



## **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](http://www.beaufortnc.org)

### **Town of Beaufort Planning Board Regular Meeting 6:00 PM Monday, October 17, 2022 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting**

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#### **Call to Order**

#### **Roll Call**

#### **Agenda Approval**

#### **Minutes Approval**

- [1.](#) PB Draft Minutes 9.19.22

#### **Public Comment**

#### **Public Hearing**

- [1.](#) To recommend approval or denial to the Board of Commissioners for the rezoning of 243 Leonda Drive from R-20 to RS-5.

#### **New Business**

- [1.](#) Preliminary Plat – Davis Bay
- [2.](#) 2023 Planning Board Meeting and Submittal Calendar

#### **Commission / Board Comments**

#### **Staff Comments**

#### **Adjourn**



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252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

**Town of Beaufort Planning Board Regular Meeting  
6:00 PM Monday, September 19, 2022 - Train Depot  
614 Broad Street, Beaufort, NC 28516  
Minutes**

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**Call to Order**

Chair Neve called the September 19, 2022 Planning Board meeting to order at 6:00 p.m.

**Roll Call**

Members Present: Chair Neve, Vice Chair Merrill, Member Bowler, Member LoPiccolo, Member Meelheim

Members Absent: Member Willis

A quorum was declared with five members present.

Staff Present: Kyle Garner, Town Engineer Greg Meshaw, Fire Chief Tony Ray, Town Attorney Arey Grady, and Laurel Anderson.

**Agenda Approval**

Chair Neve asked if there were any changes to the Agenda.

*Member LoPiccolo made the motion to approve the agenda as presented and Member Bowler made the second. Chair Neve took a vote that was unanimous.*

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

**Minutes Approval**

1. PB Draft Minutes for 8.15.22

Chair Neve asked if there were any changes to the Minutes from the August 15, 2022 meeting.

*Member Meelheim made the motion to approve the minutes and Vice-Chair Merrill made the second. Chair Neve took a vote that was unanimous.*

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

## **Public Comment**

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

Logan Louis, 900 Cedar St, Beaufort, commented regarding the Salt Wynd final plat and Salt Wynd pervious pavement streets and sidewalks and requested monitoring the maintenance and cleaning of the pavement to prevent dirty runoff to the creek.

Harriett Altman, 103 Leonda Dr, Beaufort, commented on concerns with the town's sewage discharge and infrastructure degradation.

Virginia Ferri, 102 Leonda Dr, Beaufort, commented on Board of Commissioners' concerns with the proposed updated CAMA Land-Use Plan and requested the Planning Board slow down approving new developments.

Martha Kenworthy, 109 Holly Ln, Beaufort, commented on the need for traffic studies to support new developments.

## **Old Business**

1. Case# 22-13 Preliminary/Final Plat – 1791 Live Oak

Chair Neve opened old business and requested the applicant address the access agreement. Josh Johnson of Stroud Engineering stated that the ABC Board now officially owned the sliver of land between their property and Beaufort Springs, and Beaufort Storage and Beaufort Springs had agreed to add the ABC store property to their existing access easement agreement, and he had provided a letter of intent from the property owner that it would be executed upon subdivision approval.

*Vice-Chair Merrill made a motion to approve the Preliminary/Final Plat for 1791 Live Oak contingent upon easement agreement being agreed to by all parties, provided to the Town, and a copy of the warranty deed also being provided to the Town. Member Meelheim made the second. Chair Neve took a vote that was unanimous.*

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

Mr. Garner stated that when the deed was recorded and the easement agreement signed, they would be emailed to the members of the Planning Board.

## **New Business**

1. Preliminary Plat – Beau East Village Phases 2 & 3

Chair Neve opened new business and Mr. Garner explained that the applicant, Blue Treasure, wished to subdivide a 44.09-acre tract into 230 lots (162 single family & 68 townhome lots). These are the last two phases of development for the Planned Unit Development (PUD) for Blue Treasure/Beaufort East Village that was approved in June of 2015. In 2015 the Commissioners placed six conditions on the request, and the following conditions that are germane to Phases 2 & 3 have been addressed and are as follows:

1. Perform a traffic study as a precondition of the development of Beaufort East Village: This item has been completed and a presentation given at the August 29, 2016 Board of Commissioner Workshop.

6. Create 10-foot buffers on lots adjoining Freedom Park: A Type “A” Buffer is shown on landscaping sheets L1.2 & 1.3.

Mr. Garner further stated that in April of 2022 the Board of Commissioners, as part of a PUD amendment, required that a 10-foot buffer also be installed on lots adjoining Fairview Road. A Type “A” Buffer is shown on landscaping sheets L1.2 & 1.3.

Member Meelheim asked about the density of homes and possible issues with evacuation. Mr. Garner stated that originally there were only two points of ingress and egress but currently there were seven or eight points, and traffic impact analysis showed the projections were less than originally anticipated. Vice-Chair Merrill asked about connectivity with Jones Village and the impact on that existing neighborhood, higher density, and the lack of sidewalks.

Member Bowler asked how new development applications were measured against the Town’s existing infrastructure, specifically traffic, fire, police, and air quality. Mr. Garner stated that air quality was not typically measured but there was a consultant’s report on traffic impacts, and applications were fully reviewed by the pertinent department heads. Member Bowler then asked if the Board could request a 3<sup>rd</sup> party infrastructure study and Town Attorney Grady stated it could only be requested if it were in the ordinance.

Member LoPiccolo asked about the recreation fees paid by the developer and Mr. Garner responded that they had not paid as part of the original agreement as they would provide their own entertainment areas. Member Vreugdenhil asked if the entire PUD had less than six dwellings per acre, and if there was a PUD lifespan. Mr. Garner stated that the PUD had less than that number and there was no PUD lifespan but all revision requests were processed like a new special use permit, and this particular PUD had six or seven revisions which had provided that number of opportunities for improvement.

Member Merrill felt that the Board had been pressured into not requiring suggested changes, and Mr. Garner responded that some improvements had been made such as in April a dense buffer had been added. Member Vreugdenhil referred to Member Bowler’s concerns about infrastructure impacts and stated that even high-density residential developments had low hard infrastructure demands as compared to industrial developments. He further explained that the town had a multi-tiered review process and Mr. Meshaw, the town engineer, could not permit developments that exceeded the town’s current hard infrastructure capacity.

After further Board discussion, Don Mizelle and Joe Boyd of WithersRavenel addressed interconnectivity and stated that there were six access point in this phase and the traffic impact study was completed and had been reviewed and approved by DOT. Mr. Boyd addressed 3<sup>rd</sup> party studies and stated that there were checks and balances through permit and state approval and other permitting that was required.

Chair Neve suggested that the proposed Chinese Elm, Chinese Pistashe, and Swamp Oak trees in the landscape plan be exchanged for other trees more native to the area.

*Vice-Chair Merrill made a motion to table the Preliminary Plat for Beau East Village Phases 2 & 3 until the old traffic study had been reviewed, and Member Merrill made the second. Chair Neve took a vote that failed.*

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

*Voting nay: Chair Neve, Member Bowler, Member LoPiccolo, Member Vreugdenhil*

*Member Vreugdenhil made a motion to approve the Preliminary Plat for Beau East Village Phases 2 & 3 based on the previous approval of the PUD and the approved revision in May that slightly reduced the number of lots, and that the improvements are completed prior to selling lots. Member LoPiccolo made the second. Chair Neve took a vote that passed.*

*Voting yea: Chair Neve, Member Bowler, Member LoPiccolo, Member Vreugdenhil*

*Voting nay: Vice-Chair Merrill, Member Meelheim*

Vice-Chair Merrill requested the original traffic impact study and Mr. Garner said that as it was 500-600 pages it would be emailed to the Board as a Dropbox link.

## 2. Final Plat – Salt Wynd Preserve Phase 1

Mr. Garner stated the applicant requesting subdividing a 37.06-acre tract into 47 single-family residential lots. The applicant has chosen to request to bond the infrastructure improvement and has submitted cost estimates for the complete cost of improvements totaling \$3,153,123.36, and recreation fee payment in the amount of \$5,527.20 is required prior to final plat recordation.

Mr. Meshaw stated the bond estimate as reviewed by the engineer of record was very conservative in favor of the town as the unit prices were on the upper end of the scale. Chair Neve asked if the development would meet the stormwater requirements if they did not use pervious materials, and Mr. Meshaw explained that the pervious limit was 12% and the pervious pavement helped to meet that requirement. Member LoPiccolo asked about the maintenance of the pervious roads, and Mr. Garner explained that as these were private roads the HOA was responsible and the Board could make maintenance a condition of approval. He further stated that all new Salt Wynd building permits would be required to include an engineer's report on stormwater management, and those permits would be reviewed by Mr. Meshaw.

Member Vreugdenhil clarified the town would maintain the water and sewer and the lift stations, and Mr. Garner agreed and further explained they would be dedicated to the town once they had passed inspection and that generator backup is required.

Mr. Johnson stated that once the developer exited, the HOA covenants required common areas, sidewalks, and roads, including yearly sweeping and vacuuming of pervious surfaces, be maintained by the HOA.

*Member Vreugdenhil made a motion to approve the Final Plat for Salt Wynd Preserve Phase 1 based on the previous approval of the preliminary plat and the Town's acceptance of a bond according to an engineer's estimate to install improvements. Member Bowler made the second. Chair Neve took a vote that was unanimous.*

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

## 3. Preliminary Plat for Salt Wynd Preserve Phase 2

Mr. Garner stated that the applicant was applying to subdivide a 27.25-acre tract into 36 single-family lots and they had submitted an annexation application and sewer allocation for Phase 2, and the applicant's request for a variance regarding the length of a cul-de-sac had been denied by the Board of Commissioners.

A proposed 1685-foot reverse hammerhead cul-de-sac which will provide connectivity with a future street was discussed, and Fire Chief Tony Ray requested that the fire hydrant located at the end be moved to the front of the cul-de-sac to the intersection of lots 77 and 78.

Chair Neve asked if there would be pedestrian or bicycle access between Wild Lupine Point and Pearl West Drive, and Mr. Johnson stated that a pedestrian boardwalk was being discussed, and a driven-pile boardwalk was recommended by the Army Corps of Engineers.

Member Vreugdenhil requested that a walkway be shown on the future plan if the plat were approved.

*Member LoPiccolo made a motion to approve the Preliminary Plat for Salt Wynd Preserve Phase 2 with the condition that a walkway be built between Wild Lupine Point and Pearl West Drive over the entire sanitary easement and Member Bowler made the second.*

*Chair Neve made the second and took a vote that was unanimous.*

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

**Commission / Board Comments**

Members Vreugdenhil thanked the applicant for reducing the density from the original proposal, and that they continue to evaluate construction traffic in and out of the development and promote safety for existing residents.

Member Bowler also thanked the applicant for listening to the Board’s and public’s suggestions, and there was the potential for being a model of a low-impact development.

Chair Neve and Member LoPiccolo thanked the staff for putting together the comprehensive packet with all

**Staff Comments**

Mr. Garner notified the Board of the following:

- 1. Upcoming meetings would contain rezoning, the property beside the Food Lion, parcel B at the Beaufort Club, and possible small subdivisions.
- 2. Possible upcoming Planning Board training.
- 3. Upcoming discussion of the status of the UDO.

Town Attorney Arey Grady discussed the Unified Development Ordinance project and Mr. Garner requested the Board compile their lists of requested updates to the policy.

**Adjourn**

*Member Vreugdenhil made the motion to adjourn and Member LoPiccolo made the second. Chair Neve took a vote that was unanimous.*

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

Chair Neve then declared the meeting adjourned.

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Ryan Neve, Chair

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Laurel Anderson, Board Secretary



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**Beaufort Planning Board Regular Meeting  
6:00 PM Monday, October 17, 2022 – 614 Broad Street- Train Depot**

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**AGENDA CATEGORY:** New Business

**SUBJECT:** To recommend approval or denial to the Board of Commissioners for the rezoning of 243 Leonda Drive from R-20 to RS-5.

**BRIEF SUMMARY:**

The applicant wishes to rezone 243 Leonda Drive (PIN 730620802173000) from R-20 to RS-5.

**REQUESTED ACTION:**

Discussion and Public Hearing on Proposed Rezoning

**EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

**SUBMITTED BY:**

Samantha Burdick, CFM  
Town Planner

**BUDGET AMENDMENT REQUIRED:**

N/A



Attachment - A

# Staff Report

**To:** Planning Board  
**From:** Samantha Burdick, CFM

**Date:** 10/5/2022  
**Meeting Date:** 10/17/2022

## Case Number 22-18

### Summary of Request:

Rezone 243 Leonda Drive (.223 acres) R-20 to RS-5

### Background

#### Location(s) & PIN

730620802173000

#### Owners Applicant

Blue Treasure LLC  
Same as Owner

#### Current Zoning

R-20

#### Lot(s) Size & Conformity Status

9,713 square feet - Non- Conforming

#### Existing Land Use

Vacant

#### Adjoining Land Use & Zoning

**North** Beau Coast Amenity Center zoned – PUD  
**South** Single Family zoned – R-20  
**East** Across Leonda Single Family zoned – PUD  
**West** Beaufort East Village zoned – PUD

#### Special Flood Hazard Area

Yes  No

#### Public Utilities

Water

Available  Not Available (currently)

Sewer

Available  Not Available (currently)

#### Additional Information

See Staff Comments

#### Requested Action

Conduct Public Hearing for Discussion.

Provide recommendation to the Board of Commissioners to:

- Approve the request;
- Deny the request; or
- Recommend more restrictive zoning district



### Staff Comments

- This lot was a mobile home lot prior to Blue Treasures purchase.
- The property is in the Town’s Extraterritorial Jurisdiction. The Town Clerk has received an application for annexation of and is currently investigating the merit of that request. If approved, the lot would have Town water and sewer access.
- The property is approximately 9,713 square feet (0.223) acres and does not meet the minimum lot size of 20,000 square feet for R-20. It would meet the RS-5 minimum lot size of 5,000 square feet.
- The density of the zoning request is consistent with the adjacent Planned Unit Development.
- RS-5 Residential Single-Family Development District has a maximum impervious surface requirement of 50%. If rezoned, the property may have no greater than 50% impervious coverage.
- The property would meet the R-8 Medium Density Residential District minimum lot size of 8,000 square feet. However, there is no impervious surface requirement associated with the R-8 zoning district.

### CAMA Core Land Use Plan – Future Land Use Classifications

#### **Current: Low Density Residential (corresponding to zone R-20)**

The Low Density Residential classification is intended to delineate lands where the predominant land use is low density detached residences. The residential density within this classification is generally 2 or less dwelling units per acre. The minimum lot size is 20,000 square feet unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Single-family detached residences are the predominant types of dwellings within these areas. Manufactured homes on individual lots are also dwelling types found within this classification. Land uses with Low Density Residential-designated areas are generally compatible with the R-20 Single-Family Residential Zoning District. Public water service is widely available throughout the Low Density Residential-classified areas. Public sewer service is generally not available within this classification.

#### **Proposed: High Density Residential (corresponding to zone RS-5)**

The High Density Residential classification is intended to delineate lands where the predominant land use is higher density single-family residential developments and/or multifamily developments. The residential density within this classification is generally 6 to 16 dwelling units per acre. The minimum lot size is 2,750 square feet per unit unless a larger minimum lot area is required by the health department for land uses utilizing septic systems. Land uses with High Density Residential-designated areas are generally compatible with RC-5, Residential Cluster Development and the RS-5, Residential Single-Family 5 Development Zoning Districts. Public water and sewer service is required to support the residential densities in this classification. Streets with the capacity to accommodate higher traffic volumes are also necessary to support High Density Residential development.

### Additional Information

#### **The current R-20 Residential District Standards**

Minimum Lot Size	20,000 Square Feet
Minimum Lot Width	100 Feet
Maximum Building Height	40 Feet

Interior Lot Setbacks

Front 30 Feet  
Rear 25 Feet  
Side 15 Feet

No Maximum Impervious Surface Coverage Requirement

The requested **RS-5 Standards** –

Minimum Lot Size	5,000 Square Feet	Setbacks
Minimum Lot Width	50 Feet	Front 20 Feet
Maximum Building Height	35 Feet	Rear 15 Feet
		Side 5 Feet

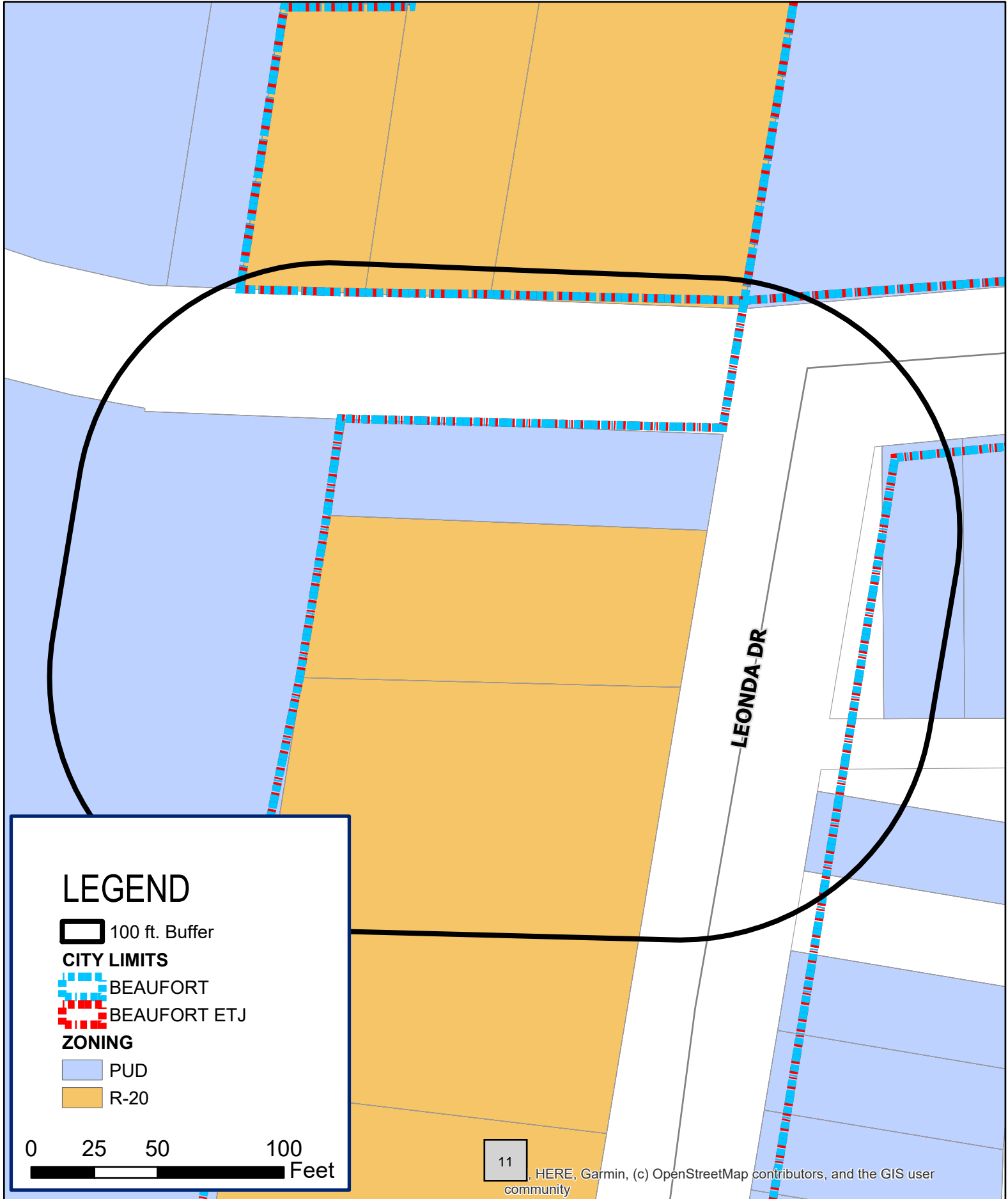
Maximum Impervious Coverage is 50% of square footage of individual lot

**Attachments:**

- Attachment B - Vicinity & Zoning Map with 100' Notification Buffer
- Attachment C – Future Land Use Map
- Attachment D - Owners Within 100'
- Attachment E – Owners Application & Information

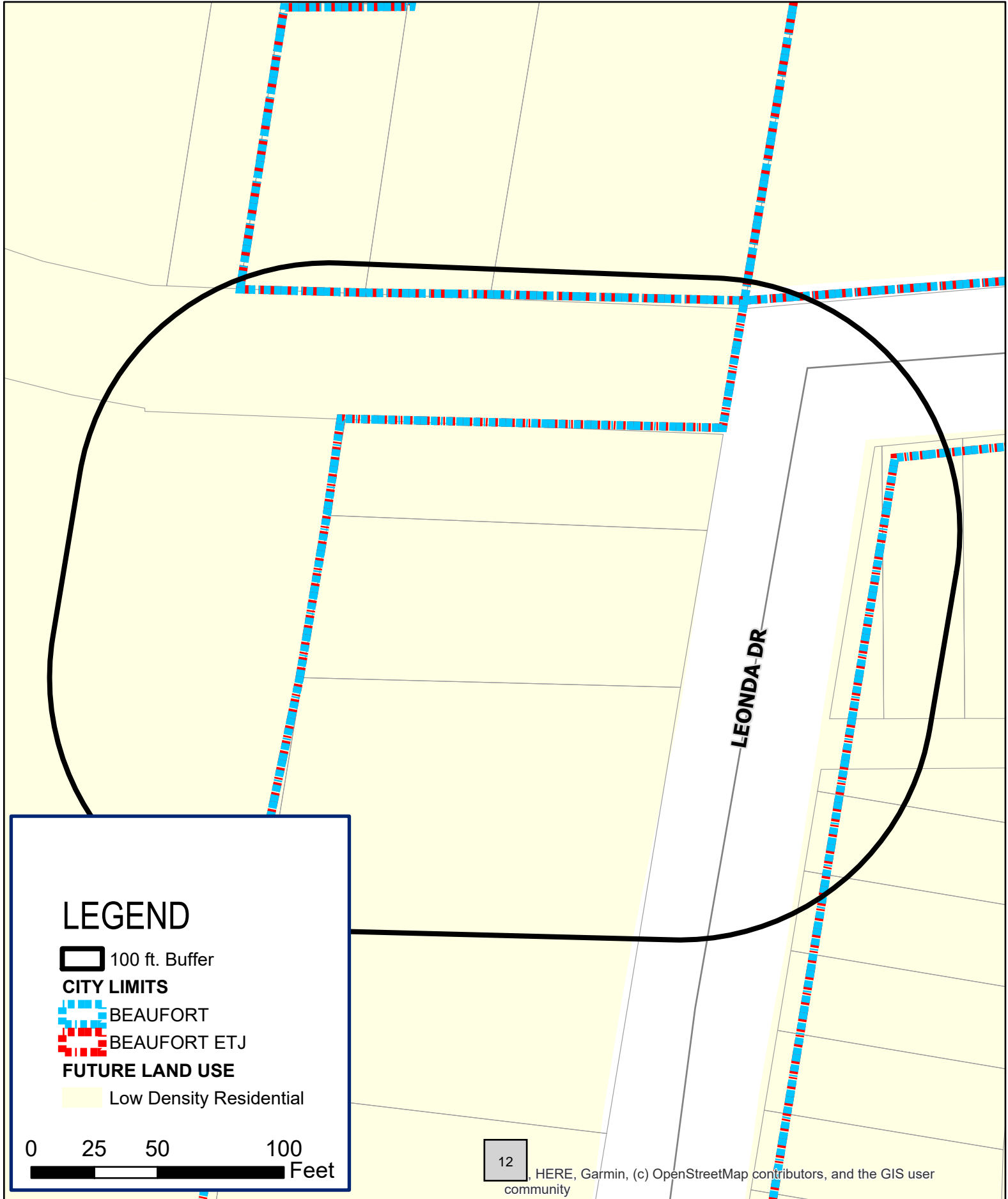


# 243 LEONDA DRIVE VICINITY MAP 1.






# 243 LEONDA DRIVE FUTURE LAND USE MAP 1.



## LEGEND


 100 ft. Buffer


### CITY LIMITS

 BEAUFORT

 BEAUFORT ETJ

### FUTURE LAND USE

 Low Density Residential

0 25 50 100  
 Feet

12

HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

<u>OWNER</u>	<u>MAIL_HOL</u>	<u>MAIL_ST</u>	<u>MAIL_CITY</u>	<u>IL_ST/MAIL_ZI</u>	<u>MAIL_ADD2</u>
MITCHELL,EULA L/T	237	LEONDA DRIVE	BEAUFORT	NC 28516	
BLUE TREASURE LLC			CARY	NC 27519	PO BOX 3557

219 Station Road, Suite 101  
Wilmington, NC 28405  
t: 910.256.9277 | f: 919.467.6008

TO: Kyle Garner  
Planning Director  
Town of Beaufort

DATE:	09/30/2022	PROJ. NO.:	02080976.20
ATTENTION:	Kyle Garner		
RE:	Amended Rezoning app 243 Leonda Drive		

**WE ARE SENDING YOU THE FOLLOWING ITEMS:**

- |  |   |                                |                                  |   |  |
|--|---|--------------------------------|----------------------------------|---|--|
| <input checked="" type="checkbox"/> Attached | <input type="checkbox"/> Under Separate Cover Via |                                |                                  |   |  |
| <input type="checkbox"/> Shop Drawings       | <input type="checkbox"/> Prints                   | <input type="checkbox"/> Plans | <input type="checkbox"/> Samples | <input type="checkbox"/> Specifications |  |
| <input type="checkbox"/> Copy of Letter      | <input type="checkbox"/> Change Order             | <input type="checkbox"/> Disk  | <input type="checkbox"/> Other   |   |  |

COPIES	DESCRIPTION
1	Amended Rezoning app - 243 Leonda Drive

**THESE ARE TRANSMITTED as checked below:**

- |  |   |   |
|--|---|---|
| <input checked="" type="checkbox"/> For approval | <input type="checkbox"/> Approved as submitted    | <input type="checkbox"/> Resubmit _____ copies for approval   |
| <input type="checkbox"/> For your use            | <input type="checkbox"/> Approved as noted        | <input type="checkbox"/> Submit _____ copies for distribution |
| <input type="checkbox"/> As requested            | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return _____ corrected prints        |
| <input type="checkbox"/> For review and comment  |   | <input type="checkbox"/> Other _____                          |
| <input type="checkbox"/> For bids due _____      |   | <input type="checkbox"/> Prints returned after loan to us     |

**REMARKS:**

<p><b>COPY TO:</b> <u>Julie Wilson</u> <u><a href="mailto:jwilson@withersravenel.com">jwilson@withersravenel.com</a></u> <u>910.256.9277</u></p>	<p><b>SIGNED:</b> <u>Don Mizelle</u> <u><a href="mailto:dmizzelle@withersravenel.com">dmizzelle@withersravenel.com</a></u> <u>919.535.5237</u></p>
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**QA/QC:** \_\_\_\_\_

*If enclosures are not as noted, kindly notify us at once.*



Town of Beaufort  
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252-728-2141 • 252-728-3982 fax  
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**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: Blue Tresure LLC  
Applicant Address: 105 Weston Estates Way Cary NC 27513  
Phone Number: (919) 481-3000 Email: karl@prestondev.com

Property Owner Name: Blue Treasure LLC  
Address of Property Owner: 105 Weston Estates Way  
Phone Number: (919) 481-3000 Email: karl@prestondev.com

**PROPERTY INFORMATION**

Property Address: 243 Leonda Drive  
15-Digit PIN: 730620802173000 Lot/Block Number: n/a  
Size of Property (in square feet or acres): 0.223  
Current Zoning: R-20 Requested Zoning: RS-5

Current Use of Property:  Residential  Vacant  Commercial  Other: \_\_\_\_\_

Tim Smith  
Applicant Signature \_\_\_\_\_ Date of Applicant's Signature 7-18-22

Tim Smith  
Property Owner Signature (if different than applicant) \_\_\_\_\_ Date of Owner's Signature 7-18-22

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.

Please refer to the *Land Development Ordinance*, [Section 3](#) and all other pertinent sections for the information required to accompany this application.

**REQUIRED ATTACHMENTS FOR AN AMENDMENT TO THE  
BEAUFORT ZONING MAP**

**Please provide the following as attachments to the zoning map amendment form:**

1. A statement as to whether or not the proposed zoning amendment is consistent with the Beaufort Land Use Plan.
2. A statement as to how the zoning amendment will promote the public health, safety or general welfare of the Town of Beaufort.
3. Proof of ownership (For example: a copy of the deed or city tax statement).

If a property is owned by more than one individual or if multiple properties under different ownership are applying under one request, attach a statement and signatures indicating that all owners have given consent to request the zoning change.

4. An area map of property to scale which includes:
  - North Arrow;
  - All Property lines and accurate property line dimensions;
  - Adjacent streets and names;
  - Location of all easements;
  - Location of all structures;
  - Zoning classifications of all abutting properties.
5. Please submit one digital/electronic copy of any drawings or plans associated with the amendment. At least one paper copy of the drawings or plans should also be submitted.
6. A TYPED list all property owners (with addresses) within 100 feet of the boundary lines of all properties requested to be rezoned (notification of adjacent property owners by the Town is required by North Carolina law).

**THE COMPLETE APPLICATION WITH SUPPORTING  
DOCUMENTATION IS DUE TO TOWN STAFF AT LEAST 15 WORKING  
DAYS PRIOR TO A SCHEDULED PLANNING BOARD MEETING.**

The Town’s website is [www.beaufortnc.org](http://www.beaufortnc.org).

**OFFICE USE ONLY**

Revised 08/2020

Received by: \_\_\_\_\_

Reviewed for Completeness By: \_\_\_\_\_

Date: \_\_\_\_\_

Date Deemed Complete and Accepted: \_\_\_\_\_



Karen S. Hardesty

Carteret County, NC

December 15, 2021 9:45:03 AM

DEED # Pages: 3

Fee: \$26.00

NC Revenue Stamp: \$525.00

FILE # 1750114

*Karen S. Hardesty*

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$ 525.00

Parcel Identifier No. 730620802173000 Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
By: \_\_\_\_\_

Mail/Box to: John M. Harris, White & Allen, P. A., 304 N. 35th Street, Morehead City, NC 28557

This instrument was prepared by: White & Allen, P. A., 304 N. 35th Street, Morehead City, NC 28557 - File #M130243-1

Brief description for the Index: LOT ON LEONDA DRIVE

THIS DEED made this 15th day of December, 2021, by and between

**GRANTOR**

**GRANTEE**

Robin Mitchell, unmarried  
110 Heron Drive  
Havelock, NC 28532

Blue Treasure LLC  
105 Weston Estates Way  
Cary, NC 27513

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of Beaufort, Beaufort Township, Carteret County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

**Submitted electronically by "white & Allen MHC"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Carteret County Register of Deeds.**

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1604 page 471.  
All or a portion of the property herein conveyed    includes or X does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book \_\_\_\_\_ page \_\_\_\_\_.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: 2021 ad valorem taxes; utility easements and unviolated restrictions of record.

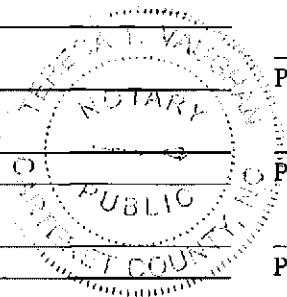
IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

By: \_\_\_\_\_ (Entity Name) Robin Mitchell (SEAL)  
 Print/Type Name: Robin Mitchell, unmarried

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name: \_\_\_\_\_

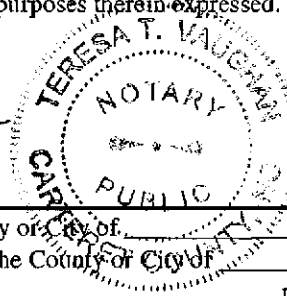
By: \_\_\_\_\_ (SEAL)  
 Print/Type Name: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
 Print/Type Name: \_\_\_\_\_



State of North Carolina - County or City of Carteret  
 I, the undersigned Notary Public of the County or City of Carteret and State aforesaid, certify that Robin Mitchell, unmarried personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 14th day of December, 2021.

My Commission Expires: 1/29/2025 (Affix Seal)  
Teresa T. Vaughan Notary Public  
 Notary's Printed or Typed Name



State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_ (Affix Seal)  
 \_\_\_\_\_ Notary Public  
 Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
 I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that \_\_\_\_\_ he is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, \_\_\_\_\_ he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_ (Affix Seal)  
 \_\_\_\_\_ Notary Public  
 Notary's Printed or Typed Name

## EXHIBIT "A"

BEING a part of the John Q. Chadwick farm in Beaufort Township Carteret County, North Carolina.

Beginning at Harold Mitchell's northeast corner in the west line of the "Trash Pile Road", now Leonda Drive; thence N 80\*-48'W, 150.0'; thence N 16\*-30'E, 65.0'; thence S 80\*-48'E, 150.0' to the west line of the above mentioned road; thence with said road line S 16\*-30'W, 65.0' to the point of beginning.

### **Consistency statement with regards to the Beaufort plans.**

The proposed rezoning of RS-5 (Residential Single-Family 5 Development District) demonstrates consistency with The Town of Beaufort's plans illustrated by future land uses identified in the 2006 Land Use Plan.

The future land use map from 2006 identifies the parcel as low-density residential use. The existing lot petitioned for rezoning is currently zoned R-20 and is a non-conforming lot of record that until recently accommodated a manufactured home.

Given the information gathered from the 2006 Land Use Plan Map, the similar intended use of detached single family residential is applied to the parcel. The desired rezoning seeks to continue The Town's intended practice of detached single family residential on this lot.

Additionally, the CAMA Core Land Use Plan notes that generally, growth and land development is anticipated to occur in all future land use categories except for the Conservation/Open Space classification.

The 2006 Land Use plan included a land suitability analysis to provide the local government with information regarding the best areas for development. The project parcel is located in a high suitability area. Some of following factors included in the assessment were the following:

- Proximity to existing developed areas and compatibility with existing land uses.
- Land use and development requirements of local development regulations, CAMA Use Standards, and other applicable state regulations, and applicable federal regulations.
- Availability of community facilities, including water, sewer, stormwater and transportation.

The proposed use, detached single family residential, is consistent with the surrounding area of existing single family residential, with existing infrastructure that will be extended for the proposed use.

The proposed rezone is consistent with the Town of Beaufort Land Use and Development Goals as follows:

- Promote land use and public infrastructure development that is compatible with land suitability as well as capabilities to provide requisite public services.
- Promote land use and land development compatible with the functional purposes of areas of Environmental Concern.

Lastly, The Town of Beaufort's Core Land Use Plan identifies the land use of the parcel as residential. Beaufort's Land Use Plan states that there is sufficient undeveloped land and redevelop-able tracts currently in existence on the immediate periphery of the current Beaufort planning jurisdictional area for residential needs alone through 2025, such as the proposed development. Thus, the parcel identified is compatible with the development patterns expected by The Town of Beaufort.

**Statement on the health, safety, and welfare benefits of the rezoning.**

The desired rezoning is from R-20 (Residential Single-Family District) to RS-5 (Residential Single-Family 5 Development District).

The proposed rezoning will promote the public health, safety, and general welfare of The Town by ensuring consistency with similar uses to the future Beau Coast development which is the predominate surrounding land use in this area. The proposed land use will assist in solidifying the residential nature of the area at a scale comparable to the adjoining Beau Coast development. The Town's development regulations and building codes will ensure the health, safety and welfare of the area are maintained.





**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, October 17, 2022 – 614 Broad Street**

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**AGENDA CATEGORY:** New Business  
**SUBJECT:** Preliminary Plat – Davis Bay

**BRIEF SUMMARY:**

Subdivide two tracts totaling 20.08 Acres into 4 Lots (These lots would be served by Phase 3 of the Beau Coast Development). In addition to Planning Staff the Town Engineer and applicants Engineer will also be available to answer questions regarding the proposed infrastructure.

**REQUESTED ACTION:**

Recommendation to Board of Commissioners

**EXPECTED LENGTH OF PRESENTATION:**

15 Minutes

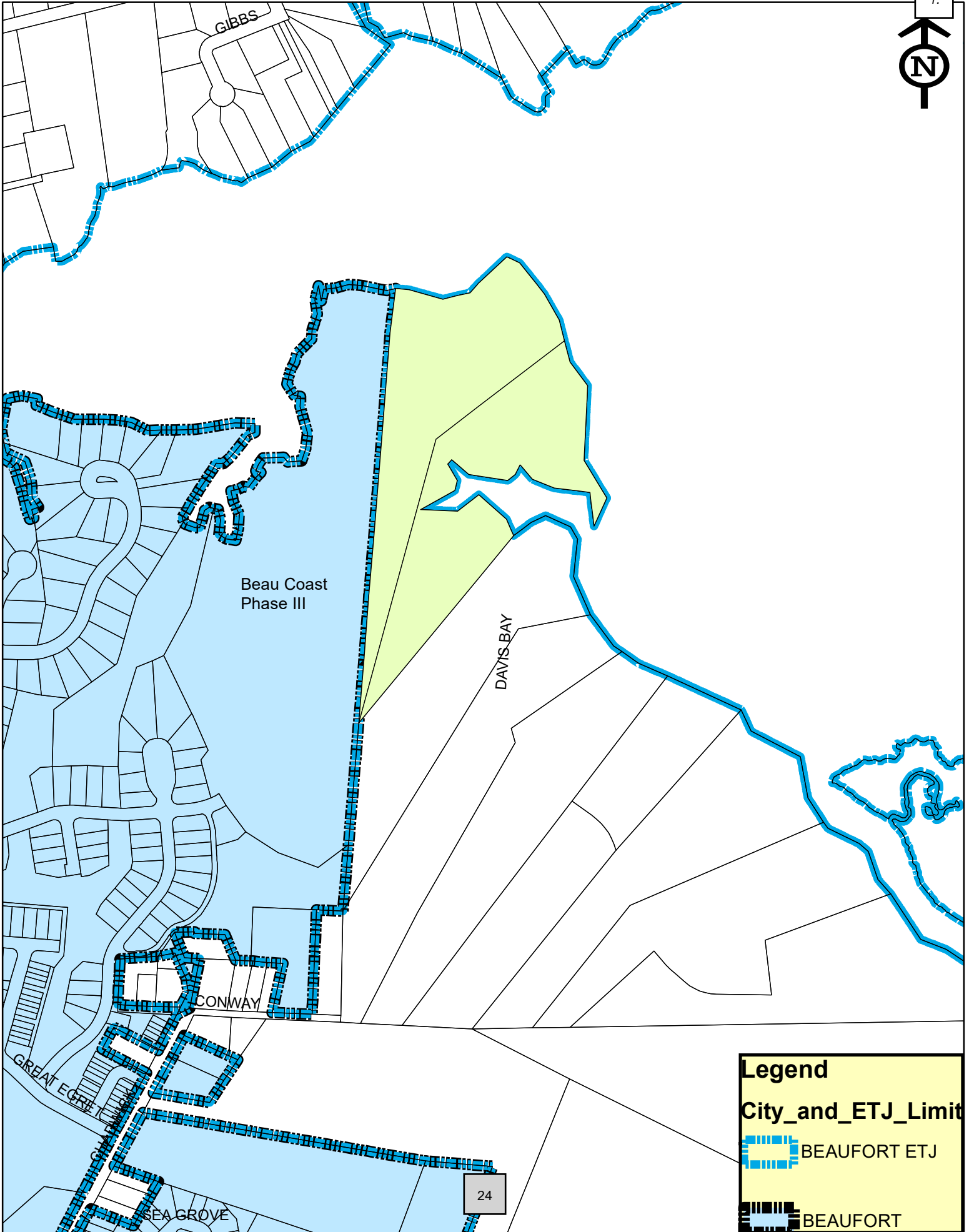
**SUBMITTED BY:**

Kyle Garner, AICP  
Planning & Inspections Director

**BUDGET AMENDMENT REQUIRED:**

N/A

# Case #22-22 Vicinity Map - Preliminary Plat - Davis Bay





To: Town of Beaufort Planning Board  
From: Kyle Garner, AICP, Town Planner  
Date: October 10, 2022  
Project Davis Bay – Preliminary Plat

**THE QUESTION:** Subdivide two tracts totaling 20.08 Acres into 4 Lots (These lots would be served by Phase 3 of the Beau Coast Development

**BACKGROUND:**

Location: Davis Bay – Davis Bay Drive - Off Lewistown Road  
Owners: The Burdett Family Trust  
Requested Action: Subdivide two tracts totaling 20.08 acres tract into 4 lots  
Existing Zoning R-20  
Pin #: 7316182179350000, 7316182263150000  
Size: 20.08 Acres  
Amount of Open Space: 0 Acres  
Existing Land Use: Undeveloped  
Adjoining Land Use & Zoning:  
North – By Turner’s Creek  
South – By residential developed property in Davis Bay, zoned R-20  
East – By Davis Bay  
West – By Beau Coast Phase III, zoned PUD

**SPECIAL INFORMATION:**

This applicant has submitted for sewer allocation for these four proposed properties. A requirement for sewer service is also a requirement for Annexation which the applicant has not applied for at the time of submittal. It should also be noted that Phase III for Beau Coast Preliminary Plat has not been submitted for approval and this is the main source of access for the proposed lots.

The applicant has submitted conditions they are willing to place on the request to insure that infrastructure is in place before the lots are submitted for Final Plat. Staff would also remind the Planning Board that a Preliminary Plat is only valid for a period of one year.

The conditions from the applicant are as follows:

Freedom Park Road Extension thru Phase 3 of Beau Coast must be constructed (or bonded for with the Town) and the right of way recorded prior to the recordation of Lots 1-3 at Davis Bay Subdivision;

Lot 4 has deeded access via alternate route if needed prior to the construction of Freedom Park Road extension in Beau Coast Phase 3;

Town allocation for water and sewer capacity for lots 1-4 is contingent upon Beau Coast Phase 3 water and sewer approval by the Town and State of North Carolina;

Water and sewer service to lots 1-4 will be provided via public water and sewer line extensions by Beau Coast Phase 3. Timing of service to lots 1-4 is dependent on Beau Coast Phase 3. No building permits will be issued until such time as water and sewer service is available or has been bonded for by Beau Coast Phase 3

**Staff Recommended Conditions:**

- **The applicant submit an application for Annexation per the Town’s Sewer Policy**
- **The offsite-street has been constructed and the developer of the adjacent property grants permission in writing for driveway connections to the street or until such time as the street has been constructed and dedicated to the Town so that permission from the offsite developer is not needed.**
- **The water and sewer mains have been constructed, as-built plans of these utilities have been produced, the construction certified by the engineer-of-record, and the certification has been recognized/accepted by the NC Department of Environmental Quality.**
- **We believe that there needs to be a written acknowledgement in place by the owner developer that no building permits will be issued by the Town until such time as all the following conditions have been satisfied.**

OPTIONS:

1. Recommend Approval the request as presented
2. Recommend Approval with specific conditions
3. Recommend Denial of the request.
4. Table the request.

ATTACHMENTS:

- Attachment – A – Vicinity Map
- Attachment – B – Preliminary Plat Maps
- Attachment – C – Covenants
- Attachment – D – Staff Review Comments.



FILE # 1640324

FOR REGISTRATION REGISTER OF DEEDS  
Karen S Hardesty  
Carteret County, NC  
June 12, 2019 03:23:31 PM  
ANNA ADMT 12 P  
FEE: \$26 00  
FILE # 1640324

✓ PREPARED BY: M. DOUGLAS GOINES, BESWICK & GOINES, PLLC, 911 ARENDELL STREET, MOREHEAD CITY, NC 28557  
RETURN TO: M. DOUGLAS GOINES, BESWICK & GOINES, PLLC, 911 ARENDELL STREET, MOREHEAD CITY, NC 28557

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS AND EASEMENTS  
FOR  
DAVIS BAY SUBDIVISION**

THIS AMENDED AND RESTATED PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS, dated of purpose of reference only this 10 day of June, 2019, for the lots in the Subdivision known as Davis Bay Subdivision, located in Carteret County, North Carolina, as shown on a plat thereof recorded in Plat Book 28, Page 889, Carteret County Registry, and

WHEREAS, the Declarant originally recorded the Declaration of Protective Covenants, Restrictions, and Easements for Davis Bay Subdivision in Deed Book 772, Page 172, Carteret County Registry;

WHEREAS, Declarant subsequently sold all lots in said Subdivision and relinquished control of the same to Davis Bay Subdivision Homeowners Association, Inc., and

WHEREAS, Davis Bay Subdivision Homeowners Association, Inc. subsequently recorded an Amendment to Restrictive Covenants for Davis Bay Subdivision in Deed Book 972, Page 372, Carteret County Registry; and

WHEREAS, Davis Bay Subdivision Homeowners Association, Inc. subsequently recorded a Modification of Protective Covenants for Davis Bay Subdivision in Deed Book 1293, Page 181, Carteret County Registry; and

WHEREAS, in accordance with North Carolina General Statute 55A-7-08, written ballots were submitted by the owners of all lots subjected to the Protective Covenants regarding the amendments and restatement of Protective Covenants set forth herein; and

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WHEREAS, Davis Bay Subdivision Homeowners Association, Inc., pursuant to Paragraph 9 of said Protective Covenants and with the approval of more than 67% of all current owners of Lots in said Subdivision does hereby amend and restate said Protective Covenants as follows:

1. **DESCRIPTION.** This Declaration shall run with the land and shall bind and insure to the benefit of the owner of each Lot within the Subdivision, and the property made subject to these Protective Covenants is all of the property shown on that Plat of Davis Bay Subdivision recorded in Map Book 28, Page 889, Carteret County Registry, as the same may be amended from time to time.

2. **ADDITIONAL PROPERTIES.** Declarant reserves the right to annex adjoining property which is now owned, or may be hereafter acquired or developed by Declarant, to the Subdivision, and to subject such additional property to the terms and provisions of these Protective Covenants without the consent of the members of the Association. Annexation provided for in this section shall become effective upon the filing by the Declarant of a supplemental or amended Declaration in the Office of the Register of Deeds of Carteret County.

3. **SINGLE FAMILY UTILIZATION.** These Protective Covenants restrict all numbered Lots within the Subdivision to be used only for single family residential purposes. No home or other structure constructed within the Subdivision will be utilized for commercial purposes, except that home offices shall be permitted as long as such offices do not induce traffic, require signage, or include retail space.

4. **BUILDING AND SITE RESTRICTIONS.** The Architectural Control Committee must give prior approval for the construction, reconstruction or any addition to any improvement or structure on any Lot, or any subdivision of any existing Lot, in accordance with the procedures described in Paragraph 5 of these Protective Covenants. Furthermore, the Architectural Control Committee must approve the removal of any hardwood tree of a size of four inches in diameter or greater, measured two feet above natural grade at the base of the tree. Pine trees may be removed without prior permission of the Architectural Control Committee, except that no general clear cutting of pines shall be allowed on any Lot (other than as necessary to construct approved improvements or structures) without prior approval of the Architectural Control Committee. In addition, the following restrictions shall apply:

(a) Any owner of a Lot existing at the time this Amended and Restated Protective Covenants are adopted and recorded may, but is not required to, subdivide his Lot to create two lots, after approval by the Architectural Control Committee using the same procedure as described in Paragraph 5 of these Amended and Restated Protective Covenants. Any Lot divided pursuant to this subsection may not be divided again. For any divided Lots created pursuant to this subsection, one divided lot shall bear the original Lot number and the suffix B, and the other divided Lot shall bear the original lot number and the suffix C. The minimum lot size is one acre.

(b) No more than one (1) single family house shall be allowed per Lot. No detached garage, carport, utility building, greenhouse, storage shed or other ancillary or

outbuilding shall be permitted unless architecturally compatible with the primary dwelling structure on the Lot. For any original Lot that remains undivided, a one (1) bedroom guest house may be constructed on said Lot, provided that approval is first obtained from Carteret County and the Carteret County Health Department for the construction of such structure. No guest house shall be used for rental purposes. No guest house shall be permitted on any Lot that is subdivided pursuant to this Paragraph 4.

(c) Unless specifically approved in writing by the Architectural Control Committee, all homes must be constructed substantially on site, and no modular home shall be located within the Subdivision and no homes constructed elsewhere shall be allowed to be conveyed into and located on a Lot within the Subdivision. No temporary structures shall be allowed. Construction of garages, guest homes or out buildings shall not be commenced until such time as construction of the primary residence on a Lot has been undertaken.

(d) The minimum square footage of heated, enclosed living space for each approved residential structure shall be 2000 square feet for all homes. Carports, garages, attics, porches, patios and decks shall not be considered heated, enclosed living space. No home shall contain more than four (4) bedrooms, inclusive of the bedroom contained in any guest house constructed on a Lot, unless specific prior approval is granted by the Carteret County Department of Health. No Lot has been approved by the Carteret County Department of Health for a septic waste treatment system servicing more than four bedrooms.

(e) No structure will be allowed within 20 feet of the Road or within 20 feet of any access easement, 50 feet of any side Lot line, 50 feet of any waterway, and 50 feet of any rear Lot line, unless alternatives are approved by the Board of Directors of the Association upon a showing by a Lot owner of hardship resulting from the configuration of wetlands on a Lot.

(f) The construction of bulkheads, piers and docks shall only be allowed after approval by the Architectural Control Committee and all applicable governmental permitting agencies, including the North Carolina Division of Coastal Management. No such structures will be allowed unless said structures are compatible with similar or proposed improvements on other Lots and after a finding that the construction of such structures will not unduly interfere with the riparian rights or reasonable property expectations of the owners of other Lots within the Subdivision. The type of construction utilized for bulkheads may be controlled by the Architectural Control Committee based on appearance, function and environmental engineering criteria. Declarant, by recordation of these Protective Covenants, makes no representation that a pier or dock constructed in accordance with the aforesaid provisions shall be sufficient to provide access to deep water. There is included as an appurtenant part of Lots 4 through 9 a non-contiguous tract of land designated on the Plat by the corresponding Lot number by the letter "A." The sole purpose and use of these portions of Lots shall be to construct docks or piers (one per Lot), which shall be used only for the benefit of the Lot owner, and his guests and invitees. No commercial use of such dock or pier shall be allowed. The portions of the Lots designated by "A" cannot be conveyed separately from the remaining portions of the Lot to which they are appurtenant again. If any of Lots 4 through 9 as shown on the Plat recorded in Plat Book 28, Page 889, Carteret County Registry are subdivided pursuant to this Paragraph 4, the deed of conveyance for the new divided Lot shall specify which new divided Lot, either suffix "B" or "C", shall have the appurtenant water access described above. Only one of the divided lots shall have the appurtenant

water access; it shall not be shared by Lots created by subdivision pursuant to this Paragraph 4. All improvements located on any Lot, including that portion of the Lot designated with "A", shall be maintained in a good and sightly condition at all times, by and at the sole expense of the owner of said Lot.

(g) The United States Army Corps of Engineers, in accordance with the provisions of the Clean Water Act enacted by the United States Congress, must issue permits prior to any site alteration of any area designated as a Section 404 wetland. Furthermore, the Department of Environmental Management of the State of North Carolina must also approve any such site alteration. Site alteration within these jurisdictional wetlands without a permit is a violation of state and federal law. Therefore, no Lot owner shall alter any area on a Lot delineated as a Section 404 jurisdictional wetlands without approval of the Architectural Control Committee and without specific permission and/or permits having been issued by the United States Army Corps of Engineers and the Department of Environmental Management of the State of North Carolina. LOT OWNERS ARE SPECIFICALLY CAUTIONED THAT, UNDER APPLICABLE LAW, JURISDICTIONAL WETLANDS NEED NOT BE OR APPEAR TO BE WET. Lot owners are also cautioned that the area of jurisdictional wetlands shown on the Plat is subject to change over time.

(h) Each Lot owner shall keep the grounds on his Lot and all structures located thereon in a clean, neat and sightly condition, and shall provide for the regular removal of all trash or refuse from the Lot.

(i) No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling unless said animal is maintained as a domestic pet, and is not maintained for commercial purposes. All domestic pets must conform to all local laws and must not be a nuisance or cause damage to any property within the Subdivision. Non-commercial equine animals shall be specifically permitted.

(j) In order to comply with the North Carolina Coastal Stormwater Regulations enacted by the Department of Environmental Management of the State of North Carolina, no more than 104,980 square feet of any Lot shall be covered by impervious surfaces as defined by the Department of Environmental Management. Impervious surfaces include structures, paved surfaces, walkways, patios of brick, stone, slate and similar materials, and use of other materials that substantially negatively impact the ability of water to be assimilated into the soil. This provision of the Protective Covenants is intended to insure continued compliance with stormwater runoff regulations, and therefore this covenant may be enforced by the State of North Carolina, as well as any other party designated in Paragraph 7 hereunder. This provision, as well as all other provisions of the Protective Covenants, runs with the land and is binding on all persons owning any Lot as shown on the Plat.

5. **ARCHITECTURAL CONTROL COMMITTEE PROCEDURES.** At least thirty (30) days prior to the anticipated commencement of any landscaping or construction of any structure or improvement on any Lot, the owner of such Lot (or his duly appointed agent) shall submit to the Chairman of the Architectural Control Committee a plat of the Lot, which plat shall

show each Lot corner. There shall further be shown on each such plat the proposed location of all proposed and existing structures or improvements, including driveways, bulkheads, piers, patios, decks and walkways. There shall further be provided to the Architectural Control Committee sufficient building elevations and other site plans, including a statement of exterior building materials and proposed exterior colors, to allow the Architectural Control Committee to appropriately and accurately evaluate what is proposed for construction on the Lot. The plat shall be professionally prepared, but there shall be no requirement that it be prepared by a registered surveyor or licensed architect. There shall be submitted two (2) copies of all information required to be submitted.

Within thirty (30) days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot whether or not the requested improvements and landscape plan are approved. Unless a response is given by the Architectural Control Committee within thirty (30) days, the plan shall be deemed approved. The response of the Association may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty (30) day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the construction shall be deemed acceptance by the owner of the Lot of the conditions imposed. Nothing shall prohibit the owner of a Lot from leaving portions of his Lot in a natural condition.

The Architectural Control Committee shall approve the plans as submitted, if all required information is submitted, and the following affirmative findings are made by the Architectural Control Committee:

- (a) that the improvements sought to be constructed will not have negative economic impact on any other Lot within the Subdivision;
- (b) that all required specific building standards and other conditions contained within the Protective Covenants and other applicable legal documents have been complied with;
- (c) that the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the Subdivision; and
- (d) that the natural features of the Lot have been retained to the maximum extent feasible.

Following assignment of architectural review authority from Declarant to the Association, any owner of any Lot disagreeing with the finding of the Architectural Control Committee may appeal the decision to the Board of Directors of the Association by giving written notice of appeal to the President of the Association within fifteen (15) days following receipt of notice of denial. The Board of Directors of the Association shall then review the plans, giving the Chairman of the Architectural Control Committee the opportunity to present to the Board of Directors of the Association specific reasons why the plans were denied, in the presence of the owner of the Lot or his agent, and the owner of the Lot or his agent may present information challenging the findings

of the Architectural Control Committee. The decision of the Architectural Control Committee shall only be overridden by unanimous vote of the Board of Directors of the Association.

All notices required to be given herein shall be given in writing, hand-delivered or mailed postage prepaid, return receipt requested, and the Architectural Control Committee shall be obligated to specify the particular grounds upon which denial of any application is founded. One set of plans, denoted as approved (or approved with specified conditions) shall be retained by the Architectural Control Committee and the other shall be returned to the applicant.

6. **ASSOCIATION.** The owner or owners of every Lot shall be a voting member of the Association. Two votes shall be allowed per original Lots 1 through 9. In the event one of the original Lots 1-9 is subdivided in accordance with the provisions of Paragraph 4 above, each new lot so created shall be allowed one vote. To the extent that there is more than one owner of any one Lot, whether subdivided or not, said owners shall determine among themselves, and designate, one voting member, which voting member shall cast the vote(s) allocated to said Lot. If the owners cannot agree among themselves, the Board of Directors of the Association shall determine and designate a voting member from among the owners of the Lot.

The Association shall be governed by a Board of Directors, selected in accordance with the By-Laws of the Association, and the Association shall operate and do business in accordance with the terms of its By-Laws.

Access to the Subdivision is provided by a sixty foot access easement ("Access Easement") crossing the lands of Atlantic Veneer Company, and connecting the Subdivision to Lennoxville Point Road. The Association shall maintain in good and usable condition the Access Easement. The Access Easement joins within the Subdivision a sixty foot right-of-way, which right-of-way is herein referred to as the "Road". The Road connects and transverses Lots 1 through 7. The Association shall maintain the Road in good and functional condition. Declarant shall cause electric and telephone utilities to be installed in the Road, and shall cause the Road to be paved.

Access to any Lot may be obtained by the owner(s) of that Lot from adjoining property other than Davis Bay Drive. However, such access must be in the nature of a driveway and shall not be a through street.

There is shown on the Plat a twenty foot sewer easement across Lots 5 and 6, connecting the Road to an area designated as Sewer Treatment Area. This Sewer Treatment Area may be utilized as more fully set out hereinafter to provide either primary septic sewage treatment for the benefit of two named Lots in the Subdivision, or as replacement area for systems constructed on such Lots. All cost of maintenance of any of the distribution, treatment or disposal systems constructed within the Sewer Easement or the Sewer Treatment Area shall be borne by those actually making utilization of such areas for septic sewage treatment or disposal. The owners of Lots 6 and 7 may make any use of those reserved areas not inconsistent with the primary purpose thereof.



There is also reserved a fifty foot right-of-way crossing Lot 2 and joining Lot 3 to the Road. The only access currently allowed to Lots 2 and 3 is across said right-of-way. The owners of Lots 2 and 3 shall maintain said right-of-way, at their own expense, and shall be equally responsible for the cost thereof. Declarant shall not be obligated to provide any improvements within such right-of-way. Nothing shall prohibit the owner of Lot 2 or the owner of Lot 3 from procuring permits necessary to fill wetlands to allow other access to either of such Lots, or from constructing a bridge to provide access to either of said Lots. The Declarant makes no warranty or representation that such permits can be procured. Should the owner of Lot 3 procure such approvals, and provide access to Lot 3 directly from the Road, said owner may relieve himself of maintenance obligations from said access easement by recording in the office of the Register of Deeds of Carteret County a withdrawal of his right (and the right of his successors and assigns) to utilize said access easement for any purpose.

There is no access provided to Lots 8 and 9 at the time of the recording of this Plat. It is the intent of Declarant, assuming permits can be procured allowing construction thereof, to construct a bridge across wetlands, connecting the Road to Lots 8 and 9. There is herein reserved an easement across Lot 8 for the purpose of providing access to Lot 9, which easement shall be fifty feet in width, and which easement shall be located at the discretion of Declarant, but not so as to limit the reasonable utilization of Lot 8 for building purposes. The conveyance of Lot 8, when made, shall specify the location of said easement, which easement cannot then be relocated without the permission of the owner of Lot 8. Once constructed, the cost of maintenance of said bridge, and all access easements, shall be borne equally by the owners of Lots 8 and 9, and the owners of Lots 8 and 9 shall have an affirmative obligation to bear such maintenance cost.

The Association shall have the responsibility of maintaining a sightly appearance along the Access Easement and along the Road. Those entitled to utilize or receiving benefit from any of the other easements named herein shall maintain such easements in a good, functional and sightly condition.

The Association shall have the obligation to provide for itself and for the benefit of the owner of each Lot all necessary professional services to promote the proper maintenance of all roads, driveways and access easements, and to provide a smooth, proper and legal administration of the Association. These services may include services of an engineer, lawyer, accountant or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of the Subdivision and in the management of the Association as deemed reasonably necessary by the Board of Directors of the Association. The Association shall maintain all insurance coverage it believes desirable, including, but not limited to officers and directors liability insurance, general liability insurance, workmen's compensation insurance and casualty insurance.

The Association shall have the optional authority to provide any service to the Lots it believes desirable, including, but not limited to cable television, waste collection or utility service. Such services may be provided by the Association directly, by a subsidiary owned by the Association or by contract with a third party. Assessments may be collected to pay for the provision of such services.

In order to fund its obligations, the owner of every Lot is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay the Association the following:

- (a) annual charges or dues; and
- (b) special assessments.

All such assessments, charges, and dues, together with any interest thereon, shall be a charge on the lands and shall be a continuing lien upon the Lot against which assessments are made. Liens shall be perfected in the manner of a mechanics or materialmens lien under North Carolina General Statutes, and any lien for dues unpaid shall be filed within nine (9) months after the due date of the payment of such assessment. The due date shall be the first day of the fiscal year of the Association, as to annual dues; and the date established for payment of a special assessment, as more fully set out hereinafter. Any such lien may be enforced in the manner of a deed of trust with power of sale, as allowed by North Carolina General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give to the President of the Association said power of sale. To the extent that the owner of any Lot has an obligation to maintain any easement or improvement as contained herein, and fails to do so after receiving written notice from the Association, or in the event said owner fails to contribute his required pro rata cost of such improvement, the Association may collect such charge, or may cause such maintenance or upkeep to be provided, at the expense of the owner of said Lot, and may collect its expenses in doing so, plus a fifteen percent administrative fee, from the defaulting owner, which may be collected in the nature of a special assessment as more fully set out herein.

Annual assessments shall be in an amount determined by a majority vote of the Directors of the Association. Annual charges, dues, or special assessment shall be divided into 18 shares. For any original Lot 1 through 9 which remains undivided, each undivided Lot shall pay two shares of annual charges, dues, or special assessments. For any original Lot 1 through 9 which is later divided pursuant to Paragraph 4 above, each new lot so created shall pay one share of annual charges, dues, or special assessments. The fiscal year of the Association shall be the calendar year; dues for the first year of the Association, prorated by date of closing, shall be payable to the Association as closing. Declarant shall pay dues for all unsold Lots beginning on the first day of the year following the first conveyance of a Lot. Beginning with January 1 of the year following issuance of a building permit for construction of a home on a Lot, the dues for each such Lot for which a building permit for construction of a home has been issued shall be twice the then determined assessment for each unimproved Lot. No amendment to these Protective Covenants, unless approved by Declarant and all owners of Lots within the Subdivision, shall alter the ratio of dues paid by the Owner of an unimproved Lot compared to the dues paid by an owner of an improved Lot. No assessment shall be paid relating to Lots 8 or 9, however, until such time as the access bridge as above set out has been completed, and the first of said two Lots has been conveyed.

Notwithstanding any provisions of these Protective Covenants, including this Paragraph 6, the Board of Directors shall have authority to levy any special assessment against any or all of the Lots within the Subdivision if, in the sole discretion of said Directors, the assessment is reasonably required to protect properties impacted in case of any emergency, such as a storm

causing severe erosion. In such event, the Directors shall give written notice to the members so affected as promptly as possible after the determination of said assessment and the action shall be binding as though ratified by the requisite vote of the owners of Lots. All other special assessments must be approved by a majority of the owners of all the Lots, and such assessments shall be equally assessed against each Lot.

7. **ENFORCEMENT.** These Protective Covenants, including any amendment hereto, may be enforced by any individual Lot owner; by the Association, upon action by its Board of Directors; or by Declarant, as long as Declarant owns any Lot within the Subdivision. Appropriate remedies shall include, but not be limited to, specific performance. In any action to enforce these Protective Covenants, including any action to collect assessments, either regular or special, or to foreclose upon any real property for payment of such assessment, all costs associated with said collection, including court costs and reasonable attorney's fees, shall be collected as an additional assessment. In addition, interest at the rate of twelve percent (12%) per annum shall be collected from the due date of any assessment, until the assessment is paid in full.

8. **SETBACKS.** All setback and building restriction areas, and allowable building areas, as shown on the Plat of the Subdivision, shall be incorporated herein by reference.

9. **AMENDMENTS.** These Protective Covenants shall continue in full force and effect until 12:00 noon on January 1, 2030, at which time it shall automatically extend for additional successive periods of ten (10) years, unless a document terminating or modifying these Protective Covenants is recorded prior to any renewal date in the office of the Register of Deeds of Carteret County which amendment shall require approval of the owners of sixty-seven percent (67%) of the Lots subjected to these Protective Covenants (including any amendments hereto).

10. **BINDING EFFECT.** All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land described herein, accepts the same subject to these Protective Covenants and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these Protective Covenants, jointly, separately, and severally.

11. **RESERVATION OF RIGHTS.** Declarant hereby reserves the right to utilize all roads and easements within the Subdivision for purposes of ingress and egress to Lots within such Subdivision owned by it, for purposes of providing access to other contiguous properties owned by it. This right shall be assignable by Declarant to successors in interest to it of other contiguous properties. Any utility easements reserved as shown on any recorded plat (and all roads and easements shown on the Plat shall be deemed for this purpose a utility easement) shall be available for utilization by Declarant, authorized utility companies, or by the owner of any Lot within Davis Bay Subdivision, for purposes of providing utility services or necessary drainage, but only upon approval of the Association given by its Board of Directors.

12. **UTILITY EASEMENT.** There is hereby reserved for the benefit of the

Association and the owner of each Lot within the Subdivision a utility, drainage and maintenance easement running parallel to the Road a width of ten feet. There is further reserved an additional easement for purposes of locating off site sewage disposal facilities for the benefit of Lots 2 and 3, as more fully described hereinbefore, and as is shown on the Plat. There is reserved, and shown on the Plat, a thirty foot utility easement running along the south boundary of Lots 2, 3, 4, 5 and 6. Said easement (ten feet in width) then runs along the joint property line of Lots 1 and 2, until such time as it connects to the right-of-way and sewer easement, may be utilized for installation of electrical service to the lots shown on the Plat, and no owner will take any action to interfere with such service, whether above ground or below ground.

13. **MINOR AMENDMENT.** Declarant, their successors or assigns, shall be allowed to amend these Protective Covenants, notwithstanding any other provision contained herein, and without joinder of any other party, for the purpose of correcting any discovered error contained herein, clarifying any ambiguity contained herein, or adding or deleting any incidental provisions deemed in the sole discretion of Declarant to be in the best interest of the Subdivision, and the owners therein. This right may be exercised, and shall be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Carteret County, which Corrected Declaration shall specifically reference this document, and the provision impacted.

14. **RULES.** The Board of Directors may from time to time establish rules for use of any property within the Subdivision in order to protect the value of Lots, the aesthetic qualities of the Subdivision and the tranquility of the owners of Lots. Said rules may include, but are not limited to, reasonable restrictions on pets, rental use of homes, and parking of cars, trailers, boats, campers and other vehicles on Lots, easement and the Road. All such rules shall be effective after written notice of adoption is mailed to the record owners of all Lots. All such rules shall be enforceable as though set out within these Protective Covenants.

15. **DECLARANT CONTROL.** Notwithstanding any other provision contained herein or in the By-Laws of the Association, Declarant shall elect all directors of the Association and shall act as the Architectural Control Committee until the earlier of the following:

- (a) Assignment of such rights to the Association;
- (b) Sale of five (5) Lots; or
- (c) December 31, 2000.

16. **WAIVER.** The owner of each of the Lots, which Lots include an appurtenant part thereof designated by "A", hereby agree to waive any sideline setbacks relating to the utilization of any portion of any of the Lots designated "A" as setbacks relate to the construction of a dock or pier thereon, it being understood and agreed that there may be constructed on any portion of any Lot following by "A" a dock or pier which may be constructed up to and within one foot of the property line thereof. Nothing contained herein shall be deemed a waiver of the setback for construction of a dock on Lots 1, 2 or 3.

17. **PRIOR AMENDMENTS SUPERSEDED.** The Amendment to Restrictive Covenants recorded in Deed Book 972, Page 372 and the Modification of Protective Covenants for Davis Bay Subdivision recorded in Deed Book 1293, Page 181, Carteret County Registry are superseded and replaced by this Amended and Restated Protective Covenants, Restrictions and Easements and shall have no further effect.

IN WITNESS WHEREOF, the undersigned have executed this Amended and Restated Protective Covenants, Restrictions and Easements and caused the same to be recorded in the Register of Deeds for Carteret County, North Carolina, this 12 day of JUNE 2019.

DAVIS BAY SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

BY: [Signature] (SEAL)  
ROBERT GARRISON, PRESIDENT

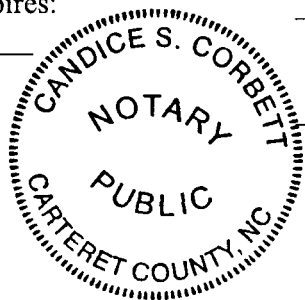
BY: [Signature] (SEAL)  
REINALDO VALLECILLO, SECRETARY

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET

I, Candice S. Corbett, a Notary Public in and for said County and State do hereby certify that ROBERT GARRISON, President of Davis Bay Subdivision Homeowners Association, Inc., a North Carolina Non-Profit Corporation, personally appeared before me this date and acknowledged the due execution of the foregoing instrument for the purposes and intents therein expressed.

Witness my hand and official seal, this the 12 day of JUNE, 2019.

My Commission Expires:  
4.17.21



Candice S. Corbett  
Notary Public

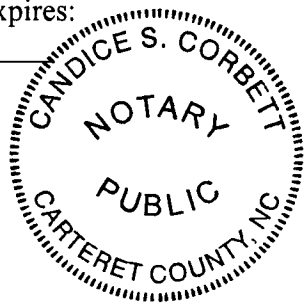
Candice S. Corbett  
Printed Name of Notary

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET

I, Candice S. Corbett, a Notary Public in and for said County and State do hereby certify that REINALDO VALLECILLO, Secretary of Davis Bay Subdivision Homeowners Association, Inc., a North Carolina Non-Profit Corporation personally appeared before me this date and acknowledged the due execution of the foregoing instrument for the purposes and intents therein expressed.

Witness my hand and official seal, this the 12 day of June, 2019.

My Commission Expires:  
4.17.21



Candice S. Corbett  
Notary Public

Candice S. Corbett  
Printed Name of Notary

October 7, 2022

Kyle Garner  
Planning & Inspections Director  
Town of Beaufort  
Planning Department  
701 Front Street  
Beaufort, North Carolina 28516

**RE: Davis Bay – Burdett Family Trust  
Preliminary Plat Review  
Town of Beaufort Project No. 22-22  
WR Project No. 080976.11**

Dear Mr. Garner,

We are writing this letter in response to comments dated September 29, 2022. Each of the comments are repeated below, followed by our response.

## **PLANNING DEPARTMENT – KYLE GARNER**

### Cover Page – Provide the following information

1. Provide the area for parks or recreation areas.
  - ▶ ***The Site Data Table has been updated to show that there are no parks or recreation areas proposed for this project.***
2. Provide the feet for new streets.
  - ▶ ***There are no streets proposed for this project. Access will be provided by the adjacent Beau Coast subdivision. The Site Data Table has been updated to reflect this.***

### Sheet C0.01 – Remove the following notes

1. General Notes – 11, 12, 13, 14 & 16
  - ▶ ***These notes have been removed as requested.***
2. Traffic Notes - 1
  - ▶ ***This note has been removed as requested.***

### Sheet C2.01

1. Are lots 2 & 3 considered as Flag Lots in your drawings? If so, please provide the lot frontage dimension and the location of the front setback.
  - ▶ ***Lot 3 has over 100' of lot frontage at the right of way, which we believe meets the minimum standards for R-20 zoning. Lot 2 however, only has 60' of lot frontage at the right of way. We have updated Lot 2's setback to pull it out to where there is 100' of frontage. Sheet 3.00 has been updated to show the dimension at the setback lines as well.***

### Sheet C3.02

1. Provide Scale bar.
  - ▶ **A scale bar has been added to the sheet**
2. What is the distance from the proposed Fire Hydrant to lot 1? (Must be less than 1,000 feet)
  - ▶ **The distance to the proposed fire hydrant is approximately 460 feet. This dimension has been added to Sheet C3.02.**
3. Article VIII – 2.01 (Subdivision Ordinance) Freedom Park Road  
Need Proposed Street Elevations to make sure the street is higher than the maximum Flood Height.
  - ▶ **There are no streets proposed for this project as it will utilize the street network that is a part of the Beau Coast development. As the designers of that development, we can assure staff that this roadway will be above the 100-year flood elevation of 6’.**

The preliminary plat should be accompanied by a copy of any proposed deed restrictions or similar covenants when deemed necessary by the Planning Board (mandatory when private recreation areas are established).

- ▶ **Please see attached for the restrictive covenants and the subsequent amendments for the Davis Bay community.**

## ENGINEERING DEPARTMENT – GREGORY MESHAW, PE

### Site Plan Pages 1-7

1. Please add north arrows to the first seven plan sheets.
  - ▶ **North arrows are shown in the title blocks for each sheet along with the sheet’s scale that has now been added, which were omitted on some previously plan sheets.**

### C3.02

1. We ask that the inverts of the proposed manholes to be constructed on the adjacent property be added to show by sheet C3.02
  - ▶ **Rim and invert information for the proposed manholes within Beau Coast Phase 3. Do note that these are subject to change as design is still in progress.**
2. We note that an “existing” fire hydrant is denoted as being located on the adjacent property on sheet C3.02. A leader note also shows that some portion of the water main located downstream of this hydrant is to be constructed at a future date. Accordingly, we ask that the dividing line be shown between the run of existing water main and the main yet to be constructed.
  - ▶ **All watermains shown that these 4 lots are to be connected to including the fire hydrants are to be constructed as a part of the Beau Coast subdivision. The note calling out the fire hydrant has been updated to state “future” and also to include that it is to be constructed as a part of Beau Coast Phase 3.**

### General Comments

1. We desire to know whether the installation of the proposed water and sewer services is being coordinated with the developer of the adjacent property or whether installation of these services is envisioned to occur after the street is constructed. If the former, we ask for written confirmation of this coordination from the developer of the adjacent property.



- ▶ **The installation of the water and sewer services is intended to be installed by the contractor of the adjacent property concurrently with the installation of the mainlines associated with that development. Note 4 on Sheet C2.01 has been added to state this.**
- 2. We assume that the construction of the offsite water main, gravity sewer, and street is not under the control of the owner/developer of the proposed subdivision. Accordingly, we believe that there needs to be a written acknowledgement in place by the owner developer that no building permits will be issued by the Town until such time as all the following conditions have been satisfied.
  - a. The offsite street has been constructed and the developer of the adjacent property grants permission in writing for driveway connections to the street or until such time as the street has been constructed and dedicated to the Town so that permission from the offsite developer is not needed.
  - b. The water and sewer mains have been constructed, as-built plans of these utilities have been produced, the construction certified by the engineer-of-record, and the certification has been recognized/accepted by the NC Department of Environmental Quality.
    - ▶ **Sheet C2.01 has been updated to add notes to assure the above requirements are met.**
- 3. Part 7.B of the Town's "Wastewater Allocation Policy" requires that "all applicants requesting water and/or sewer service outside Town limits shall file a petition for annexation." No such petition was included among that submitted for the project. As such, the request for wastewater allocation cannot be advanced to the Board of Commissioners until such time as a petition is received and the subsequent annexation process initiated.
  - ▶ **Please see attached for the signed annexation request forms.**

With this letter, please see attached for the updated plan set, the restrictive covenants/amendments for the subdivision approval, and signed annexation forms. Thank you again for all your assistance on this project and please let us know if you need anything else in order for us to be heard at the October 17, 2022 Planning Board Meeting.

Sincerely,

WithersRavenel



Joe Boyd, P.E.  
Project Manager



**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, October 17, 2022 – Train Depot**

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**AGENDA CATEGORY:** New Business  
**SUBJECT:** 2023 Planning Board Meeting and Submittal Calendar

**BRIEF SUMMARY:**

Our new administrative support specialist, Laurel Anderson, has developed the 2023 meeting and submittal calendar for the coming year. We ask that each member review the proposed dates and inform us of any conflicts at the November meeting.

**REQUESTED ACTION:**

Discussion on Proposed Calendar  
Decision on Proposed Calendar

**EXPECTED LENGTH OF PRESENTATION:**

5 Minutes

**SUBMITTED BY:**

Kyle Garner, AICP  
Planning & Inspections Director

**BUDGET AMENDMENT REQUIRED:**

N/A

## Planning Board Meeting Dates for 2023 (Third Monday of the Month)

Submission Deadline	Meeting Date
12/22/2022	1/17/2023 *
1/30/2023	2/21/2023 *
2/27/2023	3/20/2023
3/27/2023	4/17/2023
4/24/2023	5/15/2023
5/30/2023 *	6/19/2023
6/26/2023	7/17/2023
7/31/2023	8/21/2023
8/28/2023	9/18/2023
9/25/2023	10/16/2023
10/30/2023	11/20/2023
11/27/2023	12/18/2023
12/28/2023 *	1/16/2024 *

\* Moved due to Holiday Schedule