards Applicable to Underground Storage Tanks). According to those rules (15A NCAC 2N .0203) J. M. Davis Industries, Inc. is identified as the owner and/or operator of UST(s) at Jim Dandy Food Mart 12.

The following violations of the state rules (15A NCAC 2N) were observed on May 14, 2015 at Jim Dandy Food Mart 12. Following each violation are the actions required to correct the violations:

Violation 1: 15A NCAC 2N .0301 UPG3; Failure to meet the overfill control requirements of a 'new tank system' as required by federal regulation 40 CFR 280.20(c) (as incorporated by 15A NCAC 2N .0301).

Corrective Action(s):

All UST systems installed after December 22, 1988 are defined as 'new tank systems.' All "new tank systems" that are filled by transfers of more than 25 gallons at one time are required to have overfill control equipment. Please complete one of the following actions:

- 1) Install overfill control equipment. The overfill control equipment installed must meet the performance standards of 15A NCAC 2N .0900. In addition, provide documentation of an operability check on a UST-22A form, Annual Overfill Prevention Operability Check.
- 2) Repair, replace, or enable your overfill equipment. If the overfill control equipment is replaced, the new overfill control equipment must meet the performance standards of 15A NCAC 2N .0900. In addition, provide documentation of an operability check on a UST-22A form, Annual Overfill Prevention Operability Check.

Submit a copy of invoices, designs or other documentation, such as a letter signed by the installer or a report from an equipment contractor, of the completed work within 30 days of receipt of this notice to the inspector at the address provided. In addition, if overfill control is added, please submit a UST-8 form Notification for Activities Involving USTs identifying methods (i.e., automatic shut-off device, overfill alarm or ball float valve) used and provide documentation of an operability check on a UST-22A form, Annual Overfill Prevention Operability Check.

Comment: Tank #ORD: VERIFY BALL FLOAT VALVE IS PROVIDED FOR DIESEL. ORD IS SUCTION

AND A BALL FLOAT VALVE IS INCOMPATIBLE.,

Violation 2: 15A NCAC 2N .0502 LD1; Failure to provide leak detection for a regulated tank in accordance with federal regulation 40 CFR 280.41 (as incorporated by 15A NCAC 2N .0502, 15A NCAC 2N .0301, 15A NCAC 2N .0302 and/or 15A NCAC 2N .0304).

Corrective Action(s):

The Division of Waste Management UST Section has determined that leak detection has not been conducted on a regulated tank.

- 1) Single-wall monitored UST: Please immediately conduct a tank tightness test (note: an Automatic Tank Gauge can not be used to conduct the tank tightness test) on all applicable USTs.

Please submit, within 30 days of receipt of this notice, a copy of the tank tightness test results (and if applicable, interstitial space tightness test results) and submit, within 30 days of receipt of this notice, a copy of your leak detection records (for your chosen leak detection method(s)) for the month following the date of receipt of this notice to the inspector at the address provided.

Comment: Tank #D, ORD, Prem, Reg: 12 MONTHS OF ATG PRINTOUTS WERE NOT PROVIDED. TANK TIGHTNESS TESTING REQUIRED.,

Violation 3: 15A NCAC 2N .0502 LD13; Failure to meet the leak detection requirements for a suction piping system associated with a regulated tank in accordance with federal regulation 40 CFR 280.41(b)(2) (as incorporated by 15A NCAC 2N .0502).

Corrective Action(s):

Please complete one of the following requirements:

- 1) No suction piping leak detection is required if you can verify that your system satisfies each of the following standards as described in Federal regulation 40 CFR 280.41(b)(2) (as incorporated by 15A NCAC 2N .0502): (1) System operates at less than atmospheric pressure;(2) System has only one check valve, and that check valve is located directly under the dispenser pump; (3) The piping is sufficiently sloped from the pump to the tank to allow product to drain back to the tank when suction is released; and (4) A method is provided that allows compliance with (a), (b), and (c) above to be readily determined. If the suction piping system(s) associated with the subject tank(s) satisfies each of the criteria (1-4) above in section C, you need to provide one of the documentation methods outlined in the May 30, 2006, Division of Waste Management, "Documentation for Verifying Compliance at UST Inspections" guidance letter within 30 days of receipt of this notice to the inspector at the address provided. If you choose to meet these requirements, with a certification from your UST installer or equipment contractor, then you must submit the attached UST-19 form, Certification for Leak Detection Exemption for Suction Piping

Comment: Tank #ORD: VERIFY EUROPEAN SUCTION (NOTE THAT PREVIOUS INSPECTION STATED "VERIFIED" AND LTT RESULTS TESTED AND STATED "F-VALVE").

Violation 4: 15A NCAC 2N .0506 RCD5; Failure to maintain records demonstrating compliance with the leak detection requirements as required by federal regulation 40 CFR 280.45(b) (as incorporated by 15A NCAC 2N .0506).

Corrective Action(s):

- 1) The cited rule requires that results of any sampling, testing, or monitoring must be maintained for at least 1 year. Please maintain the required records and submit to the inspector, at the address provided, a copy of the following: A. Submit, within 30 days of receipt of this notice, any testing results (tank tightness tests, line tightness tests, etc.); AND B. Submit, within 30 days of receipt of this notice, a copy of your leak detection records for your chosen method of leak detection for the month following the date of receipt of this notice.

Violation 5: NCSL 2010-154 OPTR2; Failure to complete Primary Operator training as required by NCSL 2010-154.

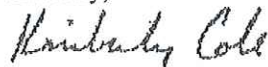
Corrective Action(s):

Please perform the following corrective action(s).

- 1) The Primary Operator designated for this facility must go to the following website <http://tankschool.ncdenr.gov> and register for one of the next Tank School courses being conducted over the next 90 days. Tank School must be completed and a Primary Operator training certificate achieved within 90 days of receipt of this notice.

Corrective actions must be completed and reported to the inspector at the address provided **within 30 days** of receipt of this notice, unless otherwise noted in one of the corrective actions listed above. Assessment of civil penalties may be recommended for violations described in this NOV, as well as, operating permit revocation/denial unless the violations are corrected. If J. M. Davis Industries, Inc. believes that the inspection findings are in error, or if J. M. Davis Industries, Inc. has any questions pertaining to this NOV and/or corrective actions please have it contact me at (252) 975-1580 or kim.d.cole@ncdenr.gov.

Sincerely,



Kim Cole, Environmental Specialist
Division of Waste Management, NC DENR

Enclosures

cc: Steve Booe w/ Enclosures (electronic)
Files (electronic)

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Wednesday, July 07, 2021 3:33 PM
To: Kyle Garner
Cc: John Day; Rita Tomlinson; Laurie Cunningham; Lisa Cox; Ryan Butt; ryan.neve@gmail.com; E Newton
Subject: Case 20-17 Neighborhood packet - Planning Board meeting July 19
Attachments: Case20-17_SUP_1550LxvilleRdNeighborsOpposeJDGasStationStore-7-7-21Final.pdf

Dear Kyle,

Our neighbors have come together to oppose the Special Use Permit proposed for 1550 Lennoxville Rd.

Attached is our packet for the Planning Board meeting on July 19. We request that you include the full packet as submitted related to case 20-17. The first page is a cover letter.

On a related note, many of us have requested to speak at the Planning Board meeting and look forward to receiving confirmation from you.

Thank you for your service.

Best wishes,

Suzanne Lea
206 Ocean Street

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Wednesday, July 07, 2021 8:07 AM
To: Kyle Garner
Subject: Re: Speaking at July 19 meeting

Hi Kyle,

I am writing to ask you to confirm that I am scheduled to speak on July 19. Your earlier email said my timeslot would be available on "Tuesday" which I assumed meant Tuesday July 6th from your last email.

Thank you,
Suzanne Lea
206 Ocean St.

On Fri, Jul 2, 2021 at 10:10 AM Kyle Garner <k.garner@beaufortnc.org> wrote:

Suzanne,

The information I am working on will not be ready until Tuesday and I will be glad to send it to you via email if your prefer.

Kyle

From: CS Lea [mailto:cslea98@gmail.com]
Sent: Friday, July 02, 2021 9:25 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Re: Speaking at July 19 meeting

Kyle,

I have been in Beaufort all week getting prepared to oppose this horrible idea to build a gas station on a footprint that is too small in a residential neighborhood as close to 50 feet from elderly women and children who live in Beaufort year round.

I will come by the office today 7/1 to pick up materials. What time is good. If you are not here, that's ok, leave the materials at front desk.

Thanks

Suzanne Lea

206 Ocean Street.

On Thu, Jun 24, 2021 at 2:19 PM Kyle Garner <k.garner@beaufortnc.org> wrote:

Hey Suzanne,

As I mentioned earlier that I will be sending out updated information to each of the owners within 200 feet and you of course are one of those. In this information I will discuss the process of discussion and questions for the Planning Board meeting on July 19th.

I hope this information will answer your questions.

And thank you for the offer to our Planning Board as I am sure several will visit the site.

Again, thanks for your concern for your neighborhood and our community.

Kyle

From: CS Lea [mailto:cslea98@gmail.com]
Sent: Thursday, June 24, 2021 9:47 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Speaking at July 19 meeting

Hello Kyle,

Thank you for your service to the Town of Beaufort.

As you know, we spoke on June 16 about the gas station development.

I am writing to request time (4 minutes) to speak on July 19 in opposition to the gas station development in our neighborhood and across the street from my house.

I also urge you to remind Planning Board members to park approximately 10 minutes at the intersection of Ocean and Lennoxville Rd between 9am and 6pm during the work week or on any Saturday or Sunday to experience the intersection. They are welcome to park in the double gate driveway of my house.

Best wishes,

Suzanne Lea

206 Ocean St.

mobile 919-883-7821

--

Warm breezes,

Suzanne

--
Warm breezes,
Suzanne

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Friday, July 02, 2021 2:30 PM
To: Kyle Garner
Subject: Re: Information for meeting packet - Special Use Permit - July 19, 2021

Kyle, thank you for writing back and confirming date. Have a great weekend!, Suzanne

On Fri, Jul 2, 2021 at 1:50 PM Kyle Garner <k.garner@beaufortnc.org> wrote:

Suzanne,

Thank you for your email.

I appreciate you asking the fact rather than the fiction.

You are correct the date is the 7th. This is so the packet can be published on the 9th (10 days prior)

Kyle

From: CS Lea [mailto:cslea98@gmail.com]
Sent: Friday, July 02, 2021 11:27 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Information for meeting packet - Special Use Permit - July 19, 2021

Hi Kyle,

I hear there are some shifting dates that may create optics of purposeful advantage to applicant of Special Use Permit.

What is the latest date that residents and citizens may contribute materials for the meeting packet on July 19 for discussion about hazardous Special Use Permit.

Last week I heard, COB July7.

Now I hear the date has passed (June 28, 2021)?

Please provide the NC Open Meetings requirement link or other NC Institute of Government link that specifies dates consistent with NC law for materials for meeting packet.

Thank you for your service,

Suzanne Lea

206 Ocean St.

--

Warm breezes,
Suzanne

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Friday, July 02, 2021 11:27 AM
To: Kyle Garner
Subject: Information for meeting packet - Special Use Permit - July 19, 2021

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Please provide the NC Open Meetings requirement link or other NC Institute of Government link that specifies dates consistent with NC law for materials for meeting packet.

Thank you for your service,
Suzanne Lea
206 Ocean St.

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Friday, July 02, 2021 10:37 AM
To: Kyle Garner
Subject: Re: Speaking at July 19 meeting

Hi Kyle,

Thank you for writing back. Yes, please email to me at cslea98@gmail.com.

-Suzanne Lea
206 Ocean St.
Beaufort, NC 28516

On Fri, Jul 2, 2021 at 10:10 AM Kyle Garner <k.garner@beaufortnc.org> wrote:

Suzanne,

The information I am working on will not be ready until Tuesday and I will be glad to send it to you via email if your prefer.

Kyle

From: CS Lea [mailto:cslea98@gmail.com]
Sent: Friday, July 02, 2021 9:25 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Re: Speaking at July 19 meeting

Kyle,

I have been in Beaufort all week getting prepared to oppose this horrible idea to build a gas station on a footprint that is too small in a residential neighborhood as close to 50 feet from elderly women and children who live in Beaufort year round.

I will come by the office today 7/1 to pick up materials. What time is good. If you are not here, that's ok, leave the materials at front desk.

Thanks

Suzanne Lea

206 Ocean Street.

On Thu, Jun 24, 2021 at 2:19 PM Kyle Garner <k.garner@beaufortnc.org> wrote:

Hey Suzanne,

As I mentioned earlier that I will be sending out updated information to each of the owners within 200 feet and you of course are one of those. In this information I will discuss the process of discussion and questions for the Planning Board meeting on July 19th.

I hope this information will answer your questions.

And thank you for the offer to our Planning Board as I am sure several will visit the site.

Again, thanks for your concern for your neighborhood and our community.

Kyle

From: CS Lea [mailto:cslea98@gmail.com]
Sent: Thursday, June 24, 2021 9:47 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Speaking at July 19 meeting

Hello Kyle,

Thank you for your service to the Town of Beaufort.

As you know, we spoke on June 16 about the gas station development.

I am writing to request time (4 minutes) to speak on July 19 in opposition to the gas station development in our neighborhood and across the street from my house.

I also urge you to remind Planning Board members to park approximately 10 minutes at the intersection of Ocean and Lennoxville Rd between 9am and 6pm during the work week or on any Saturday or Sunday to experience the intersection. They are welcome to park in the double gate driveway of my house.

Best wishes,

Suzanne Lea

206 Ocean St.

mobile 919-883-7821

--

Warm breezes,

Suzanne

--
Warm breezes,
Suzanne

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Friday, July 02, 2021 9:25 AM
To: Kyle Garner
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Suzanne Lea
206 Ocean Street.

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Suzanne Lea

206 Ocean St.

mobile 919-883-7821

--
Warm breezes,
Suzanne

Kyle Garner

From: CS Lea <cslea98@gmail.com>
Sent: Thursday, June 24, 2021 9:47 AM
To: Kyle Garner
Subject: Speaking at July 19 meeting

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I also urge you to remind Planning Board members to park approximately 10 minutes at the intersection of Ocean and Lennoxville Rd between 9am and 6pm during the work week or on any Saturday or Sunday to experience the intersection. They are welcome to park in the double gate driveway of my house.

Best wishes,

Suzanne Lea
206 Ocean St.
mobile 919-883-7821

Kyle Garner

From: Daniel Hall <danielhamlett@gmail.com>
Sent: Monday, July 05, 2021 8:49 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

I can't believe that this is even being considered. Killing property values and other circumstances that accompany a typical Jim dandy store I would certainly expect you to reject this PLEASE ADDRESS EMAIL TO Kyle Garner (k.garner@beaufortnc.org) AND ADD CC TO info@nodandy.org. Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.

Sent from my iPhone

Kyle Garner

From: dkjlkell@aol.com
Sent: Thursday, June 17, 2021 3:25 PM
To: Kyle Garner
Subject: 1550 Lennoxville Rd

Kyle,

I do not want Beaufort NC to be at risk for this type of crime, threatening our safety, nor affecting our fine town's reputation.

This crime: Less than one month ago on May 19, 2021, Morehead City, only 6 miles from us, Jim Dandy, armed robbery with gun, clerk held up, 19 year old male felon, middle of the week on Wednesday, 7:56 am, apprehended in vicinity of store.

I do not want Jim Dandy to operate a store at 1550 Lennoxville Road, the current site of Austin Vet. This location is approx 400 feet from my home. I will no longer feel safe in Beaufort.

[https://www.carolinacoastonline.com/news times/article_be463074-b8ba-11eb-a162-97353bef3aee.html](https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html)

Also, materials for the June 21 Planning Board Meeting became available yesterday June 16, 2021. Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.

For your information, I do not support the Jim Dandy store with gasoline pumps to be located at the 1550 Lennoxville Road location.

Kim Kellerman
107 Chelsea Circle
Beaufort
919 218 7453

Kyle Garner

From: Don Green <sierragreen@live.com>
Sent: Sunday, July 04, 2021 12:36 PM
To: Kyle Garner; John Day
Subject: I oppose Jim Dandy @ 1550 Lennoxville

The Jim Dandy Store, to be located at 1550 Lennoxville Road, is not compatible or in harmony with the neighborhoods in the area AND SHOULD BE LOCATED SOMEWHERE ELSE in Beaufort

There should be no filling stations within Beaufort Town Limits.

The want to put one in make it at Hwy. 70 and 101 Intersection. That would provide them with a lot higher traffic count and provide service for 4 way directions and pass thru traffic.

Donald Green
107 Cara Ln
Beaufort, NC 28516

(919) 369-7096 Cell
sierragreen@live.com

Kyle Garner

From: Don Green <sierragreen@live.com>
Sent: Monday, June 21, 2021 5:53 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17
Sent from [Mail](#) for Windows 10

Beaufort has more traffic now than town streets can handle. On and being so close most days there is not adequate parking.

Putting a gas station within the city poses a threat to local environment from storm flooding, gas and oil run-off from parking lot, trash and gas fumes during the hottest summer days.

Lennoxville Road definitely does not need more traffic running through and by residential area.

Makes one wonder why the town is so quick to allow things that destroy the compact community of Beaufort. Are they always going to allow large amounts of money trump the wishes of tax paying residential owners?

It is time to put the brakes on wholesale development inside the town limits

Kyle Garner

From: Doyle Evans <doyleevans@bellsouth.net>
Sent: Friday, July 02, 2021 10:23 AM
To: Kyle Garner
Subject: Jim Dandy Proposed Store

Dear Mr. Garner,

I am writing you to voice my opposition to the proposed Jim Dandy store at 1550 Lennoxville Road. My wife and I live at 204 MacGregor Drive full time and we are just a “stone’s throw” from this location. I suspect you are hearing from a lot of my neighbors about the alarming issues regarding this store. These include traffic, health, fire, noise and light pollution among others. All of which individually or combined are enough to reject this proposed filling station project.

I would like to address another issue that I feel is equally important. This convenience store will greatly impact our most vulnerable among us, our poor, children and minorities, who live in the general area. These citizens are often the target of convenience stores who sell beer, wine, cigarettes, lottery tickets, high calorie foods, etc. that promote poor health. And, in the case of this particular store, access is along Lennoxville Road from Carteret Avenue. With no sidewalks along Lennoxville coupled with the high traffic on this portion of the road, will prove to be the perfect formula for a bad accident someday. A child or elderly person that gets hit by a car as a result of shopping at this store will not be good to say the least. So, I encourage the committee’s consideration of all communities when making this important decision that will impact so many lives. It is more than just the adjoining property owners.

As of this writing I am hearing the meeting on July 19 will be a Zoom meeting and not at the Depot. I am told I should ask you for access to this Zoom meeting and I would appreciate your confirming a code or whatever I need to attend by Zoom. I do feel a topic of such importance should be in person and I encourage you to delay this meeting until it can be in person at the Depot.

Assuming there will be limited time for speakers and/or questions, could the committee ask the Jim Dandy representative’s to address these questions:

- What will your deli bring to the area that Food Lion, Piggly Wiggly, Beau-To-Go, etc. are not already providing?
- What are your plans should your “high-end deli” idea not work?
- What is the attraction of this location vs a higher profile more accessible and more appropriate location in Beaufort?
- Jim Dandy is known for being the high priced leader for gas in Morehead City where customers have other options. Will they be taking advantage of customer’s in the more captive market of Beaufort?
- What hours will they be off-loading gasoline? How will the tanker trucks enter and exit the property?
- What will their hours of operation be? How firm is this? Any chance they would ever go to 24/7?

Finally, I have heard this location use to be a gas station so what is the big deal? Well that was a very undesirable thing to have at the time and will be again. Plus, the neighborhoods have changed a lot since the time that store was in operation. We use to have Menhaden factories here but would we want another one on Front Street today? Thank you in advance for your and the committee’s time in reading this email and I look forward to hearing back from you regarding the assess to the Zoom meeting.

Best Regards,

Doyle Evans
204 MacGregor Drive
Beaufort, NC 28516
CELL: 919.949.4139

Kyle Garner

From: dritzel@gmail.com
Sent: Wednesday, July 07, 2021 8:25 PM
To: Kyle Garner; John Day
Cc: 'Ryan Butt'; info@NoDandyHere.org

Dear Mr. Garner and Mr. Day,

To begin, I am requesting time to speak at the Planning Meeting on July 19. Can you please add me to the list of people wishing to speak in opposition to the Jim Dandy request?

Additionally, I am sending you this note today directly to express my opposition to the special use permit request of the Jim Dandy Store, to be located at 1550 Lennoxville Road, that is being brought before the planning board on July 19.

I know that you have the unenviable task of sorting out competing interests and determining what is the right thing to do. I would suggest that in this case, the path is pretty clear. While the town may need an additional gas station, this is not an optimal location by any objective standard. In my opinion, it is incumbent upon the board to defend and advance objectives that benefit the most constituents in the community. I do not fault Mr. Davis for wanting to place a gas station here, it is for HIS benefit financially. Unfortunately, his benefit would come at the expense of the property values of dozens of fellow citizens. That is not a fair exchange; One wins and dozens lose. I would content that the town would no more want Jim Dandy to return to the Front Street waterfront, where they started in 1939, than they should want the same for this location on Lennoxville Road. Each area has changed for the better, and to return would be a step backwards.

The property in question is far too close to the residences located on Briarpatch, Beaufort Walk, MacGregor and Chelsea Circle. The closure of the Citgo station formerly on the property at 1550 Lennoxville Road was a good thing for the community and the neighbors immediately surrounding that property. To allow a gas station of any nature to return to that area would be a step backwards for the town of Beaufort and for the property values of the immediate area. In fact, since the departure of the Citgo station, the neighborhood has grown with more residences expanding the tax base for the town. This expansion of residences has been beneficial to many, including the town.

There are great commercial options in town that will not cause undue harm to the neighbors in the immediate vicinity. I suggest that Mr. Davis consider those commercial options, not this now residential one. Lennoxville Road is growing into a residential thoroughfare, and while I may not care for the traffic, I know that those developments are in keeping with Beaufort's long term interests.

Thanks for your consideration.

Best Regards,
Derek

Best Regards,
Derek Ritzel
117 Chelsea Circle
Beaufort, NC 28516
(336) 558-4569

Derek Ritzel

Mobile :: (336) 558-4569

Email :: dritzel@gmail.com

Kyle Garner

From: dritzel@gmail.com
Sent: Monday, June 21, 2021 9:06 AM
To: Kyle Garner
Subject: Support to Delay Special Use Permit Hearing

Dear Kyle,

I appreciate your hard work on preparing for the 1550 Lennoxville Road Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available Jun 16. As I understand it, materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.

To be upfront, I do not support the Jim Dandy proposal for 1550 Lennoxville Road. The area has undergone a transformation that makes it far more residential than it was the last time a gas station occupied that space. Also, the era of neighborhood gas stations has changed as people realize the negative consequences of having hazardous materials too close our homes.

I think that it would proper to let the residents review the materials so that we can have a meaningful discussion on July 19. Thank you for your consideration.

Best Regards,

Derek Ritzel
117 Chelsea Circle
Beaufort, NC 28516
(336) 558-4569



Derek Ritzel
Mobile :: (336) 558-4569
Email :: dritzel@gmail.com

Kyle Garner

From: Glad Atkins <gladatkins@gmail.com>
Sent: Thursday, June 17, 2021 3:44 PM
To: Kyle Garner
Subject: Special Use Permit for 1550 Lennoxville Road

>
> Hello Kyle,
>
> Thank you for your hard work on preparing for the 1550 Lennoxville Road Special Use Permit Public Hearing.
>
> Materials for the June 21 Planning Board Meeting became available today. Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.
>
> For your information, I do not support the Jim Dandy store with gasoline pumps to be located at the 1550 Lennoxville Road location.
>
> Regards,
> Glad Atkins
>
> 2203 Lennoxville Road
> 929-995-2586
>
>

Kyle Garner

From: Jamie Clark <clarkjamie15@gmail.com>
Sent: Friday, July 02, 2021 9:13 AM
To: Kyle Garner; John Day
Cc: info@nodandyhere.org

Good morning,

My name is Jamie Clark and I live at 107 Beaufort Walk, Beaufort NC 28516. I just bought this house in October and am appalled that there could be a gas station right behind my beloved, full-time residence home.

I URGE you to decline this proposal for the sake of the residents who live there full-time and who would be reaping the consequences of this terrible location for a high-trafficked gas station. I do not want tractor-trailers passing my house and potentially having to turn around on the Ocean/Lennoxville intersection. I do not want countless boat trailers having to turn around, cut through Ocean Dr. and or turn around on Beaufort Walk, a very private cul de sac where we already get a lot of traffic to U-turn. I also do not want any crime brought to this residential neighborhood. IF there were any crime to happen, the criminals would be running through and hiding in OUR property. I also DO NOT WANT any more environmental pollution. I am a Marine Scientist at NOAA where I have researched the previous pollution caused by the old gas station. If the town is environmentally-friendly and encourages full-time residency in this beautiful town, DO NOT PUSH AWAY ITS CURRENT RESIDENTS with a poorly located gas station. THIS JIM DANDY AT 1550 Lennoxville is A TERRIBLE location for a gas station. PLEASE RECONSIDER locating this store elsewhere. Beaufort definitely needs another gas station, just NOT in a residential neighborhood.

Please feel free to contact me for any more information or discussion.
Jamie Clark

Kyle Garner

From: Jane Freeze <jmfreeze@northstate.net>
Sent: Friday, July 09, 2021 7:46 AM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

PLEASE ADDRESS EMAIL TO Kyle Garner (k.garner@beaufortnc.org) AND ADD CC TO info@nodandyhere.org. Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.

Sent from my iPhone

Kyle Garner

From: Jo Ann Hoffman <jhoffman410@nc.rr.com>
Sent: Tuesday, June 29, 2021 12:15 PM
To: Kyle Garner
Subject: Jim Dandy /Lennoxville Rd.

Hello, Kyle: We're writing to express our concern about the Jim Dandy retail operation proposed for the corner of Lennoxville Road and Ocean Avenue. Zoning regulations should be subdivided to control types of businesses deemed appropriate for areas in the midst of and/or abutting long-established residential neighborhoods. Regardless of the company's desire to present itself as "a bakery/deli/cafe," the primary business of Jim Dandy is to sell gas, with drinks and small food items an important component as well. I suggest that will also include cigarettes and lottery tickets, along with very early and very late hours of operation. Lighting, litter, noise and traffic are only a few of the undesirable consequences that will have significant negative impact on the surrounding neighbors, including ourselves at two blocks away on Front Street. We are unable to attend any forthcoming public meetings, but would like you and the town to take our comments and strong disapproval into advisement. Thank you. ~jo ann and bill hoffman / 1105-D Front Street - 252-838-1965.

Kyle Garner

From: Joyce McCune <joyce@historicbeaufort.com>
Sent: Monday, June 21, 2021 3:40 PM
To: Kyle Garner
Cc: Dee Winn
Subject: Jim Dandy Special Use Permit Lennoxville Road

Dear Kyle,

Fred and I just returned from a trip with our grandson, and have found out that Jim Dandy is seeking a Special Use Permit to construct a Market/Gas Station on Lennoxville Road in the current Austin Veterinary location.

We ardently oppose this.

As the future land use plan recognizes, this area has gone strongly residential and there is residential use surrounding this location. While the Davis family are good folks, and Beaufort does need another gas station, this is absolutely the wrong location.

When Fred and I developed Beaufort Walk on the old radio station property, our goal was to give Beaufort a quiet and affordable residential area in conformity with that end of Ann Street and Ocean Street. Under Section 20, E) Required Findings, there is no way this application meets the criteria in findings: c, e, f or g.

It is especially disturbing to us in that the project plans to locate its underground fuel tanks and dumpster close to the Beaufort Walk property line. And then there is the question of the lighting and increased vehicle traffic that will not just come down Lennoxville Road but also on Ocean Street from Front Street.

In speaking with our neighbors in the Oaks, I was told that foot traffic through their neighborhood was a big issue when there was a gas station there previously.

Fred and I plan to join the call tonight, but I wanted to put our opposition of this Special Use Permit in writing.

Thank you,

Joyce McCune
Fred McCune

Kyle Garner

From: Karanne Potter <karannepotter@gmail.com>
Sent: Tuesday, July 06, 2021 1:40 PM
To: Kyle Garner
Cc: Ryan G. Butt; John Day
Subject: Planning Board Meeting

Greetings Kyle and Members of the Planning Board'

Please add my letter to the growing pile that you have received about this gas station matter. This was not a good idea from the beginning, and it would seem that 98% of my surrounding neighbors agree. I could restate the top 20 of the obvious negatives that you have heard, but cannot come up with 1 single positive! All possible considerations are immediately countered by 5 solid negatives, rendering it void.

There are endless people who have requested time to speak at the meeting, all with strong facts against this. Some may seem emotional issues, but they are all valid, practical, and economically strong. The masses have spoken. We are all directly and negatively impacted by this possibility.

Instead of this horrible location, why doesn't the Board address the real issue of the need for another gas station in Beaufort. Isn't there some kind of incentive to attract a business to come to Beaufort? Have the Jim Dandy people investigated other areas where they could be much better received and utilized? No matter how pretty the station would be, it is still a gas station, crammed into a dense residential neighborhood that doesn't want it.

Would any of you move into a house next to a gas station? I think not! (and what was there 20 years ago is totally irrelevant today). Yes I would like to request time to speak at the meeting on Monday July 19th.

Thank you for your time and service to our beautiful town,

Karanne Potter
104 MacGregor Drive
The Oaks

Kyle Garner

From: Kathleen Meredith <kathymeredith1@gmail.com>
Sent: Thursday, June 17, 2021 7:42 PM
To: Kyle Garner
Subject: Agree with R Tomlinson

Sent from my iPhone

Kyle Garner

From: Keith Killinger <kkillinger1@nc.rr.com>
Sent: Thursday, June 24, 2021 10:46 AM
To: Kyle Garner
Cc: Ralph Lyon
Subject: 1612 HOA letter in opposition of Jim Dandy store where Austin Vet is located
Attachments: 1612 HOA letter to Kyle Garner in opposition to Jim Dandy Gas Station.pdf

Mr. Garner,

Attached is a letter from the 1612 HOA on Carrot Island Ln in opposition of the proposed Jim Dandy gas/convenience store on Lennoxville Rd.

Respectfully,
Keith Killinger
President 1612 HOA

**Kyle Garner, City Planning Director
& Beaufort City Planning Board
701 Front Street
Beaufort, NC 28516**

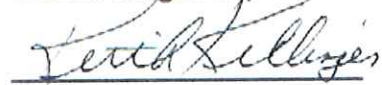
June 30, 2021

**Subject: Special Use Permit for 1550
Lennoxville Rd.**

Dear Mr. Garner and Members of Beaufort Planning Board,

We, the Homeowners of the 1612 Front Street Homeowners Association, with 11 residences located on Carrot Island Lane have voted and do hereby unanimously oppose any zoning permit request to allow a Jim Dandy Service Station at 1550 Lennoxville Rd. While we believe that Beaufort certainly needs an additional gas station, placing one in the middle of a residential area will have an extremely negative impact and is not compatible with the surrounding family neighborhoods.

Warm Regards,



**Keith Killinger
President**



**Cliff Ransdell
Vice President**



**Tom Carter
Treasurer**



**Ralph Lyon
Secretary**

Kyle Garner

From: Keith Killinger <kkillinger1@nc.rr.com>
Sent: Monday, June 21, 2021 9:28 AM
To: Kyle Garner
Subject: Jim Dandy at 1550 Lennoxville Rd

Kyle,

This is Keith Killinger at 111 Carrot Island Lane in Beaufort.

I just heard the town is considering a special permit to accommodate a Jim Dandy gas station and convenience store at the corner of Ocean and Lennoxville Rd. in Beaufort.

I truly don't think this is a good location for this type of business and I want to let you know of my wife and mine opposition of this project.

Hopefully they can find a better location in a more commercial setting in Beaufort.

Respectfully,
Keith and Ginny Killinger

Kyle Garner

From: Larry Ball <leballjr@yahoo.com>
Sent: Wednesday, June 16, 2021 4:37 PM
To: Kyle Garner
Subject: Jim dandy meeting

Sent from my iPhone

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Tuesday, July 06, 2021 6:08 PM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Hi Kyle-

I still haven't received the details of how or when I will be speaking at the meeting regarding this agenda item.

Can you please confirm the details as you mentioned 6/24?

Laura Satterly
103 Beaufort Walk

> On Jun 24, 2021, at 2:56 PM, Laura Satterly <satterly@gmail.com> wrote:

>

> Thank you Kyle I will look out for it and plan to speak.

>

> We have strong concerns and documentation to present to the Board on the Public Health risks and risk of death for bicycles riders on the planned path.

>

> Best,

> Laura Satterly

> 103 Beaufort Walk

>

>

>> On Jun 24, 2021, at 2:15 PM, Kyle Garner <k.garner@beaufortnc.org> wrote:

>> Hi Laura,

>> As I mentioned earlier that I will be sending out updated information to each of the owners within 200 feet and those I have email address per their request. In this information I will discuss the process of discussion and questions for the Planning Board meeting on July 19th.

>> I hope this information will answer your questions.

>> Again, thanks for your concern for your neighborhood and community.

>> Kyle

>> -----Original Message-----

>> From: Laura Satterly [mailto:satterly@gmail.com]

>> Sent: Thursday, June 24, 2021 6:31 AM

>> To: Kyle Garner <k.garner@beaufortnc.org>

>> Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who

>> strongly opposes this decision Hi Kyle, thank you for your kind note. I would like to speak for 5 minutes on July 19 to oppose the Jim Dandy by rejecting the special use permit on the grounds of the Public Health issues this will bring to the residences and neighborhood.

>> I can attend in person - can you please share the details for speakers?

>> Thanks,

>> Laura Satterly

>> Sent from my iPhone

>>>> On Jun 17, 2021, at 4:19 PM, Laura Satterly <satterly@gmail.com> wrote:

>>> Thank you so much Kyle we really appreciate you being there for us.

>>> Best

>>> Laura

>>> Sent from my iPhone

>>>> On Jun 17, 2021, at 7:14 AM, Kyle Garner <k.garner@beaufortnc.org> wrote:

>>>> Laura,

>>>> Thank you for your email. And I have recommended to the Planning Board that the item be tabled on Monday night so that another notification with additional information is provided.

>>>> The item to table should take place at the beginning of the meeting. The next scheduled Planning Board Meeting will be Monday July 19th.

>>>> Again Thank You.

>>>> Kyle

>>>> -----Original Message-----

>>>> From: Laura Satterly [mailto:satterly@gmail.com]

>>>> Sent: Thursday, June 17, 2021 6:37 AM

>>>> To: Kyle Garner <k.garner@beaufortnc.org>

>>>> Subject: Special Use Permit for 1550 Lennoxville Road - owner who

>>>> strongly opposes this decision Hello Kyle, Thank you for your hard

>>>> work on preparing for the 1550 Lennoxville Road Special Use Permit Public Hearing.

>>>> Materials for the June 21 Planning Board Meeting became available yesterday - June 16 2021.

>>>> Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I am requesting that you please postpone the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.

>>>> As a young owner of a residence on Beaufort Walk, I am very strongly opposed to the Jim Dandy store with gasoline pumps to be located at the 1550 Lennoxville Road location. This is safety issue for our children (among other environmental reasons, including cancerous leaks and fumes). It saddens me this would even be considered given the proximity to our residences and peaceful neighborhood.

>>>> I will oppose this Proposal every step of the way for these safety reasons and will be at every meeting.

>>>> Jim Dandy has a record of crime associated with their convenience stores in the county, including during daylight hours.

>>>> Please oppose this and protect the children in our town.

>>>> Regards,

>>>> Laura Satterly

>>>> 103 Beaufort Walk

>>>> 917-744-3866

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Monday, July 05, 2021 7:06 AM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Hi Kyle, hope you had a nice 4th with friends and family.

I'm checking in I haven't received any details for the meeting so I can speak? Can you please let me know when I'll receive the directions to sepan July 19?

Thanks,
Laura

Sent from my iPhone

> On Jun 24, 2021, at 2:56 PM, Laura Satterly <satterly@gmail.com> wrote:

>
> Thank you Kyle I will look out for it and plan to speak.

>
> We have strong concerns and documentation to present to the Board on the Public Health risks and risk of death for bicycles riders on the planned path.

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> Best,
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> 103 Beaufort Walk

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>> I hope this information will answer your questions.

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>> Again, thanks for your concern for your neighborhood and community.

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>> Kyle

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>> From: Laura Satterly [mailto:satterly@gmail.com]
>> Sent: Thursday, June 24, 2021 6:31 AM
>> To: Kyle Garner <k.garner@beaufortnc.org>
>> Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

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>> Thanks,
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>> Sent from my iPhone

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>>>> Regards,

>>>>

>>>> Laura Satterly

>>>> 103 Beaufort Walk

>>>> 917-744-3866

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Thursday, July 01, 2021 3:21 PM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Hi Kyle,

I'm checking in on the info for the meeting packet. I don't have the details and am curious about where to deliver my documents.

Thanks,
Laura

> On Jun 24, 2021, at 2:56 PM, Laura Satterly <satterly@gmail.com> wrote:

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> Thank you Kyle I will look out for it and plan to speak.

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>>>> Laura Satterly

>>>> 103 Beaufort Walk

>>>> 917-744-3866

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Wednesday, June 30, 2021 9:07 PM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Hi Kyle see below- I do still have not the directions to speak on July 19th.

Please confirm when you will send these details to me.

Thanks,
Laura Satterly
103 Beaufort Walk
917-744-3866

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>>>> Laura Satterly

>>>> 103 Beaufort Walk

>>>> 917-744-3866

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Wednesday, June 30, 2021 7:21 PM
To: Kyle Garner
Subject: Checking in re Town council meeting July 19

Hi Kyle,

I'm checking in to see when I'll be able to speak at the council to oppose the request for rezoning of the residential neighborhood for Jim Davis' project due to public health reasons. I also have documents to submit to your board.

Please confirm the process with me.

Thanks,
Laura Satterly
103 Beaufort Walk
917-744-3866

Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Thursday, June 24, 2021 2:57 PM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Thank you Kyle I will look out for it and plan to speak.

We have strong concerns and documentation to present to the Board on the Public Health risks and risk of death for bicycles riders on the planned path.

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>> 103 Beaufort Walk
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Kyle Garner

From: Laura Satterly <satterly@gmail.com>
Sent: Thursday, June 17, 2021 4:20 PM
To: Kyle Garner
Subject: Re: Special Use Permit for 1550 Lennoxville Road - owner who strongly opposes this decision

Thank you so much Kyle we really appreciate you being there for us.

Best
Laura

Sent from my iPhone

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Please oppose this and protect the children in our town.

Regards,

Laura Satterly
103 Beaufort Walk
917-744-3866

Kyle Garner

From: Laurel <laurelwatts@yahoo.com>
Sent: Thursday, June 17, 2021 4:33 PM
To: Kyle Garner
Subject: Jim Dandy store in Beaufort. Please don't approve

Kyle,
Please don't approve the proposed Jim Dandy store on 1550 Lennoxville Road.

This chain of stores attracts crime and effects our safety in Beaufort. Evidenced by the recent armed robbery at 7 AM.

KEEP BEAUFORT SAFE AND BEAUTIFUL.

Respectively,
Laurel Watts
1004 Broad St
Beaufort

Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Thursday, July 08, 2021 3:22 PM
To: Kyle Garner; John LoPiccolo; Diane Meelheim; Ryan Neve; Aaron Willis; RALPH MERRILL
Cc: Laurie Cunningham
Subject: Convenience & Gas locations

Planning Board Members:

The convenience store & gas station in these photos is located at intersection of Hwy 101 & Steel Tank Road in Beaufort. You will notice that it is NOT IN A RESIDENTIAL NEIGHBORHOOD. The special use permit for 1550 Lennoxville Road would permit underground fuel storage tanks & a convenience store to be placed within 50 feet of my home (and only 20 feet from my property line) & other homes. This will create an environmental concern for all surrounding homes. NC Department of the Environment documents that there is already ground water contamination at 1550 Lennoxville Road due to past tanks on this property. Have we learned nothing from the past? FUEL TANKS LEAK AND CREATE ENVIRONMENTAL HAZZARDS!! We purchased our home knowing there WAS NOT a gas station on this site. A business like the veterinarians office is one that benefits our community , NOT HARM, our environment, health, safety & property values. I ask you all to drive by the neighborhood(s) that would be impacted by this Special Use Permit. Also, drive by Convenience Stores in our area. You will see that allowing a special use permit for a gas & convenience store in not consistent with the current neighborhood or future Town of Beaufort land use plans. It would be a detriment to the community & the Special Use Permit should be denied on those grounds.

Laurie Cunningham
100 Beaufort Walk





Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Wednesday, July 07, 2021 1:53 PM
To: Kyle Garner; John LoPiccolo; Diane Meelheim; RALPH MERRILL; Ryan Neve; Aaron Willis
Subject: C-store location photos

Kyle & Planning Board Members:

The attached photos are of the Speedway C-Store located in Beaufort at Wellons & Live Oak. Please note that this is NOT LOCATED in a residential neighborhood. The application used by the Jim Dandy corporation requests to place a C-store in a residential location. Please ride by the C-stores & gas stations in our area. You will see that NONE ARE LOCATED IN RESIDENTIAL NEIGHBORHOODS.

Placing a convenience store & underground fuel tanks in a residential community poses a risk to residents/visitors safety & health. It will also diminish marketability & property values for the 30+ homes in close proximity (some within 20 feet of this proposed special use permit).

The convenience store placement is not in keeping with the current neighborhood or future town land-use plans indicated for this area...including a bike path that would cross this busy intersection created by the C-store.

Sincerely,
Laurie Cunningham
100 Beaufort Walk









Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Thursday, July 01, 2021 4:40 PM
To: Kyle Garner
Subject: Request to speak at the July 19th planning meeting

Kyle:
My husband and I are requesting time to address the planning board considering the special use permit for 1550 Lennoxville Rd. We had planned to address the committee during the last meeting but, as you were aware, this discussion was tabled. Can you please let me know what is the length of time that we are able to speak. Can you also let me know if there is a more formal process which I must follow in order to be put on the schedule to speak. Also, I sent you a message earlier today in reference to contacting the City Council. If you can respond to that email as well I would appreciate it.

Thank you,
Laurie Cunningham

Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Thursday, July 01, 2021 8:26 AM
To: Kyle Garner
Subject: 1550 Lennoxville Road

Good Morning Kyle:

When we spoke on June 15th,

I mentioned that I wanted to know how to contact the city council members in reference to the special use permit request for 1550 Lennoxville Road. You had advised me not to contact them at this time. You stated that it could create a future conflict & appear that I was attempting to influence the approval/denial of the special use permit. Can you clarify this for me? I'm not certain as to when I can reach out to the city council members concerning this matter.

Thanks,

Laurie Cunningham
100 Beaufort Walk

Kyle Garner

From: Laurie Cunningham <lcunningham23@nc.rr.com>
Sent: Monday, June 28, 2021 9:45 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17

Kyle Garner

From: Laurie Cunningham <lcunningham23@nc.rr.com>
Sent: Monday, June 28, 2021 9:44 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17

Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Monday, June 21, 2021 8:20 AM
To: Ryan Neve; Diane Meelheim; Jeff Vreugdenhil; John LoPiccolo; Aaron Willis; Kyle Garner; RALPH MERRILL
Subject: Fwd: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

Crime is a real problem at convenience stores, as referenced by the recent armed robbery at the Jim Dandy in Morehead.

Placing a Jim Dandy in a residential neighborhood would place our community at risk for our residents & visitors/tourism.

We are in complete opposition to permitting a Jim Dandy on Lennoxville Road. We live directly behind this location with our property sharing borders with the land development. Major concerns that will impact the entire Beaufort community are:

- Crime (armed robbery, theft, drugs & the impact these crimes have on family/children safety)
- Environment & air quality impact (there are already mitigation issues with this property from previous gas tanks)
- Traffic flow (Especially as this is a major egress for residents in a storm situation & in getting help to residents after a storm. Spillage, leakage or tank problems that could occur during regular operations & storms would greatly impact evacuation & recovery efforts in any emergency situation)
- Real Estate impact. (Permitting a convenience store & gas station in this area will have adverse impact on property values for all homes in this area.)

Please vote no on allowing this type of development in our community. This property can have many purposes in the future as office space or non-retail development.

Sincerely,
Laurie & Bob Cunningham
100 Beaufort Walk
Beaufort, NC

Begin forwarded message:

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Date: June 17, 2021 at 8:52:22 AM EDT
To: Laurie Cunningham <lauriec819@gmail.com>
Subject: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

Rita

Ritamtomlinson@gmail.com
585 233 2130 mobile

Begin forwarded message:

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Date: June 17, 2021 at 8:50:40 AM EDT
To: Glad Atkins <gladatkins@gmail.com>
Subject: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

Rita

Ritamtomlinson@gmail.com
585 233 2130 mobile

Begin forwarded message:

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Date: June 17, 2021 at 8:47:31 AM EDT
To: deborah.llewellyn@gmail.com
Subject: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

Rita

Ritamtomlinson@gmail.com
585 233 2130 mobile

Begin forwarded message:

From: Rita Tomlinson
<ritamtomlinson@gmail.com>
Date: June 17, 2021 at 8:46:21 AM EDT
To: Victoria Sullivan <vlsullivan@gmail.com>
Subject: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

Rita

Ritamtomlinson@gmail.com
585 233 2130 mobile

Begin forwarded message:

From: Rita Tomlinson
<ritamtomlinson@gmail.com>
Date: June 17, 2021 at 8:45:57 AM
EDT
To: clarkjamie15@gmail.com
Subject: Authorities arrest
Carteret County man for
Wednesday armed robbery of Jim
Dandy in Morehead City | News |
carolinacoastonline.com

Kyle,

We do not want Beaufort NC to be at risk for this type of crime, threatening our safety, nor affecting our fine town's reputation.

This article: Morehead City, only 6 miles from us, Jim Dandy, armed robbery with gun, clerk held up, 19 year old male, middle of the week on Wednesday, 7:56 am, apprehended in vicinity of store.

https://www.carolinacoastonline.com/news-times/article_be463074-b8ba-11eb-a162-97353bef3aee.html

Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Monday, June 21, 2021 7:37 AM
To: Kyle Garner
Subject: Fayetteville police seek suspects in convenience store armed robberies

More convenience store crime with armed robbery information:

<https://www.fayobserver.com/story/news/2020/12/28/fayetteville-police-seek-suspects-convenience-store-armed-robberies/4052819001/>

Kyle Garner

From: Laurie Cunningham <lauriec819@gmail.com>
Sent: Thursday, June 17, 2021 8:19 AM
To: Kyle Garner
Subject: Convenience store crime

<https://fb.watch/6aZmUXA3r-/>

Kyle:

More concerns about convenience stores & another reason why it is not conducive to our Beaufort community. I'm positive the Planning Board will be concerned about the crime that comes with convenience stores. The Carteret sheriff is clear in this video that drugs are being sold at convenience stores in Carteret county. This is a problem that will impact children and adults alike in Beaufort.

Thank-you,
Laurie Cunningham

Kyle Garner

From: Laurie Cunningham <lcunningham23@nc.rr.com>
Sent: Wednesday, June 16, 2021 2:14 PM
To: Kyle Garner
Subject: Re: Lennoxville development

Kyle:
Can you please also share the Zoom link with my husband:
Bob Cunningham
bobacunningham@gmail.com
He will be traveling & will need the link sent to his device.
I am still interested in accessing the materials that were to be made available to us. Have they been added to the website? Since the planning board has been made aware of incorrect dates & inability to view pertinent materials, can you reschedule this meeting for a later date? It seems this would be required since we have not had time for appropriate due diligence.
Also, I requested the names & contact information for members of the planning board. Will you email me this contact sheet?
Thank you,
Laurie Cunningham

> On Jun 16, 2021, at 1:14 PM, Kyle Garner <k.garner@beaufortnc.org> wrote:

- >
- > Hi Laurie,
- >
- > As promised you will find the Planning Board members emails above as I have copied them on this response. The Planning Board is also aware of the Letter that went out with the incorrect information as our office shared that with them.
- >
- > Also, below is the zoom link to the meeting on Monday night.
- >
- > I hope this information helps and again I apologize for the confusion.
- >
- > Kyle
- >
- > Join Zoom Meeting
- > <https://zoom.us/j/91054394569?pwd=dzVKQm1sUjh0QzNlZUpYZm5QZ2Y0UT09>
- >
- > Meeting ID: 910 5439 4569
- > Passcode: 973128
- > One tap mobile
- > +19294362866,,91054394569#,,,,*973128# US (New York)
- > +13017158592,,91054394569#,,,,*973128# US (Washington DC)
- >
- > Dial by your location
- > +1 929 436 2866 US (New York)
- > +1 301 715 8592 US (Washington DC)
- > +1 312 626 6799 US (Chicago)
- > +1 669 900 6833 US (San Jose)
- > +1 253 215 8782 US (Tacoma)

> +1 346 248 7799 US (Houston)
> Meeting ID: 910 5439 4569
> Passcode: 973128
> Find your local number: <https://zoom.us/j/abAgItmSRz>

>
> -----Original Message-----
> From: Laurie Cunningham [mailto:lcunningham23@nc.rr.com]
> Sent: Tuesday, June 15, 2021 10:04 PM
> To: Kyle Garner <k.garner@beaufortnc.org>
> Subject: Lennoxville development

>
> Kyle:
> I spoke with you earlier today in reference to the special use permit
> request for 1550 Lennoxville Rd. My husband and I own a home at
> 100 Beaufort Walk, directly behind this address. As we discussed this morning, we are completely opposed to a
convenience store being developed on this site. A convenience store will create long-term environmental & criminal
impacts to our residential neighborhood.
> Currently that location is home to a veterinary clinic. A better use for this property moving forward would be a real
estate office, attorneys office, doctors office or town of Beaufort offices.
> We also discussed the inconsistent dates listed on the letter we received along with the lack of access to
documentation that was to be provided no later than June 14, 2021. Without the proper dates and access to necessary
materials, we do not have the information necessary to understand this request in it's entirety.
> I would like to know if the planning committee has investigated the health and environmental hazards that come from
locating a convenience store and gas station this close to residential properties. Additional public health concerns arise
from off-site alcohol sales & the very real impact of children in the community being offered alcohol, tobacco & drugs.
Convenience stores attract people with increased risk for violent crime...as clearly demonstrated by the recent armed
robbery at the Jim Dandy in Morehead. I am asking you, as Town Planning Director, to consider the impacts I have
mentioned above. The problems that are likely to arise would adversely effect not only the local residents near the
convenience store but our community as a whole.
> We will be attending the Zoom meeting and are requesting that you provide me with the Zoom link. I would also like
all contact information for the planning board.
> Thank you,
> Laurie Cunningham
> 919-614-5012

Kyle Garner

From: Laurie Cunningham <lcunningham23@nc.rr.com>
Sent: Tuesday, June 15, 2021 10:04 PM
To: Kyle Garner
Subject: Lennoxville development

Kyle:
I spoke with you earlier today in reference to the special use permit request for 1550 Lennoxville Rd. My husband and I own a home at 100 Beaufort Walk, directly behind this address. As we discussed this morning, we are completely opposed to a convenience store being developed on this site. A convenience store will create long-term environmental & criminal impacts to our residential neighborhood. Currently that location is home to a veterinary clinic. A better use for this property moving forward would be a real estate office, attorneys office, doctors office or town of Beaufort offices. We also discussed the inconsistent dates listed on the letter we received along with the lack of access to documentation that was to be provided no later than June 14, 2021. Without the proper dates and access to necessary materials, we do not have the information necessary to understand this request in it's entirety. I would like to know if the planning committee has investigated the health and environmental hazards that come from locating a convenience store and gas station this close to residential properties. Additional public health concerns arise from off-site alcohol sales & the very real impact of children in the community being offered alcohol, tobacco & drugs. Convenience stores attract people with increased risk for violent crime...as clearly demonstrated by the recent armed robbery at the Jim Dandy in Morehead. I am asking you, as Town Planning Director, to consider the impacts I have mentioned above. The problems that are likely to arise would adversely effect not only the local residents near the convenience store but our community as a whole. We will be attending the Zoom meeting and are requesting that you provide me with the Zoom link. I would also like all contact information for the planning board.
Thank you,
Laurie Cunningham
919-614-5012

Kyle Garner

From: Linda Keeter <lmkeet@gmail.com>
Sent: Monday, July 05, 2021 5:36 PM
To: Kyle Garner; John Day
Cc: Ryan Butt
Subject: We Oppose Approval of the Special Use Permit for 1550 Lennoxville Road

Memo To: Kyle Garner, Planning and Inspections Director
John Day, Town Manager

Copy To: Ryann Butt, The Oaks at Beaufort HOA President

From: James & Linda Keeter, The Oaks at Beaufort Subdivision
200 MacGregor Dr., Beaufort, NC 28516

Dear Kyle,

Thank you and all of the Planning Board members for your work and service!! We are a family with background in N.C. Planning Board service, particularly the Zoning Board of Adjustment, so we understand the weight of decisions that fall to you! Thank you also for honoring our request, along with others, to postpone the 1550 Lennoxville Road Special Use Permit Public Hearing until July 19th. Albeit, some in our neighborhood are disadvantaged when it comes to Zoom technology and would likely be better represented at an in-person meeting at a later date.

OUR PERSPECTIVE: After a year of searching, last January we chose to invest our retirement nest eggs in a home in The Oaks at Beaufort subdivision. We chose it because of its peaceful location, outside the heaviest flow of traffic, revelers, boaters, and foot traffic, AND because we had no reason to believe that an investment in this quaint, lovely, iconic neighborhood would be threatened by an **incompatible zoning change**!! After all, this is BEAUFORT, the town known for valuing its historic properties and preserving its beautiful coastal neighborhoods!!! On all the streets surrounding 1550 Lennoxville there is heavy investment in renovation of homes! Even though we are not in a historic district, the rate of cottage restoration is truly astounding. This real estate activity is VERY POSITIVE for the Town of Beaufort!! However, we are convinced that the infringement of a **gas station** would bring such positive activity **to a halt**, hurting those of us in close proximity and greatly curbing the climb in housing quality.

We write to reiterate our concerns stated in our previous email of 6/21/21 to you, and after further consideration, wish to share some additional points that keep us up at night!

Respectfully, we oppose the approval of Jim Dandy or ANY gas station, to be located at 1550 Lennoxville Road, as it would not be compatible or in harmony with the current adjacent neighborhoods. While we agree that Beaufort is in need of another gas station, clearly it would **serve a greater audience and do far less harm** in a location less densely populated with residences. There are many locations more clustered with compatible businesses, particularly along the 70/101 corridor.

We have serious concerns about how this business (right at the gates of our peaceful subdivision) will impact our area – traffic, noise, light pollution, crime (convenience stores are often targets), architectural compatibility, quaint Beaufort feel, etc.

1.

HEALTH, SAFETY & LIVABILITY: Placement of underground gas storage presents a safety concern for anyone living close by, not to mention the environmental impact. It is our understanding that health and environmental concerns are heightened and even validated by the fact that, in the past, this site experienced a gas leak underground that required soil remediation. More recently, in 2020, it is reported that out-of-compliance gas storage tanks were discovered during a compliance inspection by the NCDEQ and that the company was cited with 3 violations/7 deficiencies. A two-time cancer survivor lives in our house and we can tell you this is a huge concern for us! Petroleum leaks and the consistent application of gasoline vapors can cause certain cancers. We know this from experience!

Other health concerns center around “convenience store” food offerings and packaging. In true Beaufort style, our town is home to one of the most extraordinary Garden Clubs in N.C. Many of us here in Beaufort value that kind of beauty and a healthier living standard. We work to raise meadow gardens, flowers, herbs, fruits and vegetables. We care about preserving pollination and creating sustainable spaces. Therefore, the plans of Jim Dandy to offer unhealthy biscuits, donuts, sweet drinks and other junk foods and further pollute our neighborhood with nauseating smells is unimpressive and inconsistent with Beaufort character. Then there are the plastic bags, drink cups, wrappers and other refuse that inevitably overflow from convenience stores to float over the neighborhood, endanger our wildlife and pollute our ponds. It does not give us confidence that sanitation inspection reports from Jim Dandy’s existing nine stores have identified numerous violations related to problems and poor maintenance of sewer/wastewater, garbage/refuse, ventilation/lighting, plumbing and pest management systems. Worse yet, are records of numerous FOOD SANITATION VIOLATIONS, such as improper heating and cooling of food, lack of employee Food Safety training and unaddressed mold!

The presence of a convenience store so closely located to homes would also present safety issues for walkers and bicyclists, due to traffic and crime fear. Walkability is a highly valued attribute of Beaufort neighborhoods. Please do not take this away from us!

In addition, our key concerns with statements in the presentation follow.

1. ***“Even though the use is not consistent with the future land use plan the use is consistent with the current zoning in place with a Special Use Permit.”*** (Staff Comments)
 - **Our concerns:** Hopefully, the future plan considers the dense population of residential properties and designates uses more consistent. While the subject land was zoned/permitted in the past for a convenience store, A LOT has changed in the area since then, and we refer to the high number of residential investments in cottage restoration, as mentioned above. Our understanding is that the number of people who will be affected is significantly higher than it was in the 2003-8 era when the small two-bay service station was on the site. It is our feeling that an eight+ bay gas station inserted into the current situation would more resemble “spot zoning”, as we interpret it.
2. ***“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;”*** (Section 20 E-d)
 - **Our concerns:** Adequate??? Considering that this would be one of only two gas stations in Beaufort, there is no doubt that this business would **pull an excessive amount of traffic down Lennoxville Road** from Highways 70 and 101, greatly

increasing traffic volume. Clearly trucks pulling boats would need to line up to wait on bays, particularly in high season! There is nowhere for them to go except to line the lawns of residents on Ocean Street or the narrow grass shoulders of Lennoxville Road in front of The Oaks, obstructing our entrances and exits. Traffic would most definitely circumvent congestion by going through our subdivision and/or down other small side streets. Will our community be forced to incur the expense of gating our private roads as a result of a Special Use approval? Who will monitor and enforce trespassing consistently? A professional traffic study is greatly needed. It is already sometimes difficult to exit The Oaks during rush hours when workers are going to and returning from work. It would make much more sense to locate it in the more industrial path (same as Speedway) on Live Oak and/or closer to 70 and the future roundabout.

3. ***“The proposed special use will not substantially injure the value of adjoining or abutting properties;”*** (Section 20 E-e)

- **Our concerns:** Define “substantially”! We would hope to see NO drop in property value due to this decision, however, it has been our experience that ANY time a convenience store goes into a neighborhood in NC, it negatively impacts adjoining properties, and likely, **far more than a veterinary medical practice!** From a real estate standpoint, people tend to associate convenience stores with higher crime and mischief, noise, traffic congestion and negative foot traffic! Statistics overwhelmingly support these associations as truth, including local accounts of Jim Dandy robberies in particular.

4. ***“Height & Area Supplements & Exceptions allows the encroachment of the canopy to the property line (Lennoxville Road).”*** (Section 6-F Exhibit)

- **Our concerns:** The planned canopy is likely to produce a glow over our neighborhood and is certainly not compatible architecturally. Light pollution is not a desirable attribute for a neighborhood and is definitely not an attractive feature from a real estate perspective. Contributing to light issues would be the constant intrusion of additional pole lights, store lighting, and headlight strobe.

5. ***“We like to open early for our patrons that commute to Cherry Point or perhaps those that might be headed out fishing but we close early at night. Our outside lighting will be controlled by photo-cell sensors and adjusted to provide sufficient and safe lighting with minimal to zero effect on the surrounding properties during those hours they are switched on.”*** (Letter from James Morton Davis, III)

- **Our concerns:** We do not believe that this business could thrive with the conditions that would be necessary to make it compatible and harmonious with residents on its close boundaries. The thought of “early” opening noise and disruption is not at all appealing to those who must suffer the consequences of loud truck mufflers, gas pump audio ads, vehicle music, motorcycles, deliveries, tankers, etc. In regard to “early close”, the definition of early is quite subjective. For retirees like ourselves, that would be 6 PM! Likewise, “minimal to zero effect” is a definition from the perspective of the business owner, certainly not the neighbors. (See our comments above in #4).

Lastly, we would like to offer this thought. If a convenience store with eight+ gas pump bays is approved for this residential neighborhood, what’s next? There are no guarantees that this business will remain viable or meet ANY kind of commitments that are not in the form of formal Special Use conditions. Approval of this use could present aggravations and problems for residents for years to come. We respectfully ask that our neighborhood not be compromised in this way. Please protect us from this threat and encourage/help Mr. Davis find a more suitable location.

Please feel free to share our concerns with other members as pertinent and/or make them a part of comments for the meeting on July 19th. We would like to register to attend the Zoom meeting. Please share the link.

Again, many thanks for your consideration of these concerns.

Kind regards,

James & Linda Keeter
336 414 3487

Kyle Garner

From: Lisa Cox <lisaajcox@gmail.com>
Sent: Thursday, June 24, 2021 12:43 PM
To: Kyle Garner
Subject: Schedule a Call with You Re: July 19th Planning Board Meeting

Hi Kyle,

I hope that you are doing well on this beautiful day!

I have a number of questions about the Planning Board's meeting on July 19th. Is there a good time to try calling you this afternoon between 3:00pm and 4:30pm (I have a previously scheduled call from 1:30pm to 2:45pm) or any time tomorrow?

Thank you, and I look forward to hearing back from you.

Lisa Cox
105 Beaufort Walk
919-906-4336

Kyle Garner

From: Lisa Cox <lisaajcox@gmail.com>
Sent: Thursday, June 17, 2021 4:12 PM
To: Kyle Garner
Subject: Special Use Permit for 1550 Lennoxville Road

Dear Kyle,

Thank you for sending out information on the 1550 Lennoxville Road Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available yesterday. Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, Paul and I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the July 19 Planning Board meeting.

We recognize the need in Beaufort for an additional gas station, but we do NOT in any way support the Jim Dandy store with gasoline pumps to be located at the 1550 Lennoxville Road location. We lived here when the original gas station was at that location years ago. The light pollution, petty crime, trash, and traffic were unacceptable then, and with the increase in Beaufort's population, it is even more unacceptable that a gas station would be located at 1550 Lennoxville Road now. This is a residential area with families and kids, and this Jim Dandy proposal is dangerous.

I am sure that you have seen the following article:

https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html

This happened during the school year when kids in this neighborhood are getting ready to ride the bus!! What if it happened here??? Any convenience store/gas station is bound to attract crime and low lifes. This area is NOT the place for a Jim Dandy convenience store and gas station or any gas station.

Thank you,
Paul and Lisa Cox

105 Beaufort Walk
919-906-4336

Kyle Garner

From: M Susan <susu@susanschmidt.net>
Sent: Tuesday, July 06, 2021 5:44 PM
To: Kyle Garner; John Day
Subject: I oppose Jim Dandy at 1550 Lennoxville Rd

I oppose Jim Dandy at 1550 Lennoxville Rd

I fear Environmental problems (Past environmental violations (underground storage tank of the previous gas station) need to be researched); Toxic Materials/ Fumes, Noise & Safety problems, Crime potential, Traffic problems (especially trucks pulling boat trailers), Fire Risk—

Incompatibility with my Neighborhood where I have owned my house on Ann St for 40 years.

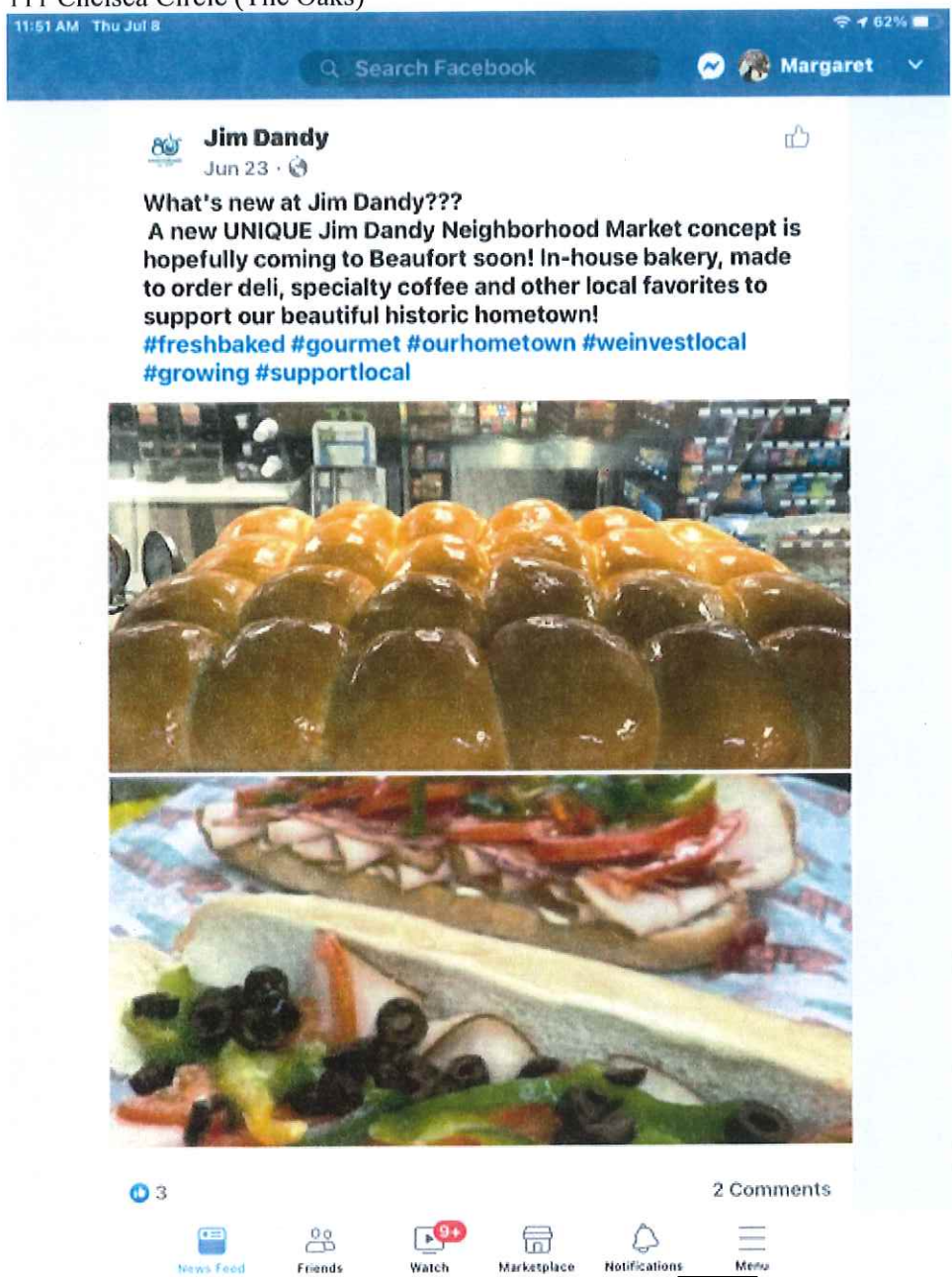
Susan Schmidt, PhD
1527 Ann St
Beaufort, NC 28516
(252) 269-0032
susu@susanschmidt.net
www.susanschmidt.net
<https://www.the-efa.org/memberinfo/m-susan-schmidt-13097/>

Kyle Garner

From: Margaret Brock <mbrock001@ec.rr.com>
Sent: Thursday, July 08, 2021 12:07 PM
To: Kyle Garner
Cc: j.day@beaufort.org
Subject: CART BEFORE THE HORSE?

I object to Jim Dandy having the audacity to post this on Facebook before the Planning Board rules on it! This appears to all readers that it's a done deal! As a resident of the proposed area for this Jim Dandy, I am highly upset! I feel that the Town of Beaufort has gone ahead and made a "deal" under the table with Jim Davis, III and doesn't care about the 40+ homeowners (taxpayers) impacted by this GAS STATION going at 1550 Lennoxville Road and Ocean Street!

Edgar S. and Margaret Brock
 111 Chelsea Circle (The Oaks)



Margaret
Sent from my iPad

Kyle Garner

From: Margaret Brock <mbrock001@ec.rr.com>
Sent: Thursday, July 01, 2021 5:22 PM
To: Kyle Garner
Subject: Fwd: Public Meeting

Begin forwarded message:

From: Margaret Brock <mbrock001@ec.rr.com>
Date: July 1, 2021 at 5:19:07 PM EDT
To: Ryan Butt <ryan@rgbas.com>, lisaajcox@gmail.com
Subject: Public Meeting

I am concerned and confused as to why the BOC have not opened the Train Depot for the Planning Board meeting on July 19th? Everything in our County and State of NC are open. As a tax payer, I feel that this was deliberately done to squash many residents on Ocean Street, Lennoxville Road (The Oaks) and Briar Patch from appearing, speaking and sharing our concern and opposition to the proposed Jim Dandy at 1550 Lennoxville Road!

This is too important to the safety of many residents of Beaufort that this July 19th Planning Board Meeting should be postponed until such time our Commissioners vote to hold public meetings at the Train Depot.

Margaret and Sandy Brock
111 Chelsea Circle
Sent from my iPad

Kyle Garner

From: Margaret Brock <mbrock001@ec.rr.com>
Sent: Thursday, July 01, 2021 1:42 PM
To: Kyle Garner
Subject: Planning Board Meeting

Kyle,
It has come to my attention that I need to let you know as a resident of Beaufort and The Oaks on Lennoxville Rd. (111 Chelsea Circle) that I would like to be added to the list of people speaking on July 19 @Planning Board meeting.

Thank you,
Edgar S. Brock, III (Sandy)
Sent from my iPad

Kyle Garner

From: Margaret Brock <mbrock001@ec.rr.com>
Sent: Thursday, June 17, 2021 11:27 AM
To: Kyle Garner
Subject: Lennoxville & Ocean

Kyle,

We are opposed to another service station/convenience store (again) at the corner of Lennoxville and Ocean. I am certain that the Town Boards would not approve such a business in BeauCoast! We lived here when there was a service station there and had issues with unknown persons walking our alleyways as a cut through, episodes of thefts that were minor but still problematic and disconcerting as quality of life issues , additional noise as our alley is close to Lennoxville & most important the risk of accidents or deaths as teenagers would play in the retention ponds (with notification posted to No Trespassing) along Lennoxville, behind our property as well as right beside 1550 Lennoxville Road. We have not had a single issue such as these since Austin Veterinary Clinic bought the property. I have heard that there may be a gas station on the old Gaskell property so why have two in close proximity?

As residents of The Oaks, we do not want business such as that there again as it will lower our property values!

Thanks for you attention and please share our feelings with the Planning Board as well as the Town of Beaufort Commissioners.

Margaret & Sandy Brock
111 Chelsea Circle
(252) 728-2318
Sent from my iPad

Kyle Garner

From: Marilyn Green <magicmtn@live.com>
Sent: Thursday, July 01, 2021 9:40 PM
To: Kyle Garner
Subject: July 19 Zoom Meeting

I'm sure you're getting bombarded with emails about this but here's another. The decision to have the Jim Dandy meeting via Zoom is wrong.

Thank you,
Marilyn and Don Green

107 (&109) Cara Lane
Beaufort, NC 28516

Marilyn Green
www.scenebymarilyn.wordpress.com

Kyle Garner

From: Marilyn Green <magicmtn@live.com>
Sent: Wednesday, June 23, 2021 7:15 PM
To: Kyle Garner
Subject: Jim Dandy

Mr. Garner,

PLEASE help us stop this. It is absolutely the wrong place to allow a gas station. Consider health and safety, economic values, noise, traffic, increased crime, and it is just too close to a residential area. Completely wrong on so many levels.

There are rumors that it is already a done deal no matter what the citizens think and want. I feel certain you love Beaufort as much as anyone does so please do everything in your power to stop it.

Thank you,
Marilyn

Marilyn Green
www.scenebymarilyn.wordpress.com

From: Kyle Garner <k.garner@beaufortnc.org>
Sent: Friday, March 6, 2020 8:39 AM
To: Marilyn Green <magicmtn@live.com>
Cc: Donovan Willis <d.willis@beaufortnc.org>; Jeremy Ganey <j.ganey@beaufortnc.org>; T Bowden <t.bowden@beaufortnc.org>
Subject: RE: 109 Cara Lane

Good Morning Marilyn,

I have included Donovan Willis our Public Utilities Director on this email because his staff would be the ones to possibly know where a water line could be. I also included our two building inspectors if the cutoff would be closer to the house on your property.

Hope you get things worked out.

Kyle

From: Marilyn Green [mailto:magicmtn@live.com]
Sent: Wednesday, March 04, 2020 10:57 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Re: 109 Cara Lane

Hi Kyle,

Just wanted you to know that we ended up buying the lot back from the Jacksons so no home will be built 15 109 Cara Lane while we own it.

On another subject, can you tell me who we would contact at town regarding finding where the water line comes into the house. Apparently it was built without a cutoff valve in the house (even though I believe it was code at the time of building) and we can't find where it connects to the house.

Thanks!
Marilyn

Marilyn Green
www.scenebymarilyn.wordpress.com

From: Kyle Garner <k.garner@beaufortnc.org>
Sent: Thursday, November 14, 2019 9:45 AM
To: Marilyn Green <magicmtn@live.com>
Subject: RE: 109 Cara Lane

Ms. Marilyn,

Thank you for your follow-up email. I am yet to see any plans for this property so I cannot state whether a specific size house can fit on the lot.

I would encourage you to speak with your Architectural Committee for the Oaks to see if they had any issues or if the request has been before them. My history tells me this would need to happen.

The trees would also fall under the neighborhoods Architectural Committee. The Town has no control over removal of the trees.

I hope this information helps.

Kyle

From: Marilyn Green <magicmtn@live.com>
Sent: Thursday, November 14, 2019 8:25 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: Re: 109 Cara Lane

I understand new owners are Charles Ray and Janet Jackson and they are planning a 2000 square foot house. I don't mean to be un-neighborly but it looks like it will be so very close plus they'll have to cut down two large oaks.

Thanks,
Marilyn

Marilyn Green
www.scenebymarilyn.wordpress.com

From: Kyle Garner <k.garner@beaufortnc.org>
Sent: Thursday, November 7, 2019 9:41 AM
To: Marilyn Green <magicmtn@live.com>
Subject: RE: 109 Cara Lane

Ms. Green,

First, I am unaware of a permit for the Oaks but will keep an eye out.

Regarding the setbacks, development is zoned RC-5 (Residential Cluster -5) allows for a 5- foot side setback or if designated on the Final plat for that lot a zero-side setback. (Yes, building on the property line.)

The front setback is 20 feet and the rear setback is 30 feet.

We do require surveys for all new home construction and would check the setbacks to the recorded final plat.

I wish I had more information but, I hope what I have provide you helps.

Kyle

From: Marilyn Green <magicmtn@live.com>
Sent: Thursday, November 7, 2019 9:33 AM
To: Kyle Garner <k.garner@beaufortnc.org>
Subject: 109 Cara Lane

Mr. Garner,

We just bought a house at 107 Cara Lane in The Oaks neighborhood. There is a small lot next door that has just been sold. We are concerned that it is too small to build much house on. Can you tell me the setbacks here? I believe the HOA has approved a plan but can't confirm it.

Thanks,
Marilyn Green

Marilyn Green
www.scenebymarilyn.wordpress.com

Kyle Garner

From: Mei Evans <mei.evans17@gmail.com>
Sent: Thursday, June 17, 2021 10:56 AM
To: Kyle Garner
Subject: 1550 Lennoxville Road Special Use Permit Public Hearing

Mr. Kyle Gardner,

Thank you for your hard work on preparing for the [1550 Lennoxville Road](#) Special Use Permit Public Hearing.

Materials for the [June 21](#) Planning Board Meeting became available on Wednesday, June 16. Materials are required to be available 7 days before the meeting date due to the Town's own ordinance. Therefore, I support postponing the Public Hearing discussion in relation to Jim Dandy's application for a Special Permit to the [July 19](#) Planning Board meeting.

For your information, I do not support the Jim Dandy store with gasoline pumps to be located at the [1550 Lennoxville Road](#) location.

Regards,
Mei Evans

1612 Ann Street
Beaufort, NC28516
252-723-3486



Kyle Garner

From: Pat Rapaport <bobpat@ec.rr.com>
Sent: Tuesday, July 06, 2021 12:59 PM
To: Kyle Garner
Cc: John Day; info@nodandy.org
Subject: 1550 Lennoxville Rd Special Use Permit

Dear Mr. Garner,

I strongly oppose the special use permit for 1550 Lennoxville Rd for A Jim Dandy Service Station.

I lived on Lennoxville Rd for 9 years and have been a resident since 2004 in the development at the Oaks which is next to the site in question.

I am very familiar with the old gas station that was on the site before Austin Veterinary Animal Hospital. I was so pleased when the vet service renovated the building and made the site look professional.

For years I have watched as traffic has increased and how it is difficult walking along Lennoxville Rd. without sidewalks. It is surely a accident waiting to happen as cars wiz by.

The one nice thing about the vet service is that there are no late nights. This will not be the case with the gas station that will have traffic flow continuously. Lights will be on at night and much more activity will be occurring.

We are a residential area that does not need a busy gas station. Many Beaufort residents will use this gas station and that will increase the already large volume. I could thing of a lot other suited sites for a commercial gas station.

I remember when a gas station was at the corner of 101 and Hwy 70. There was always a Beaufort Police vehicle stationed on the property. We don't need that in the surrounding area of homes. The idea that a gas station would blend into the residential home environment is terrible.

Patricia Rapaport
101 Chelsea Circle, Beaufort, NC 28516
bobpat@ec.rr.com

Kyle Garner

From: Pat Rapaport <pat@holeinwalldogtraining.com>
Sent: Saturday, June 26, 2021 7:53 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17 Pat Rapaport 101 Chelsea Circle, Beaufort

Sent from my iPhone

Kyle Garner

From: Pat Wiles <pat1@ec.rr.com>
Sent: Tuesday, June 15, 2021 11:01 AM
To: Kyle Garner
Subject: Special Use Permit for 1550 Lennoxville Road

I would like more information regarding the above. I checked the web site for the Agenda but could not find it listed.

Thanks

Kyle Garner

From: Perry Thornton <perry@pinnacle-mktg.com>
Sent: Friday, June 18, 2021 7:25 AM
To: Kyle Garner
Subject: 1550 Lennoxville Road Location.

Hello Kyle,

This residential area is increasingly being encroached upon by commercial endeavors. It is time to protect the neighborhoods and prevent zoning from putting them at risk from over development. The traffic on this road continues to increase as residents fill in the Beau Coast property and the Beaufort hotel remains at capacity. Jim Dandy would get more support if it located in a more commercial zone that is already established. Austin Vet was a quiet business. Even with the dogs they took care of, there was very little if any complaints about noise and traffic. A Jim Dandy location would change that dynamic and create a safety concern for this predominantly residential area.

Regards,

NAME – Perry Thornton
ADDRESS – 113 MacGregor Drive
PHONE – 404-384-2074

Best Regards

Perry Thornton

Sales Representative

covering Triad NC, supported by [Heather Heath](#)
(404) 384-2074 | (919) 790-5800 x2200
2805 Spring Forest Road, Suite 101 | Raleigh, NC 27616
perry@pinnacle-mktg.com | www.pinnacle-mktg.com



Kyle Garner

From: R C <richardhchadwick@gmail.com>
Sent: Tuesday, July 06, 2021 3:48 PM
To: Kyle Garner
Cc: John Day
Subject: Opposition to 1550 Lennoxville J.Dandy gas station proposal
Attachments: TOAB - opposing proposed 1550 Lennoxville development 6-24-21.docx

Hi Mr. Garner. I hope this finds you well and that you had an enjoyable Independence Day weekend. This is Rich Chadwick, resident at 105 Chelsea Circle and Board member of The Oaks, Beaufort.

Several days ago, I submitted an email opposing the proposed gas station/convenience store under consideration for 1550 Lennoxville Rd., Beaufort. As you are aware, this proposed business site is immediately adjacent to our residential community, and I herein submit a compilation research document outlining several points supporting the declination of such a proposal.

Furthermore, we would like to respectfully ask that *this specific agenda item be tabled until such time as residents/taxpayers can present in person* their views and supporting information for this very important topic. It is understood that the meeting slated for July 19th is via Zoom only, which will for a number of reasons likely prevent many voices from being heard. We believe that waiting until this topic can be deliberated in person would further demonstrate the interest of the Town in ensuring a forum for a meaningful discussion among residents and vested parties. This item is of critical importance to the health and well-being of long-established communities. Also, The Oaks at Beaufort Board hereby requests time to present/speak. If there are any questions or additional information needed to accommodate this please let me know.

I am confident the Town has the welfare of Beaufort's residents and tax base in mind; growth is inevitable; sound stewardship of resources and equitable expansion is part of sound management. Also, I realize by now you have probably received many sentiments. My father, Hunter Chadwick, deceased 6-11-19, was Mayor of Beaufort for two terms years ago and I recall the weight of decisions and planning deliberations with which he was sometimes charged, to successfully navigate and resolve. So I sincerely appreciate the Planning Board's role in such a pivotal decision for our shared community.

Again, I respect your time and efforts and look forward to meeting with you in person as a group to discuss this important matter.

Rich Chadwick, LCAS, LCMHC, Qualified Supervisor
 PhD student
 Chadwick Counseling, PLLC
 Clinical Director, FMRC Clinics, PC
 East Carolina University
 Department of Addictions & Rehabilitation Studies
 336-703-7706
 252-499-9021
richardhchadwick@gmail.com

FMRC and Chadwick Counseling, PLLC (Rich Chadwick, LCAS, LCMHC, Qualified Supervisor) do not provide urgent/emergent or crisis services. For such medical or psychological needs, please call 911, the mobile crisis at 866-437-1821 (Integrated Family Services), 855-345-1200 (RHA), or the National Suicide Hotline at 800-273-8255.

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The Oaks at Beaufort and surrounding area residents,

Below, from CEDS, are a credible evidence-base and research-informed guidance indicating the multiple negative impacts of convenience-store/gas stations in close proximity to residential areas. The links are to source data. *This information, taken in the aggregate, supports the widely held opposition to the currently proposed development concept at 1550 Lennoxville Rd.*

Visit <https://ceds.org/> for more information.



<https://ceds.org/gasstation/>

CEDS

Community & Environmental Defense Services (CEDS) helps individuals, nonprofits and other groups with a long list of threats to a neighborhood or the environment. We are a nationwide network of attorneys, engineers, planners, scientists and other professionals dedicated to helping communities gain the benefits of growth without sacrificing quality of life. We help with threats big and small. With two unique approaches developed by CEDS – [Equitable Solutions](#) and [Smart Legal Strategies](#) – our clients win 90% of their battles vs. the 20% success rate using conventional approaches. To learn how we can help with an issue of concern to you contact CEDS at 410-654-3021 or Help@ceds.org or visit us at: ceds.org.

Gas Station & Convenience Store Potential Impacts

How Do Gas Stations Affect Property Value

A convenience store or gas station can lower the value of nearby homes. One of the most plausible effects is on mortgages. Federal Housing Administration (FHA) insured mortgages are not available for properties located within 300 feet of tanks capable of storing 1,000 gallons or more of gasoline or other flammable-explosive materials. This restriction appears in Section 2-2M of the HUD Handbook [Valuation Analysis for Single Family One- to Four- Unit Dwellings](#). Most gas station storage tanks have a capacity far in excess of 1,000 gallons.

The following excerpt from [another U.S. Department of Housing & Urban Development document](#) shows that while gas station fires-explosions may not be common, they do occur often enough to be a concern for nearby residents:

“During the five-year period of 2004-2008, NFPA [National Fire Protection Association] estimates that U.S. fire departments responded to an average of 5,020 [fires] in service or gas station properties per year. These fires caused an annual average of two civilian deaths, 48 civilian fire injuries, and \$20 million in direct property damage.”

A [Georgia study](#) noted that commercial development in general can depress residential property value when first completed then the effect diminishes with time. However, this study examined homes located 0.5- to 1.0-miles distant. [Several studies](#) documented that commercial uses can depress nearby property value but not at a distance. In [King County, Washington](#) commercial uses were found to depress residential properties within 300 feet but not beyond 1,000 feet or so.

Alcohol Sales & Crime

One of the concerns which often arises with regard to proposed convenience stores is the possibility of beer, wine, and other alcohol sales. CEDS compiled an initial review of scientific studies relevant to the potential effect of convenience stores with off-sale (alcohol to be consumed elsewhere) liquor licenses on crime and public health. The review can be downloaded at: <https://ceds.org/wp-content/uploads/2020/09/Crime-Alcohol-Studies.pdf>

A large and growing body of research has documented a strong relationship between crime and alcoholic beverage outlets. The [Robert Wood Johnson Foundation](#) lists the following benefits of [Alcohol outlet density restrictions](#):

- Reduced excessive drinking,
- Reduced crime,
- Reduced underage drinking,
- Reduced intimate partner violence,
- Reduced child maltreatment,
- Reduced suicide, and
- Reduced gun violence.

Crime

Convenience store hold-ups account for about 6% of all robberies in the nation. One study noted that: *“Convenience store employees suffer from high rates of workplace homicide, second only to taxicab drivers.”* A [study](#) of the relationship between violence of other factors found an increasing trend as the number of alcohol outlets in an area rose. Following is a principal finding from this study: *“A larger number of alcohol outlets and a higher rate of violence might be expected in poorer neighborhoods or in neighborhoods with a larger population of young people. But as the research described above shows, even when levels of poverty and the age and the ethnic background of residents are taken into account, a high density of outlets is strongly related to violence regardless of a neighborhood’s economic, ethnic or age status.”* Another [study](#) only noted an increase in crime in relation to number of alcohol outlets in low-income communities.

Health Effects: Is It Safe to Live Near a Gas Station

A number of compounds injurious to human health are released from gas stations during vehicle fueling and from underground storage tank vents. [These compounds include: benzene, toluene, ethyl benzene, and xylene \(BTEX\)](#). Measures to reliably resolve these adverse health effects are not employed at new gas stations.

Benzene is the gasoline constituent most harmful to human health. Adverse health effects of benzene include nausea, cancer, anemia, increased susceptibility to infections, and low birth weight. According to the *World Health Organization Guidelines for Indoor Air Quality* **there is no safe level for benzene**. The following research documents the extent of benzene releases from gas stations as well as adverse health effects:

- A [1993 study](#) published by the Canadian petroleum industry found average benzene concentrations of 146 and 461 parts per billion (ppb) at the gas station property boundary in summer and winter, respectively.
- *A [2001 study](#) noted median ambient benzene levels of 1.9 ppb in houses up to 328 feet from a service station.*
- A [2003-2004 study](#) conducted in France documented a significant relationship between childhood leukemia and living near a gas station.
- A [2010 study](#) conducted in Spain documented elevated air pollution within 100 meters (328 feet) of a gas station.
- In [2012](#), [Brazilian researchers](#) found that air quality was significantly degraded up to 150 meters (492 feet) from gas stations.

In 2005, the California Air Resources Board probably became the first in the U.S. to recommend a minimum public health safety zone between new gas stations and “sensitive land uses.” The recommendation appeared in *Air Quality and Land Use Handbook: A Community Health Perspective*. The pre-2005 studies referenced above and other research prompted the Board to recommend a minimum 300-foot separation distance between new gas stations and “sensitive land uses such as residences, schools, daycare centers, playgrounds, or medical facilities.”

Control Measures Do Not Resolve Health Threat

The two most common control measures are Stage II Vapor Recovery and Onboard Refueling Vapor Recovery (ORVR). A decade ago most gas pump nozzles were designed to capture vapors released during refueling. The vapors were then sent to the 10,000- to 20,000-gallon underground tanks where gasoline is stored. These Stage II vapor recovery systems were phased out beginning in 2012 as a result of the widespread use of [Onboard Refueling Vapor Recovery](#) (ORVR) systems.

As the name implies, Onboard Refueling Vapor Recovery systems are built into new cars. The system captures vapors during refueling which are then stored in canisters within the vehicle. A [study published in February, 2020](#), examined the effectiveness of Onboard Refueling Vapor Recovery systems. The researchers found that 88% of vehicles monitored released vapors during refueling despite the presence of Onboard Refueling Vapor Recovery systems.

The unfortunate conclusion from these studies is that we cannot rely upon controls required for new gas stations to resolve the health and safety threat to those who living in the vicinity of a proposed gas station.

Good & Bad Convenience Store-Station Locations

Given the impacts and corrective measures described above, an optimum convenience store-gas station location would have the following characteristics:

- *At least 500 feet from the nearest home; or*
- *Buffered so the store cannot be seen or heard from the nearest home;*
- *To preserve public health a minimum of 500 feet from homes and 1,000 feet from schools;*
- *Not within view of historic resources;*
- *At least 500 feet from wells, springs, streams, reservoirs or other highly sensitive ground or surface water resources;*
- *Accessible by foot and bike as well as cars;*
- *Convenience stores should be located at least a 10-minute walk (0.5 miles) from schools;*
- *Located in a downtown or neighborhood commercial area;*
- *Well lit, but not to the point of causing light trespass into nearby homes;*
- *In an area with many passersby and few escape routes for criminals; and*
- *In an area where the market can accommodate a new store without putting existing ones out of business.*

Preventing Impacts Through Zoning

Zoning is used by many local governments to guide growth to locations where benefits are maximized with minimal harm to quality of life. Zoning ordinances also contain height limits, separation distances, use restrictions and other requirements to further enhance compatibility. Ensuring that your local zoning ordinance contains these safeguards is the best way to minimize the possibility of a new gas station impacting a neighborhood.

It is difficult to envision a situation where a convenience stores and gas station would be a compatible use in or adjacent to a residential area. This is why most zoning ordinances restrict these uses to commercially-zoned properties. A number of localities also require a permit known as a special exception, conditional use or special use permit. The permitting process includes a public hearing to determine if the use will cause excessive impacts.

Minimum 500-Foot Public Health Safety Zone Needed

The research cited above indicates that the most reliable way to protect public health and safety from benzene and other harmful emissions is to guide new gas stations to sites where they will be at least 500 feet from residentially zoned properties, schools, and other locations where people live, learn or work. CEDS research frequently shows a third to half of potential gas station sites can meet a 500-foot public healthy safety zone. In other words, adopting this safeguard allows us to gain the benefits of new gas stations without jeopardizing the health of our neighbors.

Kyle Garner

From: R C <richardhchadwick@gmail.com>
Sent: Thursday, June 17, 2021 9:06 PM
To: Kyle Garner
Subject: Community concern - citizens for "no" to Jim Dandy in Beaufort

Hi Mr. Garner. This is Rich Chadwick at 105 Chelsea Cir, Beaufort. Many of the residents in the area of The Oaks on Lennoxville Rd. oppose a Jim Dandy at 1550 Lennoxville Rd. at the current site of Austin Vet. I am unaware of who is on the planning board yet send this in hopes of it being conveyed. Thank you for your time. I also plan to attend the zoom meeting this Monday 21st, as scheduled for this agenda item.

Form statement:

I do not want Beaufort NC to be at risk for this type of crime, threatening our safety, nor affecting our fine town's reputation.

This crime: Less than one month ago on May 19, 2021, Morehead City, only 6 miles from us, Jim Dandy, armed robbery with gun, clerk held up, 19 year old male felon, middle of the week on Wednesday, 7:56 am, apprehended in vicinity of store.

I do not want Jim Dandy to operate a store at 1550 Lennoxville Road, the current site of Austin Vet.

https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html

Rich Chadwick, LCAS, LCMHC
Doctoral student
Director, FMRC Clinics
Addictions and Rehabilitation
336-703-7706

Kyle Garner

From: Randell, Scott H. <scott_randell@med.unc.edu>
Sent: Thursday, July 01, 2021 12:18 PM
To: Kyle Garner; John Day
Cc: info@NoDandyHere.org
Subject: Jim Dandy on Lennoxville Rd

Dear Mr. Garner and Mr. Day,

As a homeowner at 111 Macgregor Dr. in the lovely Oaks Community, I'm writing to express my strong opposition to the Jim Dandy 1550 Lennoxville Rd. proposal.

I will not reiterate the obvious health and safety, light, noise and air pollution, tanker truck access, parking, crime, foot and golf cart traffic through quiet residential neighborhoods, and home value impacts of this misplaced and misguided proposal. These have, and will be shared by others.

I would like to counter social media perspectives that have cropped up and then would like to share a more personal story.

First, Not to stress the importance of social media, but there was mention of this issue on Facebook. The comments section contained support for a Convenience Store and Gas Station stating that there was a gas station there before and we need a gas stations. One of the supporting points was that the number of surrounding homes has not increased since the Austin Vet has been there. It is important to note that the prior Gas Station and Convenience Store was there before the Oaks and other surrounding homes were built. Thus, the residential nature of the surroundings has changed significantly since the prior Gas Station and Convenience Store was first located there. Surely this is an important consideration and contributed to the long-range plan for future residential designation of this area.

Second, the more personal note. Prior to the pandemic my wife and I met a delightful young couple that relocated to Beaufort, which was compatible with their remote work positions. They purchased one of the homes on Beaufort Walk. At that time Austin Vet was doing a public service by fostering dogs in need of homes. Essentially, these poor folks were driven out of their home by barking dogs right across the fence from their backyard. They shortly sold the home at what must have been an unfortunate loss for this young couple. One could say it was their bad judgement. However, imagine the impact of a Convenience Store and Gas Station on the many residences not only directly adjacent but in close proximity. Imagine if this proposal was near your home. Many of the nearby homes were purchased with the more tolerable Vet office and not a Gas Station and Convenience Store in the 1550 Lennoxville location.

Despite the unenforceable overtures about a higher end Community Store by the well-connected Mr. Davis, please carefully consider the many important issues and impacts to numerous Beaufort citizens in your decision making.

Sincerely, Scott Randell

111 Macgregor Dr.
Beaufort NC, 28516

scott_randell@med.unc.edu

1.

919 216 2280

Kyle Garner

From: Rick Davis <rickdavis@nc.rr.com>
Sent: Thursday, June 17, 2021 1:48 PM
To: Kyle Garner
Subject: Public Hearing on Case #20-17 Special Use Permit

Mr. Garner – I recently received the information concerning the Special Use Permit hearing for the property located at 1550 Lennoxville Road. Since I will be unable to join the Planning Board Meeting via Zoom on June 21st, I want to express my concern for the Town's approval of a special use permit for a Gas Station/Convenience Store at this location. Even though I agree we need another gas station in Beaufort, I do not feel Lennoxville Road is the right location. I live at 306 MacGregor Drive in the Oaks @ Beaufort development. We are already having to deal with the daily increase in traffic and traffic noise on Lennoxville Road caused by the recent increase in residential and commercial development. I have talked with several of my neighbors and they share my concern with a Gas Station/ Convenience Store within 200 feet of the east entrance of our development. Even though the increased traffic is our main concern, we question whether this property will not allow adequate space for vehicles to safely access gas pumps, especially vehicles towing boats. Also, our neighborhood consists mostly of retired families, so I have a real concern on the impact that a business with extended hour of operations will have on our residents. Some other concerns are:

- The noise and light pollution caused by this type of business and the increased traffic on Lennoxville Road.
- The safety of our residents and their guests trying to exit/enter our development with the additional traffic accessing the property within 200 feet of our entrance.
- The additional trash that will be discarded along the road in front of our development and allowed to pollute our storm drainage pond located adjacent to this property.
- The traffic lines that could cause traffic flow problems on Lennoxville Road during high use times and future gas shortages.
- The probability that there will be increased pedestrian and golf cart traffic through our development to access this property.
- The risk of increased crime normally associated with this type of business.

I request that the Town's Planning Board decline the approval of this special use permit request for a Gas Station/Convenience Store at this location. Thanks for allowing me to provide input.

Rick Davis
306 MacGregor Drive
Beaufort, NC 28916

Sent from [Mail](#) for Windows 10

Kyle Garner

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Sent: Saturday, July 03, 2021 7:06 AM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17

Sent from my iPad

Kyle Garner

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Sent: Wednesday, June 16, 2021 1:27 PM
To: Kyle Garner
Subject: Special Use Permit for 1550 Lennoxville Road

Hi Kyle,

Thank you for your hard work on preparing for the 1550 Lennoxville Road Special Use Permit Public Hearing.

I just checked the beaufortnc.org/meetings website and I don't see materials for the June 17 Planning Board Meeting (as of Wednesday 6/16 at 1:20 pm). Since these materials are required to be available 7 days before the meeting date, will the Town postpone considering this request for the Special Permit to a later meeting date, perhaps the July Town Planning Board meeting?

Thank you.

Regards,
Rita Tomlinson

Ritamtomlinson@gmail.com
585 233 2130 mobile
101 Beaufort Walk

> On Jun 15, 2021, at 4:32 PM, Rita Tomlinson <ritamtomlinson@gmail.com> wrote:
>
>
> https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html
>
> Kyle,
> I'm scared living so close to a Jim Dandy Convenience Store.
> Rita
>
> 101 Beaufort Walk
> Ritamtomlinson@gmail.com
> 585 233 2130 mobile

Kyle Garner

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Sent: Tuesday, June 15, 2021 4:33 PM
To: Kyle Garner
Subject: Authorities arrest Carteret County man for Wednesday armed robbery of Jim Dandy in Morehead City | News | carolinacoastonline.com

https://www.carolinacoastonline.com/news_times/article_be463074-b8ba-11eb-a162-97353bef3aee.html

Kyle,
I'm scared living so close to a Jim Dandy Convenience Store.
Rita

101 Beaufort Walk
Ritamtomlinson@gmail.com
585 233 2130 mobile

Kyle Garner

From: Rita Tomlinson <ritamtomlinson@gmail.com>
Sent: Tuesday, June 15, 2021 3:06 PM
To: Kyle Garner
Subject: Jim Dandy Ocean and Lennoxville

Kyle,

Please call me to discuss this project.

Thank you.

Rita

Rita Tomlinson

Ritamtomlinson@gmail.com
585 233 2130 mobile

101 Beaufort Walk

Kyle Garner

From: Ron Keehn <ron_keeheh@yahoo.com>
Sent: Saturday, July 03, 2021 2:01 PM
To: Kyle Garner
Cc: John Day; info@NoDandyHere.org
Subject: No Jim Dandy Here
Attachments: Jim Dandy.docx

To: Kyle Garner

Cc: John Day

Fr: Ronald Keehn & Louann Rinner

105 McGregor

Beaufort, NC 28516

Reference: JIM DANDY CONVENIENCE STORE/GAS STATION proposed for Current Austin Vet location 1550 Lennoxville Road

It is my understanding the Town of Beaufort Planning Board will consider a request for a Special Use Permit for 1550 Lennoxville Road (current Austin Vet location) to accommodate a Jim Dandy convenience store and gas station. The Jim Dandy Store is to provide both gasoline and diesel fuel for large trucks, as well as prepared foods and traditional convenience store offerings. The date for the Planning Board's consideration is Monday, July 19 at 6:00pm.

I recognize that Beaufort needs an additional gas station. However, the location at 1550 Lennoxville Road is in the middle of a residential area and it is not compatible with adjacent and nearby neighborhoods. While there was a gas station and convenience store located at 1550 Lennoxville Road years ago, Beaufort has changed since then. The Jim Dandy should be located in Beaufort, but at a location that is more suitable for a gas station and convenience store, such as the intersection of Hiway 101 and Live Oak; the intersection of Lennoxville Road and Live Oak; or maybe down by the Boathouse Marina. The Marina traffic will be the primary users of the gas pumps after all.

The neighborhoods close to 1550 Lennoxville Road support a large percentage of full-time residents, including children and older individuals who live alone. Adding a gas station and convenience store could risk the safety of these vulnerable populations. There are more compatible areas in Beaufort for locating a Jim Dandy Store. It is important to note that in his petition for the Special Use Permit for 1550 Lennoxville Road, Mr. Davis presents a feel-good image of a "quaint community store" that would honor the background and heritage of Beaufort. However, there is no guarantee that this vision will be implemented. It could also change over time based on profitability or economic conditions. Additionally, as Mr. Davis himself points out, gas stations are subject to sales, mergers, and acquisitions. If the Special Use Permit is granted now, future owners could still operate a 'convenience and gas station' style business but with no guarantee of their management style or sense of values.

Negative impacts to the surrounding neighborhoods, extending all along Lennoxville Road and beyond, include increased traffic and traffic congestion from cars, vehicles with boats, commercial delivery trucks, and gasoline delivery tankers. All surrounding neighborhoods will experience increased traffic as vehicles cut through to get to the Jim Dandy location or to possibly avoid traffic congestion at the store site. Children, especially school bus riders along Lennoxville Road, will be at increased risk for injury and death. Bicycle riders and pedestrians will be at increased risk for injury and death. Drivers using Ocean will be at risk for accidents due to reduced visibility from vehicles entering and exiting the parking lot. Health impacts from gasoline exposure, include cancers of the kidney, stomach, brain, pancreas, prostate, lung, and skin as well as hematopoietic and lymphatic leukemias.

A National Fire Protection Association (NFPA) report from December 2020 provides troubling statistics regarding the risks, costs, and lives lost to fires specifically from 'Service or Gas Station' locations. The 2020 report also notes

"Many service stations have convenience stores. While electrical distribution or lighting equipment was the leading cause of structure fires at gas or service station properties, cooking ranked second..." "...More than half of the fires (56 percent) at these properties were vehicle fires..." "...Thirty-eight percent of the outside trash or rubbish fires were intentionally set..." Many consumers (and employees) are still unaware of, or deliberately ignore, safety precautions around gas pumps. Smoking, cell phone use (static electricity) and gas spillage are common and increase the risk of fire. Light pollution from industrial lighting and signage and vehicle headlights will shine directly into homes. Noise pollution will result from music and "commercials" aired on gas pump tv screens, as well as from vehicles. Increased litter and other trash at the location will spill out along Lennoxville Road and in neighborhoods. Convenience stores, especially those with alcohol and tobacco sales, can increase loitering and crime in the surrounding areas. Convenience stores are easy and common targets for robberies, at all times of the day. Jim Dandy Stores in both Morehead City and Havelock have been robbed during the day.

Finally, my wife and I purchased our home in the The Oaks at Beaufort subdivision 17 years ago with the expectation of living in a quiet, peaceful neighborhood. While our primary residence is in the Midwest, we continue to increase the amount of time we live here. Beyond our home, we also invest in the Beaufort area by frequenting shops, restaurants, and purchasing from private and community vendors. The planning council should represent residents in this matter and not special interests such as the owners of Jim Dandy. If the Town of Beaufort Planning Board allows a Jim Dandy at 1550 Lennoxville Road, we may have to consider relocating to a more resident friendly town.

Keep gas stations where they should be located here in Beaufort, not in residential neighborhoods.

Ronald Keehn (ron_keehn@yahoo.com; 913-486-5852)

Louann Rinner (lourinner@gmail.com; 913-486-5853)

To: Kyle Garner

Cc: John Day

Fr: Ronald Keehn & Louann Rinner

105 McGregor

Beaufort, NC 28516

Reference: JIM DANDY CONVENIENCE STORE/GAS STATION proposed for Current Austin Vet location
1550 Lennoxville Road

It is my understanding the Town of Beaufort Planning Board will consider a request for a Special Use Permit for 1550 Lennoxville Road (current Austin Vet location) to accommodate a Jim Dandy convenience store and gas station. The Jim Dandy Store is to provide both gasoline and diesel fuel for large trucks, as well as prepared foods and traditional convenience store offerings. The date for the Planning Board’s consideration is Monday, July 19 at 6:00pm.

I recognize that Beaufort needs an additional gas station. However, the location at 1550 Lennoxville Road is in the middle of a residential area and it is not compatible with adjacent and nearby neighborhoods. While there was a gas station and convenience store located at 1550 Lennoxville Road years ago, Beaufort has changed since then. The Jim Dandy should be located in Beaufort, but at a location that is more suitable for a gas station and convenience store, such as the intersection of Hiway 101 and Live Oak; the intersection of Lennoxville Road and Live Oak; or maybe down by the Boathouse Marina. The Marina traffic will be the primary users of the gas pumps after all.

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Keep gas stations where they should be located here in Beaufort, not in residential neighborhoods.

Ronald Keehn (ron_kee hn@yahoo.com; 913-486-5852)

Louann Rinner (lourinner@gmail.com; 913-486-5853)

Kyle Garner

From: Ryan Butt <ryan@rgbas.com>
Sent: Wednesday, July 07, 2021 3:10 PM
To: Kyle Garner; John Day
Subject: Case # 20-17 Special Use Permit for a Gas/Service Station at 1550 Lennoxville Road

Mr. Kyle Garner, Director of Planning and Inspections, and
 Mr. John Day, Town Manager

Good afternoon gentlemen,

I am attaching the email (see below) that I sent on June 21, 2021, and prior to the last meeting of the Planning Board. I understand that there is a cutoff of 5 p.m. today for any new information that is to be considered for the next upcoming meeting of that Board on July 19th.

My positions are the same as those that I previously detailed – namely traffic, no sidewalks, no shoulders, storage tanks of flammable materials, trash, etc.

I am the current year's president of The Oaks at Beaufort HOA, and as such I am sending this additional email. The other members of our Board of Directors have also written emails, and provided their thoughts – several with supporting documentation detailing environmental concerns.

While all of those emails concerning environmental issues are very important, I would like to focus a little more on the impact to our 42-lot development. One of our storm-water retention ponds is located just six or seven feet from the common property line with the Austin property, which is the subject of the request for the special-use permit for a gas station. That pond is regulated by the state, and as you are aware we have to renew the paperwork at least once per decade. We have a contract with Dragonfly Pond Works, and they come to clean, test, and treat our ponds every other week. The ponds are stocked with grass carp to help control the vegetation, and there is an abundance of other wildlife that live in or around that pond. There is a past history with groundwater contamination from the old gas station that was there from the 1970s to around 2012. I wish to emphasize that this one pond would be subject to receiving surface runoff that would likely contain gasoline and diesel contaminants due to the daily spillages at the pumps (should this proposed special use ultimately be allowed). That would contaminate the pond water, maybe kill the fish, and eventually all of the water from that pond is channeled out to Town Creek and/or Turners Creek.

In addition to the likely petroleum contaminants, I would certainly anticipate that the cost of our annual maintenance contract would dramatically increase due to the added time that will be required to remove all of the added trash that will end up in at least that pond. We all have life experiences, and we all know that people walk out of convenience stores, tearing the wrappers off of cigarettes, candy bars, drinking straws, pop tops, and whatever else, and just let them blow in the wind. Now, if this is approved, the town is placing this added burden on our homeowners to pay for the increased cleanup.

The Safrits have given The Oaks an easement for foot traffic between MacGregor Drive and Belle Air Street, and it has been a nice relationship for the past 23 years. The Oaks pays to maintain that trail in exchange for being allowed to use it as a short cut to downtown. There are some local people that walk or bike along out private roads, and as long as they are mostly respectful of the property I don't think that there have ever been any issues with them doing so. My concerns are that if that gas station is ultimately approved, the increase in foot, bicycle, golf cart, and maybe scooter traffic will increase exponentially from any of the residents and/or their visitors from all points south the Taylors Creek and east to Gallants Channel. If we are forced to take the added step of installing a gate, then it is feared that many will just cut across our property owners' lots to bypass any security measures.

We have a number of elderly people that live in The Oaks, they feel safer because we do have fencing around the perimeter of the development, and many expressed concerns of feeling vulnerable during the several months that the fencing was down due to Hurricane Florence in 2018-19.

First, I would like to ask that this issue be tabled for the next Planning Board meeting since is to once again be held via Zoom. I know the majority of the property owners here in The Oaks, as well as, nearly all of the property owners in other HOAs, or communities, are strongly opposed to this special-use permit being approved, and there are numerous individual property owners along Briar Patch Drive and Ocean, Ann and Belle Air Streets that are also opposed. It does not seem fair to throttle the representation of 60 or more property owners that would likely show up at an open meeting down to two or three speakers on a Zoom platform. Additionally, as I do represent some elderly homeowners, Zoom is not an option for several of them.

Second, on behalf of the majority of the property owners here in The Oaks that have asked for me to represent them, I do request that I be allowed a time slot in which to respectfully present our concerns as a community.

Thank you both for your time,

Ryan Butt

104 MacGregor Dr
Beaufort, NC 28516
ryan@rgbas.com
(252) 342-7954

From: Ryan Butt <ryan@rgbas.com>
Sent: Monday, June 21, 2021 11:40 AM
To: 'k.garner@beaufortnc.org' <k.garner@beaufortnc.org>
Subject: Case # 20-17 Special Use Permit for a Gas/Service Station at 1550 Lennoxville Road

Good morning Kyle,

I am sending this email in regards to Case # 20-17 on the Planning Board's schedule for this evening.

I own a house in the Oaks at Beaufort, which as you know is a 42-lot planned-unit development that is located adjacent to the western lot line of Sara Austin's property, which is the subject for the special-use permit discussion tonight. I am the current president of the Oaks HOA, and as you know from our numerous prior discussions over the years I have been a real estate professional in Carteret County now for 35 years.

A number of the property owners here in the Oaks at Beaufort have forwarded copies of their communications that have been sent to your office in regards to this matter, and I have also been forwarded emails from several property owners that reside in Beaufort Walk and/or along Ocean Street.

I do agree with many of the points that were raised in those communications.

I would like to take this time to address several of the requirements that are detailed in SECTION 20 Special Use Permit, E) Required Findings, 1), a) through g) as provided on page 27 of the information package shown on the website.

c) The location and character of the use will be in conformity with the Town's Land Use Plan...

The first paragraph on page 27 states that "Even though the use is not consistent with the future land use plan the use is consistent with the current zoning place with a Special Use permit. This is a minor point in regards to my communication, but it does seem to show that a Gas/Service Station would not be in a list of the top ten business that the Town would desire to see in that location.

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;

This is one of the primary reasons that I think a Gas/Service Station would be a poor idea for that property. With every new dwelling that is built in Beau Coast, as well as, in the other proposed developments farther to the east, the traffic on Lennoxville Road will be further impacted. It is a two-lane road with no shoulders to speak of along much of its length. Going forward, turning west on to Lennoxville Road from either end of MacGregor Drive or from Ocean Street will gradually become more and more difficult as the traffic volume increases. Now, if this special-use permit is approved, I can visualize a complete stoppage of traffic heading to the east out of either end of MacGregor Drive as trucks with boats in tow are literally stopped in the east-bound lane of Lennoxville Road while waiting on an opportunity to try an enter the Austin property. The potential for traffic accidents would very likely increase significantly.

e) The proposed special use will not substantially injure the value of adjoining or abutting properties;

In addition to the potential nightmares of traffic flows addressed in the previous paragraph, this is probably the biggest concern of the homeowners here in The Oaks at Beaufort. I am not wearing my hat as a real estate appraiser in this communication as I have not had weeks in order to research the market to locate data that would provide information as to the potential impacts on the market values and/or the marketability of properties located next to convenience stores versus properties that are not subject to the same environmental concerns.

As a homeowner here in the Oaks, I think I share the same opinions that have already been provided by a number of the other residents in this development. If the Gas/Service Station does ultimately get approved, traffic along Lennoxville will be an added nuisance – both from ingress/egress concerns, as well, as noise. There will be a substantial increase in light pollution – especially to the houses on the eastern side of the Oaks and the northern side of Beaufort Walk as, given the nature of convenience store businesses, more security lighting would be a major concern of an owner/operator. As you know the streets within the Oaks are privately maintained, but with the path/easement across the Safrit property that runs between MacGregor Drive and Belle Air Street what a great shortcut for all of the golf carts, bicycles, and pedestrians to use our street to shave some time off of their route.

Another very major concern for The Oaks at Beaufort HOA is that one of our storm retention ponds is located within mere feet of the Austin property. That increases our exposure not only to an exponential amount of trash from candy wrappers and such floating in the pond, but also to the possibility of individuals deciding to interact with the water in any number of ways.

Again, while I am not prepared as a professional to give you a percentage of the potential impacts on the market values and/or the marketabilities of the nearby, residential dwellings, as a property owner and a member of this community I do not see that the addition of convenience store on the Austin property will do anything at all to enhance either the appeal or the value of the properties in The Oaks at Beaufort, Beaufort Walk, along Ocean Street, or in Catbriar Hollow.

f) The proposed special use will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area;

I think that a convenience store at that location would neither be compatible nor in harmony with the residential uses that are located on all four sides of the Austin property. Instead of adding to the quiet enjoyment of one's nearby property, a Gas/Service Station is likely to be major source of aggravation and stress to the owners in the immediate proximity of that property.

g) The proposed use will not materially endanger the public health or safety of the community... ;

Gas leaks - both surface and subsurface - could/would definitely impact the environment and health of the ponds in the adjacent development – which, while originally designed for the retention of storm water, have become part

of the local ecosystem. An increase in the potential for the number of traffic accidents while trying to traverse along Lennoxville Road. An anticipated increase in the use of MacGregor Drive by residents and visitors from all over the eastern and southern parts of Beaufort using it as a short cut from Ann Street to the Austin property.

This is certainly not a complete list of the issues, but I think that I have touched on a sufficient number of concerns to support my request that both the Planning Board and the Board of Commissioners vote down this request for a special use permit for a Gas/Service Station at 1550 Lennoxville Road.

I can think of any number of uses that could keep the low-profile and pleasant appearance of the improvements on the Austin property as is and intact – professional offices, a coffeeshop-type business of some sort, etc.

Kyle, thank you for taking the time to read this, and I hope that you will forward it on to the Planning Board.

Ryan G. Butt and Karanne E. Potter
104 MacGregor Drive
Beaufort, NC 28516
(252) 342-7954
ryan@rgbas.com

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Kyle Garner

From: Ryan Butt <ryan@rgbas.com>
Sent: Monday, June 21, 2021 11:40 AM
To: Kyle Garner
Subject: Case # 20-17 Special Use Permit for a Gas/Service Station at 1550 Lennoxville Road

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Kyle Garner

From: Susan Feehan <svfeehan@gmail.com>
Sent: Thursday, July 08, 2021 8:52 AM
To: Kyle Garner; John Day; info@nodandyhere.org
Subject: 1550 Lennoxville - No Gas Station / Convenience Store

I am writing to oppose the Special Use Permit for the Jim Dandy gas and convenience store at 1550 Lennoxville. This location is in the middle of a residential area, and it is unfair to subject the surrounding properties to the crime, noise, light pollution, environmental hazards, traffic, and other health and safety risks that come with a business of this type.

I own my own accounting firm and for the last 40 years have specialized in helping small companies launch and operate their businesses. I currently have 3 gas stations as clients so I am well aware of the hazards and risks they face on a regular basis. It's not uncommon for distracted customers to pull away from the pumps with the gas hose still in the gas tank. On multiple occasions, my clients have narrowly escaped disaster when the hose ripped off spilling gas on the ground. The nozzle dropped to the ground creating a spark and starting a fire.

Because the fire was not related to the pump, the fire suppression system did not activate. My clients had to rush into the fueling bays with handheld fire extinguishers to put out the fire. Luckily, each time this has occurred they have been able to stop the fire before it spread, but this is an ongoing problem and they fear that one day they won't be so lucky.

With so many nearby residences close to the 1550 Lennoxville property it is foolish to want to take that risk here. A small out-of-control gas station accident could easily spread and destroy multiple houses in the flash of an eye.

There are plenty of other locations in Beaufort that could support a gas station/convenience store that would not have such a negative impact on people's lifestyles and safety. Please do not allow this business to locate itself at 1550 Lennoxville.

Susan Feehan
104 Beaufort Walk

Kyle Garner

From: Timothy Nadeau <tj.nadeau@gmail.com>
Sent: Monday, June 21, 2021 4:31 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

To Kyle Garner (k.garner@beaufortnc.org): Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17

Sent from my iPhone

Kyle Garner

From: Tom Carter <tacarter15@twc.com>
Sent: Wednesday, July 07, 2021 10:08 AM
To: Kyle Garner
Subject: No Jim Dandy on Lennoxville Road!

Mr. Garner,

I've recently learned of a request before the Planning Board to approve a special use permit for a gas station/convenience store at 1550 Lennoxville Road. This is an outrageous request as that site is squarely in the middle of a residential area with houses less than 50 feet from the operation. This cannot possibly meet the necessary separation standards, and will result in major negative impacts relative to traffic, environmental, and crime. There is little doubt the marketability of properties in the surrounding neighborhoods will be severely impacted.

I understand the request was tabled at the last planning board meeting, and is scheduled to be addressed in the next meeting on July 19. I further understand this is a Zoom meeting which is grossly unfair to the interested parties who wish to voice their concerns in a public forum.

Mr Garner, please consider what this project will mean to the approximately 50 residences in proximity to the site, and give those parties a fair hearing. There are dozens of more suitable sites in Beaufort that won't destroy the peace and quiet of families in this area. Think about it!

Sincerely,

Thomas A. Carter
121 Carrot Island Lane

Sent from my iPad

Kyle Garner

From: Wanda Bowman <WBOWMAN@triad.rr.com>
Sent: Thursday, July 08, 2021 8:47 PM
To: Kyle Garner
Subject: No to Jim Dandy at 1550 Lennoxville

PLEASE ADDRESS EMAIL TO Kyle Garner (k.garner@beaufortnc.org) AND ADD CC TO info@nodandyhere.org. Putting a gas station and convenience store in the middle of a residential area is a bad idea. I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.

Sent from my iPhone

Kyle Garner

From: Wendy Bankoski <wtbankoski@gmail.com>
Sent: Sunday, June 20, 2021 8:13 PM
To: Kyle Garner
Subject: Jim dandy

Hello Kyle,

Thank you for your hard work on preparing for the 1550 Lennoxville Road
Special Use Permit Public Hearing.

Materials for the June 21 Planning Board Meeting became available today.

Materials are required to be available 7 days before the meeting date due to
the Town's own ordinance. Therefore, I support postponing the Public Hearing
discussion in relation to Jim Dandy's application for a Special Permit to
the July 19 Planning Board meeting.

For your information, I do not support the Jim Dandy store with gasoline
pumps to be located at the 1550 Lennoxville Road location.

John and Wendy Bankoski
114 Mcgregor Drive
252-341-0529

Kyle Garner

From: whitney jenkins <nitwhit66@gmail.com>
Sent: Wednesday, July 07, 2021 3:52 PM
To: Kyle Garner
Cc: info@nodandy.org; John Day
Subject: No to Jim Dandy at 1550 Lennoxville

Hi Kyle
I hope you are well.

I'm writing to oppose the Jim Dandy store at 1550 Lennoxville. Putting a gas station and convenience store in the middle of a residential area is a bad idea. I realize that this was the site of a gas station in the past, but with the increase in residential housing in the area, I do not think that this is a suitable location any longer. I believe the Jim Dandy will not be compatible and in harmony with adjoining land uses and the development patterns of the immediate area.

This site was contaminated by the previous gas station's USTs and Jim Dandy has previous violations cited by NC DEQ with other USTs that they manage. Therefore this proposal is a public health threat to the surrounding neighbors.

I do not agree with this proposal. Please deny the Special Use Permit for Case #20-17.

Thank you for accepting my comments.
Whitney Jenkins
1017 Broad St, Beaufort
nitwhit66@gmail.com



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

**Town of Beaufort Planning Board Regular Meeting
6:00 PM Tuesday, July 19, 2021 – Virtual Meeting via Zoom**

AGENDA CATEGORY: New Business
SUBJECT: Rezoning from B-1 to R-8 302 Cedar Street
Case #21-21

BRIEF SUMMARY:

The current use of the property is a single family residential and is non-conforming. The lot width, and area also make it non-conforming. If rezoned to residential the use would become conforming and could gain some relief from Section 11 (Nonconformities) of the LDO in their setbacks.

REQUESTED ACTION:

Conduct Public Hearing
Recommendation to Board of Commissioners

EXPECTED LENGTH OF PRESENTATION:

10 Minutes

SUBMITTED BY:

Kyle Garner, AICP
Planning & Inspections Director

BUDGET AMENDMENT REQUIRED:

N/A



Staff Report

To: Planning Board
From: Kyle Garner, AICP

Date: 7/2/2021
Meeting Date: 7/19/2021

Case Number 21-21

Summary of Request:

Rezone one lot totaling 2,352.sq.ft. at 302 Cedar Street from B-1 to R-8.

Background

Location(s) & PIN

7730617117684000 (See Attached Map)

Owners Applicant

Porter & Timpla Casey
Same

Current Zoning

B-1 – General Commercial

Lot(s) Size & Conformity Status

2,352 Sq. ft. Total (based on GIS data)
Non-conforming parcel

Existing Land Use

Single Family Residential

CAMA Future Land Use Map Amendment Required

Public & Institutional
 Yes No

Adjoining Land Use & Zoning

North Vacant Car Lot – Zoned B-1 and Residential, Zoned R-8
South Residential, Zoned R-8
East Residential, Zoned B-1
West Commercial, Zoned B-1

Special Flood Hazard Area

Yes No

Public Utilities

Water Available Not Available
Sewer Available Not Available

Additional Information

See Staff Comments

Requested Action

Provide a consistency statement to the Board of Commissioners addressing the requested zoning amendment and the future land use plan.

Provide recommendation to the Board of Commissioners to:

- Approve the request;
- Deny the request; or
- Recommend more restrictive zoning district

Staff Comments

The current use of the property is a single family residential and is non-conforming. The lot width, and area also make it non-conforming. If rezoned to residential, it will allow the owners to use the standards found in Section 11 (Nonconformities) of the LDO as their lot is 43 feet in width and would allow for a 5 foot side setback and a 15 foot front setback which would reduce the amount of nonconformity.

The current B-1 General Business District Standards

Minimum Lot Size	5,000 Square Feet	Setbacks
Minimum Lot Width	60 Feet	Front 30 Feet
Maximum Building Height	40 Feet	Rear 15 Feet
Maximum Impervious	N/A	Side 15 Feet

The requested R-8 Residential Medium Density District Standards

Minimum Lot Size	8,000 Square Feet	Setbacks
Minimum Lot Width	60 Feet	Front 25 Feet
Maximum Building Height	35 Feet	Rear 25 Feet
Maximum Impervious	N/A	Side 8 Feet

In accordance with **NCGS § 160A-383**, the consistency statement must include one of the following:

- A statement recommending approval of the zoning amendment and describing its consistency with the CAMA Core Land Use Plan
- A statement recommending denial of the zoning amendment and describing its inconsistency with the CAMA Core Land Use Plan
- A statement recommending approval of the zoning amendment containing the following:
 - Declaration that the approval is also deemed an amendment to the CAMA Core Land Use Plan
 - An explanation of the change in conditions the board took into consideration when recommending approval

CAMA Core Land Use Plan – Future Land Use Classifications

C. Mixed Use Classification

The Mixed Use classification encompasses approximately 1.3 square miles (826 acres) or 17.4 percent of the total land area. The properties classified as Mixed Use are located adjacent to Town Creek (2 sites), at the former Beaufort Elementary School site, adjacent to the Cedar Street-Carteret Avenue area, and along Lennoxville Road at the site of the Atlantic Veneer Corporation and Beaufort Fisheries Industries.

The Mixed Use classification is intended to delineate areas where there is potential to redevelop the existing properties and adjoining vacant land, particularly for multiple land uses. The North Carolina Maritime Museum has proposed expanding the Maritime Museum to a portion of the Mixed Use-

designated area located on the north side of Town Creek. An associated maritime village has also been proposed for this site. Mixed residential and commercial uses, including marine uses along waterfront areas, have potential at the other Mixed Use-designated sites.

The Cedar Street corridor is anticipated, with the proposed relocation of US Highway 70, to redevelop from a general commercial area into more of an office, light retail, professional services, institutional, and residential area.

The anticipated residential density within this classification ranges from medium to high density. Multifamily densities are consistent with the current requirements of the Town’s zoning ordinance which allows a density range of up to 16 dwellings per acre for planned developments. Residential building types encouraged within this classification include single-family attached dwellings, condominiums, cluster developments, and multifamily dwellings. Commercial uses include a variety of retail, office, business services, and personal services. Minimum lot sizes are generally dependent upon the specific nature and characteristics of the land use but typically range from 2,750 to 20,000 square feet for residential land uses and 3,000 to 8,000 square feet for nonresidential land uses. Maximum floor area ratios for nonresidential land uses range from 0.57 to 2.13. Land uses within the Mixed Use designated areas are generally compatible with B-1, General Business; B-3, Marina Business; O & I, Office and Institutional; RMF, Multifamily Residential; and PUD, Planned Unit Development Zoning Districts. Public water and sewer service is needed to support the land uses characteristic of this classification. Streets with the capacity to accommodate higher traffic volume are necessary to support the intensity of development expected within the Mixed Use Classification.

The Town’s goals and policies support the use of land in Mixed Use-classified areas for a range of uses where adequate public utilities and streets are available or can be upgraded to support the intensity of development encouraged in this classification. Public and institutional land uses that support and that are compatible with this type of mixed development are also encouraged.

While the Mixed Use areas are expected to accommodate future growth and development, they may or may not actually be developed during the planning period. Critical factors that will determine the development potential of these areas include market demand and the provision of the necessary support infrastructure (particularly public water and sewer utilities). Consequently, the development potential of the some of the lands within the Mixed Use areas may be more long-term than short-term. In order to permit the type of mixed use development envisioned in this classification, the Town of Beaufort may have to prepare amendments to its existing zoning ordinance and subdivision ordinance to establish specific conditions and standards for such mixed use development.

Attachments:







- Attachment B – Vicinity/Zoning Map with 100 Foot Notification Boundary
- Attachment C – CAMA Map
- Attachment D – Owners within 100 feet
- Attachment E – Applicants Information
- Attachment F - Consistency Statement “Draft”

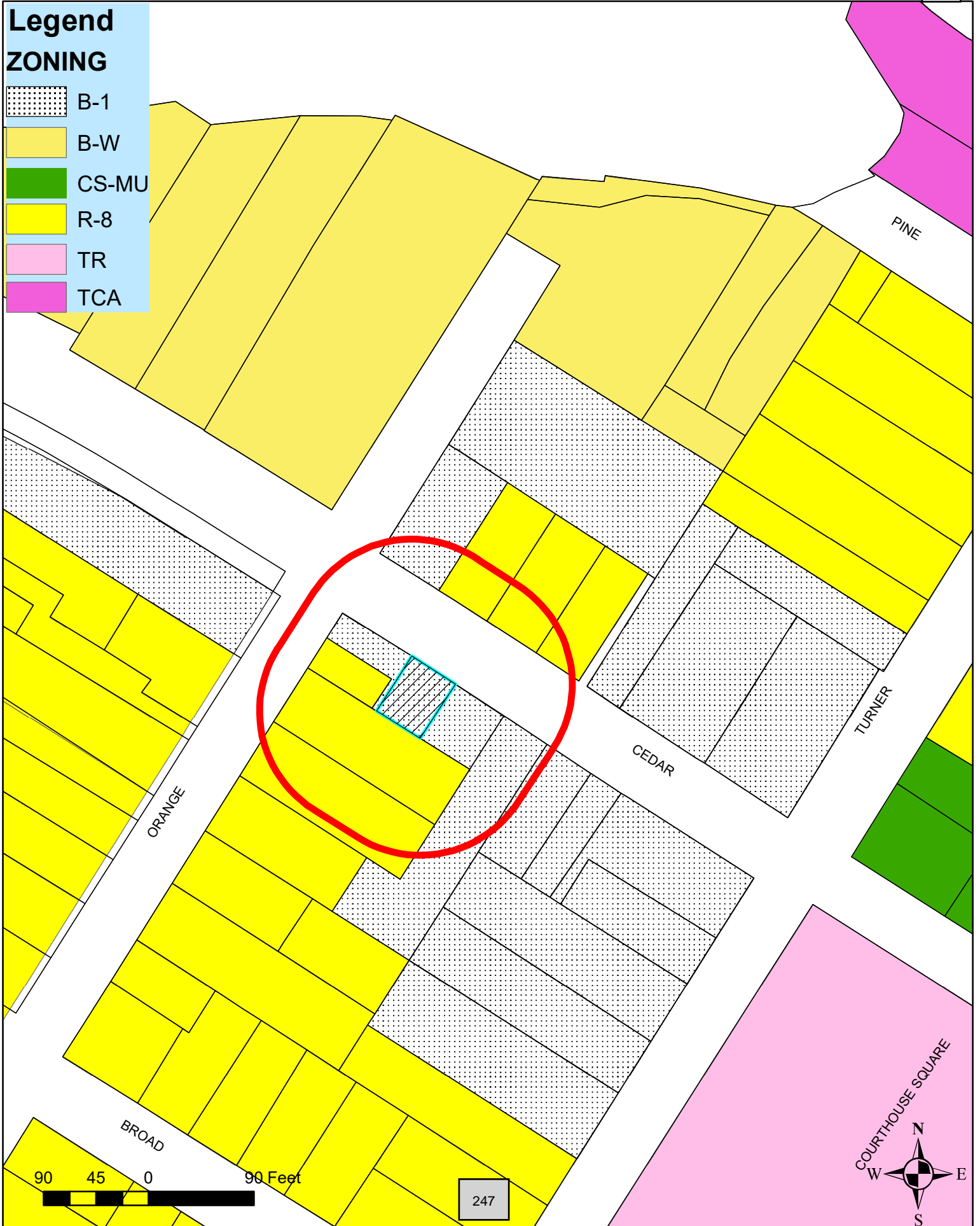
Rezoning - Case 21-21 - 302 Cedar Street - From B-1 to R-8

1.

Legend

ZONING

-  B-1
-  B-W
-  CS-MU
-  R-8
-  TR
-  TCA

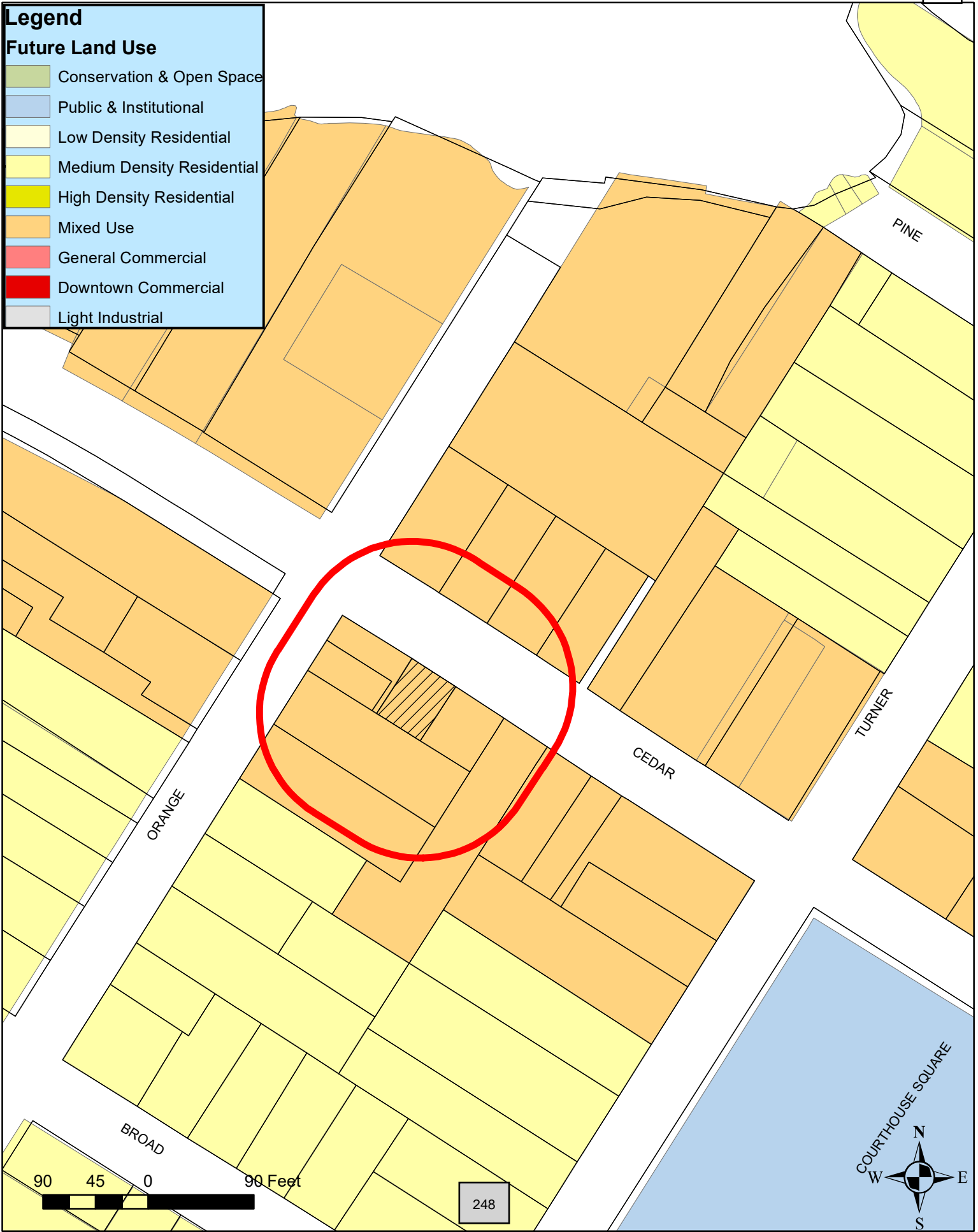


Rezoning - Case 21-21 - 302 Cedar Street - From B-1 to R-8 CAMA Future Land Use

Legend

Future Land Use

- Conservation & Open Space
- Public & Institutional
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Mixed Use
- General Commercial
- Downtown Commercial
- Light Industrial



<u>OWNER</u>	<u>MAIL_HOL</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>MAIL_ST/MAIL_ZI4/MAIL_ZI5</u>
BARGER,GARY T	307	CEDAR STREET	BEAUFORT	NC 28516
BOYCE,DEBORA SUE	414	ORANGE STREET	BEAUFORT	NC 28516
CASEY,PORTER C ETUX TIMPLA S	326	PAGE STREET	CLAYTON	NC 27520
DAVIS,JOHNNA	322	ORANGE STREET	BEAUFORT	NC 1821 28516
DEBUTTS,RICHARD E JR ETUX ANNA	320	ORANGE STREET	BEAUFORT	NC 28516
FLAKE,DONNA B ETVIR JERRY A	134	PARTRIDGE ROAD	WILMINGTON	NC 28412
MCFADYEN,W DAVID JR ETAL	306	CEDAR STREET	BEAUFORT	NC 28516
MCFAYDEN,W DAVID JR	608	MADAM MOORE LANE	NEW BERN	NC 28562
MEISLOHN,PETER R ETAL BARTA	208	LIVE OAK STREET	BEAUFORT	NC 28516
NEWTON,J JEFFERSON	710	CEDAR ST	BEAUFORT	NC 1906 28516
SWARTZ,W. BRUCE ETAL M. TR	304	ROSLYN ROAD	RICHMOND	VA 23226



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

**APPLICATION FOR AN AMENDMENT TO THE
BEAUFORT ZONING MAP**

Instructions:

Please complete the application below, include all the required attachments and the **\$300.00 for Rezoning request with no Land Use Plan Change** or **\$400.00 for Rezoning Request with Land Use Plan Change** and return to the Beaufort Town Hall, 701 Front Street or P.O. Box 390, Beaufort, N.C., 28516. Incomplete applications will not be processed and **will be** returned to the applicant. Please contact Planning and Inspections at 252-728-2142 if there are any questions.

APPLICANT INFORMATION

Applicant Name: Porter and Timpla Casey
Applicant Address: 302 Cedar St., Beaufort, NC
Phone Number: 919-961-1444 (Timpla) Email: timplastewart@gmail.com
919-395-2607 (Porter) portercaseyjr@gmail.com
Property Owner Name: Porter and Timpla Casey
Address of Property Owner: 326 Page St., Clayton, NC 27520
Phone Number: same as above Email: same as above

PROPERTY INFORMATION

Property Address: 302 Cedar St., Beaufort, NC
15-Digit PIN: 730617117684000 Lot/Block Number: 154 Old Town
Size of Property (in square feet or acres): 0.054 acres
Current Zoning: B-1 Requested Zoning: R-8
Current Use of Property: Residential Vacant Commercial Other: _____

Timpla Stewart 06/30/2021
Applicant Signature Date of Applicant's Signature

Property Owner Signature (if different than applicant) Date of Owner's Signature

An application fee of **\$300.00 for Rezoning request with no Land Use Plan Change** or **\$400.00 for Rezoning Request with Land Use Plan Change**, either in cash, money order, or check made payable to the "Town of Beaufort," should accompany this application. Payments can be made in person on the day of submittal and at such time, a credit card can be used to make the payment. Credit card payments are subject to a 3% extra fee.

Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

Attachment 1

A statement as to whether or not the proposed zoning amendment is consistent with the Beaufort Land Use Plan.

Statement from applicant:

The proposed zoning amendment of R-8 is consistent with the Beaufort Land Use Plan for future land use as mixed use, which allows residential use. Refer to Section IV – Subsection C Mixed Use Classification (page 93).

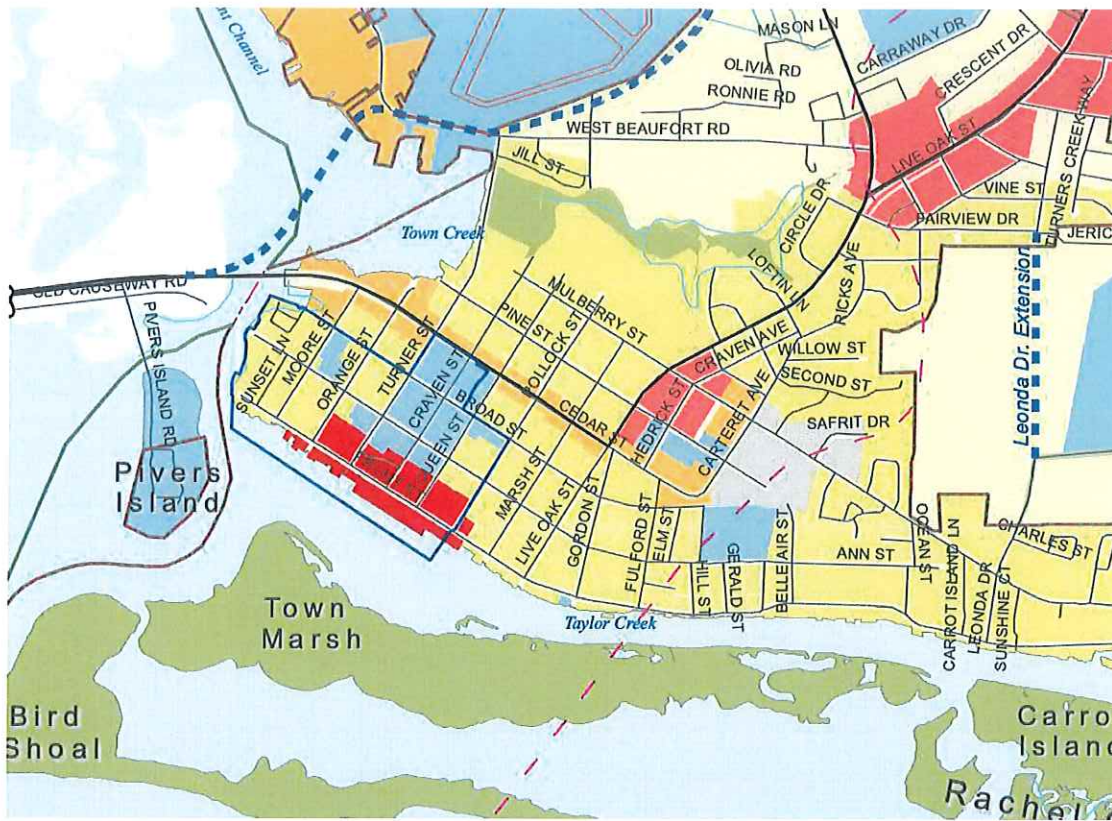


Figure 1. Snapshot from Beaufort CAMA Land Use Plan depicting mixed use along Cedar Street corridor.

Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

Attachment 2

A statement as to how the zoning amendment will promote the public health, safety or general welfare of the Town of Beaufort.

Statement from applicant:

This property, if rezoned to R-8, allows restoration of this contributing historic structure (the P.D. Garner House) to building code and zoning ordinances which are designed to promote the public health, safety and welfare of the Town of Beaufort. Furthermore, improvement to this property helps maintain Beaufort's unique character, which we've grown to love over the last decade.

We appreciate the Calypso Cottage, and they are great neighbors, but our vision isn't to own a business and want to rezone our home to be more in alignment with how we intend to use it. The current zoning of B-1 prohibits us from using the property residentially.

Most other adjacent or nearby properties are already zoned or functioning as residential, and we want to make this property a special place for us to enjoy. We are excited about the changes coming to Cedar St., like the park, and look forward to enjoying them from our front porch.

Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

Property Owners with 100 feet of 302 Cedar Street, Beaufort, NC

Barger, Gary T
NCPIN: 730617119742000

Physical Address: 307 Cedar Street, Beaufort, NC
Mailing Address: 307 Cedar Street, Beaufort, NC

Boyce, Debora Sue
NCPIN: 730617118757000

Physical Address: 303 Cedar Street, Beaufort, NC
Mailing Address: 414 Orange Street, Beaufort, NC

Davis, Johnna
NCPIN: 730617117617000

Physical Address: 322 Orange St., Beaufort, NC
Mailing Address: 322 Orange St., Beaufort, NC

Debutts, Richard E Jr Etux Anna
NCPIN: 730617117579000

Physical Address: 320 Orange St., Beaufort, NC
Mailing Address: 320 Orange St., Beaufort, NC

Flake, Donna B Etvir Jerry A
NCPIN: 730617118810000

Physical Address: 301 Cedar St., Beaufort, NC
Mailing Address: 134 Partridge Road, Wilmington, NC

Hart, Karen Churchill Trustee
NCPIN: 730617118595000

Physical Address: 308 Cedar St., Beaufort, NC
Mailing Address: 6605 Rexford Lane, Williamsburg VA

Mcfayden, W David Jr
NCPIN: 730617118621000

Physical Address: 304 Cedar St., Beaufort, NC
Mailing Address: 608 Madam Moore Lane, New Bern, NC

Mcfayden, W David Jr
NCPIN: 730617118534000

Physical Address: 306 Cedar St., Beaufort
Mailing Address: 608 Madam Moore Lane, New Bern, NC

Meislohn, Peter R etal Barta
NCPIN: 730617117629000

Physical Address: 324 Orange St., Beaufort, NC
Mailing Address: 208 Live Oak Street, Beaufort, NC

Newton, J Jefferson
NCPIN: 730617119704000

Physical Address: 305 Cedar Street, Beaufort, NC
Mailing Address: 710 Cedar St, Beaufort, NC

Swartz, W. Bruce Etal M. Tr
NCPIN: 730617117535000

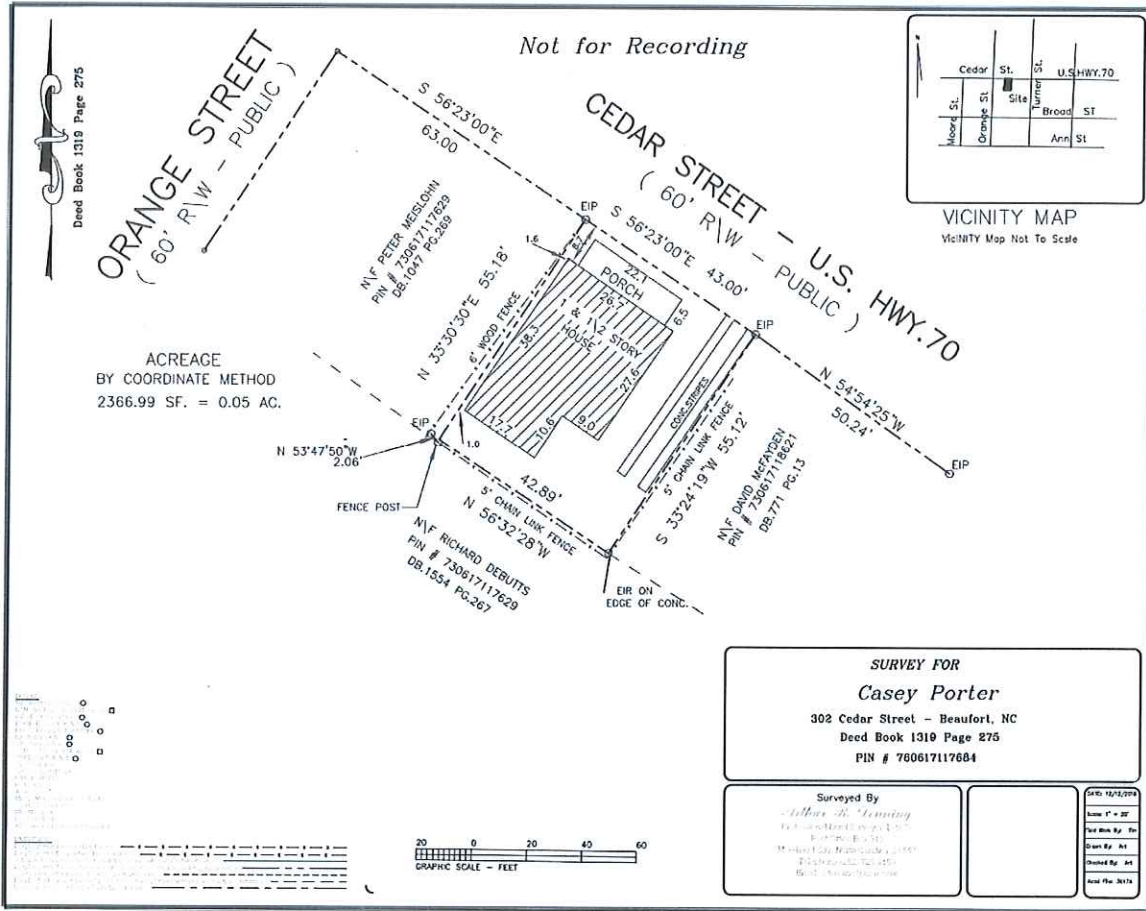
Physical Address: 318 Cedar Street, Beaufort, NC
Mailing Address: 304 Roslyn Road, Richmond, VA

Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

Existing Survey of 302 Cedar St., Beaufort, NC



Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

County GIS Map of 302 Cedar St., Beaufort, NC and abutting properties

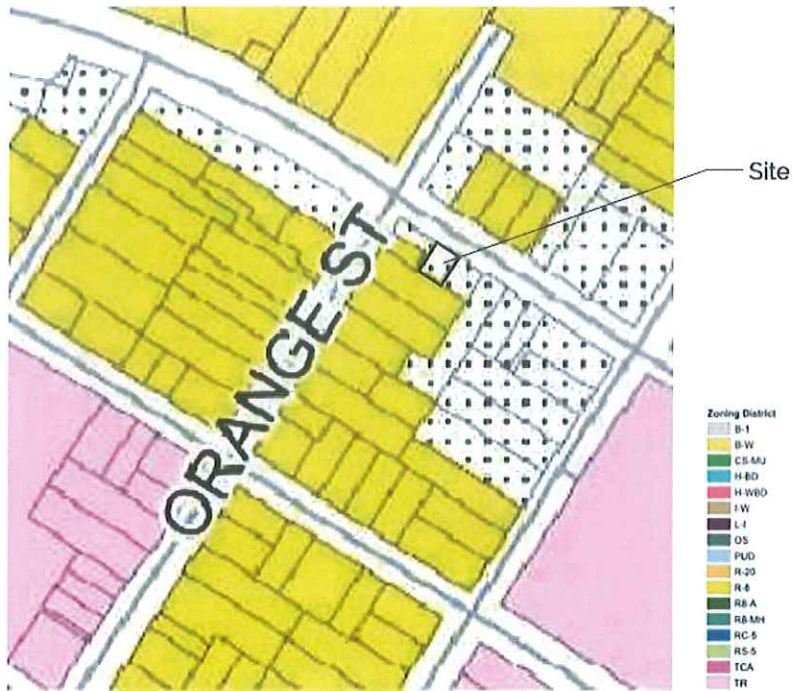


Application for an Amendment to the Beaufort Zoning Map

Applicant: Porter & Timpla Casey

Property: 302 Cedar St.

Current Zoning Map for 302 Cedar St., Beaufort, NC and all abutting properties



Joy Lawrence 19P
CARTERET COUNTY
JL Date 08/27/2009 Time 16:28:00
GR 1319276 Page 1 of 19

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at
the date and time and in the Book and Page shown
on the first page hereof.

Joy Lawrence, Register of Deeds
Barbara Chas
Asst. Deputy, Register of Deeds

RE K+W

DEED OF TRUST

Return To: Fifth Third Mortgage Company
5001 Kingsley DR, MD: 1MOCBQ, Cincinnati, OH 45227

Prepared By: Fifth Third Mortgage Company
5001 Kingsley DR, MD: 1MOCBQ, Cincinnati, OH 45227

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated August 27, 2009 together with all Riders to this document.

(B) "Borrower" is Porter Wayne Casey Jr and Timpla Stewart Casey, husband and wife

Borrower is the trustor under this Security Instrument.

(C) "Lender" is Fifth Third Mortgage Company

Lender is a corporation

organized and existing under the laws of the state of Ohio

Lender's address is 5001 Kingsley DR, MD: 1MOCBQ, Cincinnati, OH 45227

Lender is the beneficiary under this Security Instrument.

(C-1) The name of the Mortgage Broker is

XXXXX0800
NORTH CAROLINA - Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT - Deed of Trust
VMP ©
Wolters Kluwer Financial Services

Initials: *Jac Pac*
XXXXX0800
Form 3034 1/01
VMPD(INC) (0803)
Page 1 of 16



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(19)

(D) "Trustee" is Kirkman Whitford Brady & Berryman, P.A.

(E) "Note" means the promissory note signed by Borrower and dated August 27, 2009
The Note states that Borrower owes Lender Eighty Four Thousand And Zero/100

Dollars

(U.S. \$84,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than September 01, 2024

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard

BOOK 1319 PAGE 276

to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee and Trustee's successors and assigns, in trust, with power of sale, the following described property located in the _____ County of _____ Carteret [Type of Recording Jurisdiction] [Name of Recording Jurisdiction] See Attached

Parcel ID Number: 7306.17.11.7684000
302 Cedar Street
Beaufort
("Property Address"):

which currently has the address of
[Street]
[City], North Carolina 28516 [Zip Code]

TO HAVE AND TO HOLD this property unto Trustee and Trustee's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

BOOK 1319 PAGE 276

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. If Borrower has breached any covenant or agreement in this Security Instrument and Lender has accelerated the obligations of Borrower hereunder pursuant to Section 22 then Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c)

BOOK 1319 PAGE 276

premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

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4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

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In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

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8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve, if permitted under Applicable Law, in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve, if permitted under Applicable Law. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an

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insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, if permitted under Applicable Law, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

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In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who

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co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it

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might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan

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servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, and if it is determined in a hearing held in accordance with Applicable Law that Trustee can proceed to sale, Trustee shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee's fees of *five* % of the gross sale price; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it. The interest rate set forth in the Note shall apply whether before or after any judgment on the indebtedness evidenced by the Note.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender or Trustee shall cancel this Security Instrument. If Trustee is requested to release this Security Instrument, all notes evidencing debt secured by this Security Instrument shall be surrendered to Trustee. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Security Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Attorneys' Fees. Attorneys' fees must be reasonable.

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BY SIGNING UNDER SEAL BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

Porter Wayne Casey Jr (Seal)
Porter Wayne Casey Jr -Borrower

Timpla Stewart Casey (Seal)
Timpla Stewart Casey -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

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[Space Below This Line For Notary Acknowledgment]

STATE OF NORTH CAROLINA, Carteret County ss:
I, CONNIE M. KESSEL,
a Notary Public of the County of CARTERET, State of North Carolina, do hereby
certify that Porter Wayne Casey Jr and Timpla Stewart Casey



who are known to me or proved to me on the basis of satisfactory evidence to be the person(s) described,
personally appeared before me this day, each acknowledging to me that he/she/they voluntarily signed the
foregoing instrument for the purpose stated therein, and in the capacity indicated.
Witness my hand and official seal this 27th day of August, 2009
My Commission Expires: 6/25/2011

Connie M. Kessel
Notary Public

STATE OF NORTH CAROLINA, County ss:
The foregoing certificate of a Notary Public of the County of _____, State of _____
is certified to be correct.
This _____ day of _____

Registrar of Deeds

By _____
Deputy Assistant

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Walters Kluwer Financial Services

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SECOND HOME RIDER

THIS SECOND HOME RIDER is made this 27th day of August, 2009, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower" whether there are one or more persons undersigned) to secure Borrower's Note to Fifth Third Mortgage Company

(the "Lender") of the same date and covering the Property described in the Security Instrument (the "Property"), which is located at:

302 Cedar Street
Beaufort, NC 28516
[Property Address]

In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree that Sections 6 and 8 of the Security Instrument are deleted and are replaced by the following:

6. **Occupancy.** Borrower shall occupy, and shall only use, the Property as Borrower's second home. Borrower shall keep the Property available for Borrower's exclusive use and enjoyment at all times, and shall not subject the Property to any timesharing or other shared ownership arrangement or to any rental pool or agreement that requires Borrower either to rent the Property or give a management firm or any other person any control over the occupancy or use of the Property.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's second home.

XXXXX0600

MULTISTATE SECOND HOME RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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Initials *JAC PWC*

VMP-365R (0811)

VMP Mortgage Solutions, Inc. (800)521-7291



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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Second Home Rider.

Porter Wayne Casey Jr. (Seal)
Porter Wayne Casey Jr -Borrower

Timpia Stewart Casey (Seal)
Timpia Stewart Casey -Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

_____ (Seal)
-Borrower

XXXXX0600
MULTISTATE SECOND HOME RIDER - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT Form 3890 1/01
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BEING A PORTION OF LOT 154 OLD TOWN AND BEGINNING AT A POINT LOCATED S 56-23 E 63 FEET FROM THE INTERSECTION OF THE SOUTHERN RIGHT OF WAY OF CEDAR STREET AND THE EASTERN RIGHT OF WAY OF ORANGE STREET; THENCE FROM SAID POINT OF BEGINNING S 56-23 E 43 FEET WITH THE SOUTHERN RIGHT OF WAY OF CEDAR STREET TO AN IRON PIPE; THENCE S 33-37 W 55 FEET TO AN "L" CHIPPED IN THE CEMENT FOOTING; THENCE N 56-23 W 43 FEET TO A FENCE POST IN THE LINE OF CHARLES E MCKEE, II; THENCE N 33-37 E 55 FEET TO THE POINT OR PLACE OF BEGINNING. THE SAME BEING SHOWN ON A SURVEY BY JAMES L POWELL, RLS FOR MARY FRANCES BROOKS AND SALLY SMITH WYNNE DATED DECEMBER 11, 1987 TO WHICH REFERENCE IS MADE FOR A MORE CERTAINTY OF DESCRIPTION.

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for me



**TOWN OF BEAUFORT
PLANNING BOARD**

**RZ21-21
RESOLUTION ADVISING THAT PROPOSED AMENDMENTS
TO THE ZONING ORDINANCE AND COMPREHENSIVE FUTURE LAND USE PLAN
ARE IN ACCORDANCE WITH ALL OFFICIALLY ADOPTED PLANS; ARE
REASONABLE; AND ARE IN THE PUBLIC INTEREST.**

WHEREAS, the North Carolina General Assembly has given the Town of Beaufort (“Town”) the authority to adopt and amend zoning and development regulation ordinances for the purpose of promoting the health, safety, morals, and general welfare of its citizens;

WHEREAS, N.C.G.S. §160A-383 requires the Town of Beaufort Planning Board (“Board”) to advise the Town of Beaufort Board of Commissioners by written statement describing whether the proposed amendments to the Town’s Land Development Ordinance (“Ordinance”) and Core Land Use Plan are consistent with all officially adopted plans;

WHEREAS, the Board has in fact met to consider and evaluate the proposed amendments to the Ordinance; and

NOW THEREFORE, BE IT HEREBY RESOLVED, that the Planning Board finds that the proposed amendments to the Ordinance are in accordance with all officially adopted Town plans for the reasons stated in the Staff Report for Rezoning Case 21-21 attached hereto and incorporated herein by reference, and therefore recommends adoption by the Board of Commissioners. Specifically the Planning Board finds that the proposed amendments are in furtherance of the Town plans, ordinances and regulations; and better clarify all the Ordinance regulations.

This Resolution is effective upon its adoption this 19th day of July, 2021.

**TOWN OF BEAUFORT
PLANNING BOARD**

_____, Chairman

ATTEST:

_____, Secretary

