



# Planning Board Agenda

## Town of Swansboro

Tuesday, December 06, 2022

### I. Call to Order

### II. Approval of Minutes

- [a.](#) May 3, 2022, Regular Meeting
- [b.](#) May 24, 2022 Special Meeting
- [c.](#) September 6, 2022 Regular Meeting
- [d.](#) October 4, 2022 Regular Meeting
- [e.](#) November 1, 2022 Regular Meeting

### III. Business

#### [a.](#) **Text Amendments related to Demolition by Neglect and Enforcement**

***Presenter: Andrea Correll, AICP Planner***

Following the Historic Preservation Commissions review of a Demolition by Neglect draft ordinance and specific statues related to such, the prepared UDO text amendment to Sections 152.484 through 152.486 was recommended unanimously.

Recommended Action: Recommend approval of the requested text amendments to the Board of Commissioners.

### IV. Chairman/Board Thoughts/Staff Comments

### V. Public Comments

### VI. Adjournment

**Town of Swansboro  
Planning Board  
Regular Meeting Minutes  
May 3, 2022**

Item II - a.

**Call to Order**

The meeting was called to order at 5:41 pm. Board members in attendance were Michael Favata, Christina Ramsey, Scott Chadwick, Ed McHale. Members absent were Laurent Meilleur, Edward Binanay, and Sherrie Hancock.

**Minutes**

On a motion by Mrs. Ramsey, seconded by Mr. McHale, the minutes for March 1, 2022, Regular Meeting were approved unanimously.

**Business**

***Program of Work Aligning the Zoning Map with the Future Land Use Map***

Planner Ansell reviewed that one of the items on the Planning Board's Program of Work for implementing the 2019 Land Use Plan Update was to "consider map amendments (zoning maps) that reflect the Future Land Use categories including Table of Uses (BOC recommendation)". See *attachment A and B*.

At the Boards March 1, 2022, regular meeting it was reviewed that such an alignment would result in the creation of many non-conforming uses. After discussion at that meeting, staff was directed to return with a list of properties starting from the west end of town up to Norris Road. The list provided contained 269 properties of which 142 properties (developed & undeveloped) would be made non-conforming if the alignment was made. Many areas are zoned B1 but identified as Low Density/Suburban Neighborhood in the Future Land Use Plan and there were many businesses already established in these areas. In some areas of the Land Use Plan, there were allowances for additional density based on distance and proximity from the areas designated as Traditional Town Center, however the Pirates Cover subdivision exceeds the density than what would be allowed, therefore an entire subdivision would be considered nonconforming if rezoned. Changing the zoning would make properties non-conforming and could result in future issues for existing properties, vacant properties, and could cause issues with mortgages/loans.

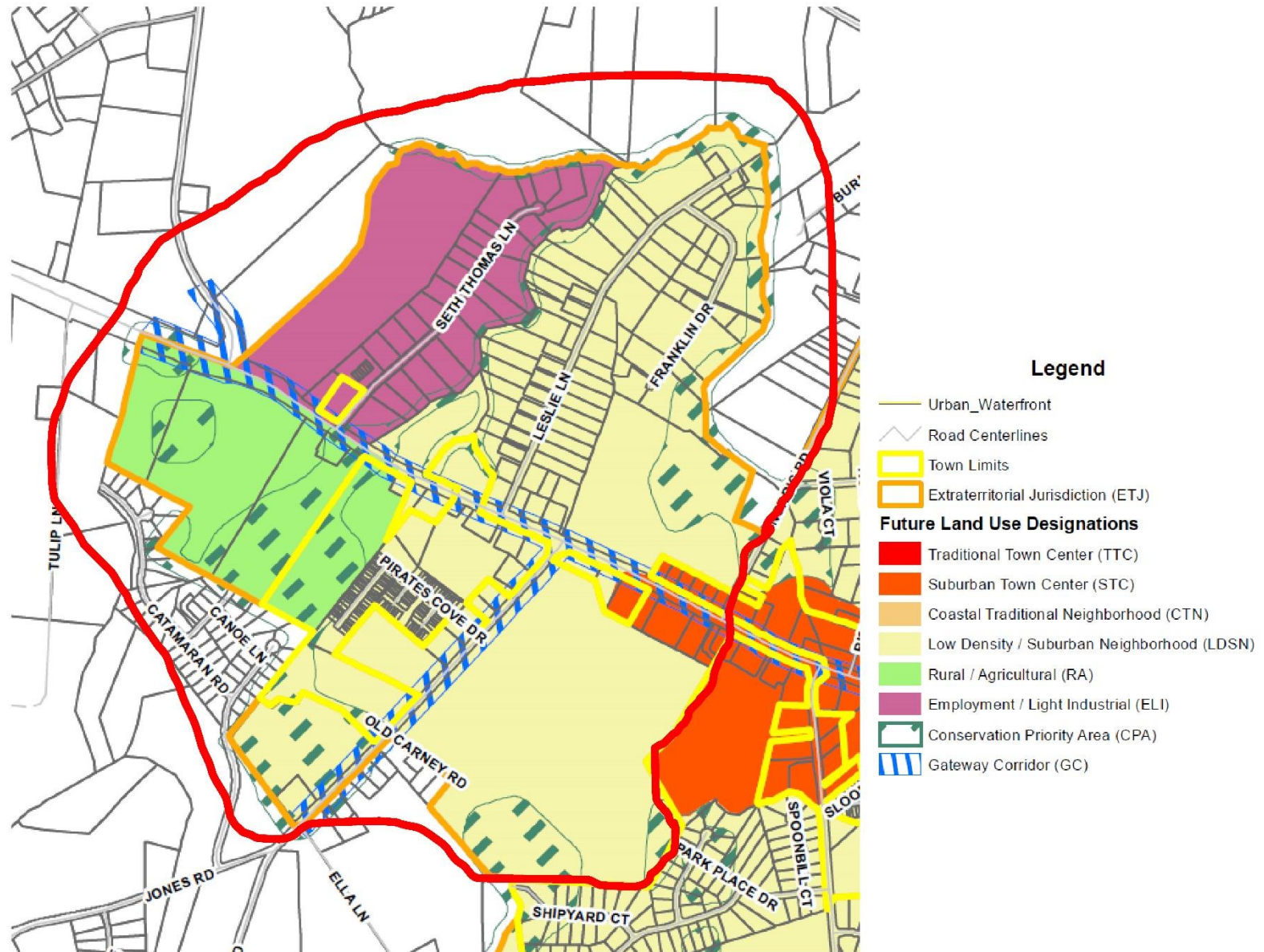
In response to inquiries from the board, Mrs. Ansell clarified the following:

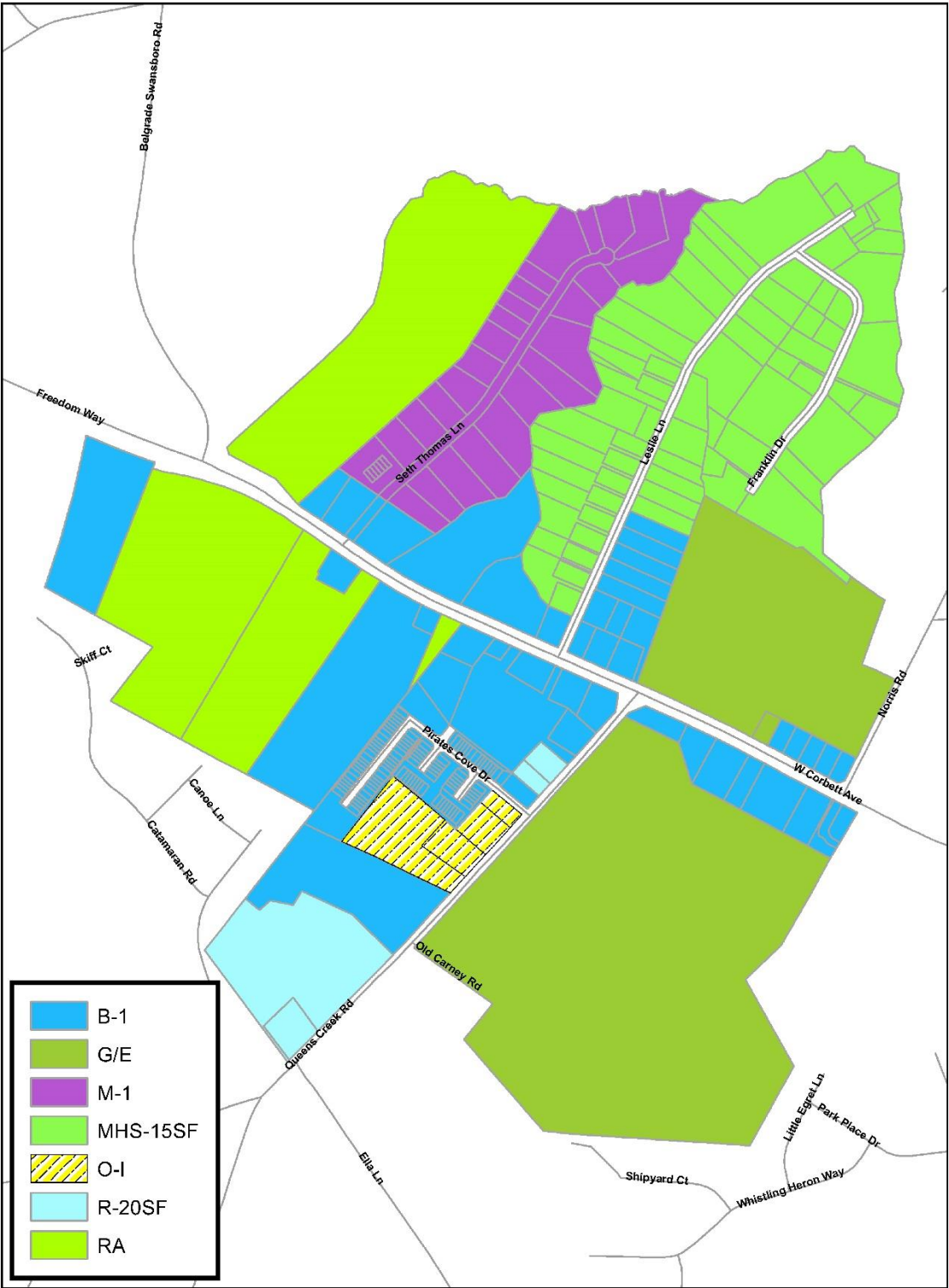
- Mrs. Ansell knew nothing about a development behind Tideland News/774 Corbett Ave.
- Regarding the 50% improvement rule Mrs. Ansell would have to research and get back to the board
- Special Use process would apply if the zoning was changed and a property that existed prior to the change was destroyed due to an Act of God
- Rezoning undeveloped properties would not be recommended since most of those properties were in the middle of a zoning district
- If no changes were made, the board's statement of consistency would routinely be indicated as inconsistent when they review items such as special use permits or rezonings

Mrs. Ansell recommended the board request a joint meeting with the Board of Commissioners, and the members agreed. The Board wanted to hear from the members who participated in the Future Land Use Plan updated and desired to obtain further guidance before proceeding with such an amendment. The board agreed to cancel their special meeting on May 16, 2022, for further Land Use Plan implementation items until further guidance was received for this item on their Program of Work. On a motion by Mr. McHale seconded by Mr. Favata, the May 16, 2022, special meeting was canceled. The motion was unanimous.

**Adjournment**

On a motion by Mrs. Ramsey, seconded by Mr. Chadwick, the meeting adjourned at 6:16 pm.





**Town of Swansboro**  
**Planning Board**  
**Special Meeting Minutes**  
**May 24, 2022**

**Call to Order**

The meeting was called to order at 5:30 pm. Board members in attendance were Michael Favata, Christina Ramsey, Scott Chadwick, Edward Binanay, Sherrie Hancock, and Ed McHale. Absent Laurent Meilleur

**New Business**

*Barnes Special Use Permit – 522 W. Corbett Ave*

Planner Ansell reviewed the property at 522 W Corbett Ave zoned B-2, General Business. Single-family Dwellings are allowed in the B-2 Zone with a Special Use Permit. The dwelling at this location was constructed in 1948 and had been used as residential until July 2020, when the water was disconnected due to a leak. Ms. Barnes is applying for a Special Use Permit to allow the reinstatement of the dwelling use at this location.

In response to inquiries from the board, the following was clarified by Mrs. Ansell:

- The house is under contract and the leak was repaired two weeks ago.
- Leak happened in July 2020 and because of the time frame, they could not find anyone to repair the leak.
- Under section B it states that if service has been discontinued for less than two years and the discontinuance was based on factors beyond anyone's control it is allowed.
- Dwellings are allowed in the B2 zone by special use.

The Board reviewed and finds true following facts.

**§ 152.210 PROCEDURE FOR SPECIAL USE PERMITS.**

A) Special use permits may be issued by the Administrator, after approval by the Board of Commissioners, for the uses as designated in the table of regulations for special uses. Applications shall include all of the requirements pertaining to it as specified in this section. A hearing shall be held, and all interested persons shall be permitted to offer relevant comments. The Town Board of Commissioners shall consider the application and may approve or deny the requested special use permit.

B) In granting a special use permit, the Board of Commissioners shall give due regard to the nature and state of all adjacent structures and uses, and the districts within which the proposed use is to be located, and shall make written findings of fact concerning the existence or absence of the following criteria:

- 1) The special use is allowed pursuant to § 152.210 and meets all the required conditions and specifications, including without limitation, those set out in § 152.211. The special use, "Dwelling, single-family", is allowed by the Table of Uses in the B-2 zoning district. There are no specific conditions required under Section 152.211.
- 2) The special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. The property has traditionally been used as a dwelling, since at least 1948 based on the tax records.
- 3) The special use will not substantially injure the value of adjoining or abutting property, OR the special use is a public necessity. The request is to reinstate the residential use, therefore, there will be no effect on adjacent property values.



4) The location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by G.S. §160A-382(b). The CAMA Land Use Plan Update (2019) identifies the property as Coastal Traditional Neighborhood (CTN): The Coastal Traditional Neighborhood designation is defined as primarily single family residential, but with multi-family structures sprinkled throughout, this high-density district is walkable and its residents primarily support the businesses in the Traditional Town Center (TTC). This community type is based on historical and existing densities found in the oldest residential sections of Swansboro. It is not uncommon to have a variety of residential products, including accessory dwellings or garage apartments, duplexes, quadplexes, patio or garden apartments, and small or context sensitive apartments. This walkable district is the “old town” residential neighborhood that surrounds the historic central business district. It is walkable and dense, with small lots clustered on regular blocks that create a cozy and neighborly feel. While it is not uncommon for a non-residential use to occupy a previously residential structure, most non-residential uses occur in the nearby mixed use activity node, which is within a short walk. The historic development pattern has narrow streets and rights-of-way, with sidewalks generally only on one side of the street. Lots are narrow, but porches are wide.

On a motion by Mr. Chadwick, seconded by Sherrie Hancock the Special Use Permit was unanimously recommended for approval to the Board of Commissioners.

#### **Staff Comments**

Mrs. Ansell shared that the joint meeting with the Board of Commissioners that they wished to have could possibly be held June 27, 2022. She would provide notice when confirmed. There had not been and submittals for the June 7, 2022. Could possibly be cancelled.

#### **Board Comments**

Mr. McHale reminded the board the importance of being prepared to review agenda packets and reach out to Mrs. Ansell for any questions.

#### **Adjournment**

On a motion by Mrs. Ramsey, seconded by Mr. Binanay, the meeting adjourned at 5:45 pm.

**Town of Swansboro  
Planning Board  
Regular Meeting Minutes  
September 6, 2022**

Item II - c.

**Call to Order**

The meeting was called to order at 5:30 pm. Board members in attendance were Michael Favata, Christina Ramsey, Scott Chadwick, Ed McHale, Laurent Meilleur, Edward Binanay, and Sherrie Hancock.

**Minutes**

On a motion by Mr. Binanay, seconded by Mr. McHale, the minutes for June 20, 2022 special meeting, July 5, 2022, regular meeting and July 18, 2022 special meeting were approved unanimously.

**Business**

*Rezoning Request – 140, 144, 150, 160 Queens Creek Road*

Manager Webb reviewed that Emerald Coast, LLC, on behalf of themselves and other property owners had submitted a rezoning request for four parcels located on Queen Creek Road from O/I (Office and Institutional) to B-1 (Business). The areas were further identified as 140 Queens Creek Road containing 0.48 acres (tax parcel 1313-88), 144 Queens Creek Road containing one acre (tax parcel ID 1313-87) and 150 Queens Creek Road containing 1.35 acres (tax parcel ID 1313-85) 160 Queens Creek Road containing 5 acres (tax parcel ID 1313-85.1) the total acreage requested for rezoning is +/-7.83 acres. The properties are located within the ETJ.

The applicant was interested in commercial/office/flex space/condos/townhouse. However, the applicant had not requested conditional zoning and therefore, any uses permitted in the B-1 Zoning District would be applicable if approved.

Manager Webb reviewed that these properties were petition for rezoning prior and were reviewed for consideration in 2017, 2019 and 2020. *See attachment A.*

In conversation with the Town's Traffic Engineer Jeff Hochanadel, he shared that the traffic study conducted in 2019 would most likely not hold the same results. However, there was no such requirement for a Traffic Impact Analysis when rezoning is requested. A TIA only applies when a *project* is proposed, and in some instances when special use is requested.

It was also noted that some recent traffic movement improvements have been made along Queens Creek Road at the High School and NCDOT has indicated that there are plans for a traffic light at the Swansboro High School/Queens Creek Elementary entrance sometime in 2023.

Junior Freeman from Emerald Coast, LLC spoke representing all owners of the parcels. He shared that since the approved rezoning that was granted in 2020 there have been numerous attempts to sell these properties with many buyers interested but not willing to take a chance due to the restrictions on uses that O/I had compared to B-1. He also shared that properties along Queens Creek Road have no control over subdivisions that are built along that road which are the major contributors to the traffic on that road. He urged the board to consider approval of the rezoning. Mr. Freeman also shared that he was considering proposing an alternative traffic pattern around the Queen Creek intersection by way of a parcel that connects behind the Pirates Cover subdivision, however that process would be a long process.

Mr. Chadwick shared and read the below conclusion from the Towns traffic engineer:

***Conclusions***

*Based on the subject analyses, the construction of a commercial development along Queens Creek Road will require the construction of offsite improvements at the intersection of NC 24 (W Corbett Avenue) / Queens Creek Road to meet guidelines provided in the Town's Unified Development Ordinance. Existing intersection capacity is inadequate to handle existing / future traffic volumes. The addition of ambient traffic growth and proposed commercial site trips will cause intersection conditions to further degrade in future conditions.*

Mr. Chadwick shared that he felt future developments at this location and anywhere else in town would contribute to further congestion with that intersection.

Board members shared their concerns with the traffic issues that could arise from developments at this property, which is located directly across from the entrance to Queens Creek Elementary and Swansboro High School.

On a motion by Mr. Chadwick, seconded by Mr. Ramsey, the rezoning request was not recommended for approval to the Board of Commissioners and was not found to be consistent with the Future Land Use Plan. The motion was approved unanimously.

**Adjournment**

On a motion by Mrs. Ramsey, seconded by Mr. Chadwick, the meeting adjourned at 6:16 pm.



**History:**

The applicant submitted similar applications in 2017 and 2019 for 3 parcels, and as of July 28, 2021, tax parcel ID 1313-85 has been further subdivided into 2 lots. Below is a summary of the history.

2017

- On August 7, 2017, the Planning Board unanimously recommended denial for B1 rezoning request because it was not consistent with the CAMA Land Use Plan (LUP) of 2009 because of the lack of infrastructure supporting it. The Board considered the density for a B1 (and O/I zoning) and the effect it would have on the traffic on Queens Creek Road.
- At the September 12, 2017, BOC Public Hearing, former Planner Andrea Correll summarized excerpts from the CAMA LUP on street deficiencies and land suitability. It was noted that multiple improvements to Queens Creek Road were under review by NCDOT.

The following summarizes existing street deficiencies:

Excerpt for 2009 CAMA LUP (page 7)

*Lack of access connecting subdivisions, business apartments, etc., without having to go back on Highway 24 through areas southeast of Highway 24; i.e., connector road from Old Hammock (SR 1512) to Shore Drive area; from Queens Creek Road (SR 1512) to Hammocks Beach Road (SR 1511).*

In addition to the CAMA LUP, the Town of Swansboro commissioned a traffic study in November 2015. Over the five-year time span, the greatest number of reported accidents (42) occurred at the intersection of NC-24 (W Corbett Avenue) / Queens Creek Road / Swansboro Middle School Driveway.

There was also discussion/clarification that O/I zoning was no more/less restrictive than B1, Property owners were agreeable to O/I if B1 was not approved.

The Board of Commissioners voted 3 to 2 in favor of the O/I rezoning. However, the vote required a 2/3 approval (4) to pass on the first reading. A second reading was required at the next meeting and approval could then be granted with a simple majority vote.

- At the October 10, 2017 Board of Commissioners meeting where a second reading was to take place, no motion was made for O/I zoning therefore, the property zoning remained R20 (Single Family).

2019/2020

- On September 23, 2019 (Special Meeting), the Planning Board voted 4-1 recommending approval for the B1 rezoning request deeming it consistent with the 2019 CAMA Land Use Plan. As part of their recommendation, the Planning Board noted that there were potential negative traffic impacts of developing the proposed property and recommended renewed efforts by Swansboro officials to engage NCDOT regarding traffic improvement recommendations to NC 24 (W. Corbett Avenue/Queens Creek Road/Middle School

driveway) contained in Section 6 of the Town of Swansboro's Traffic Impact Analysis from November 4, 2015.

- At their October 22, 2019, Public Hearing, the Board of Commissioners reviewed/discussed traffic issues along Queen Creek Road and the idea that O/I zoning may be a better zoning district. The vote was unanimous to table the request.
- Mr. Freeman subsequently withdrew his application and submitted a request to rezone the properties O/I - Office Institutional.
- At their December 2, 2019, regular meeting, the Planning Board voted unanimously to recommend approval for O/I zoning; stating that it was consistent with the approved Comprehensive Plan, specifically the CAMA Land Use Plan.
- At their January 13, 2020, Public Hearing, the Board of Commissioners voted unanimously to rezone parcels 1313-85, 1313-87 and 1313-88 located on Queens Creek Road from R- 20SF to O/I.

**Town of Swansboro  
Planning Board  
Regular Meeting Minutes  
October 4, 2022**

Item II - d.

**Call to Order**

The meeting was called to order at 5:30 pm. Board members in attendance were Christina Ramsey, Scott Chadwick, Laurent Meilleur, Edward Binanay, Sherrie Hancock, and Ed McHale. Michael Favata was absent.

The applicant, Vaquero Ventures attended through the Zoom platform due to their location being out of state. Those who attended through Zoom were Pamela Parker, Patrick Noonan, and Jeff Weller.

**Old Business**

***Special Use Permit- 1117 W Corbett Ave (Starbucks coffee shop)***

Manager, Paula Webb reviewed that on June 20, 2022, the Planning Board had reviewed the Special Use Permit application and the request was tabled due areas of concern in the Traffic Impact Analysis that were identified by the Town Traffic Engineer, Jeff Hohanadel that needed to be addressed. A new study was submitted, and the Towns Traffic engineer reviewed and agreed that no improvements or recommendations were necessary to mitigate capacity concerns for intersections that are expressed in the report.

Mr. Chadwick requested those in attendance through Zoom provide details about their responsibilities for the Special Use Permit. Pamela Parker shared that she was the Development Coordinator for Vaquero and worked on permitting, Patrick Noonan was on the acquisitions team and worked in development as well, and Jeff Weller was Vaquero's Traffic Engineer.

In response to inquiries from the Board, Manager Webb or the Traffic Engineer for Vaquero Ventures, Jeff Weller clarified the following:

- Section 152.313 F (3) states that if it is determined by the town or the town's Traffic Engineer that the proposed development is only partially responsible for a deficient intersection, intersection movement, or intersection approach, payment of a partial fee-in-lieu may be considered. In this instance, the development shall be responsible for their proportionate share of a required improvement. A proportionate share is the percentage of a development's trips (as compared to the total volume of trips) at an intersection or intersection approach during the worst analyzed peak hour, all as determined by the town or the town's Traffic Engineer. For example, if a development's trips represent 5% of the total traffic at an intersection during the worst analyzed peak hour, that development will be responsible for 5% of the total cost of the required improvement at that intersection. Any fee-in-lieu consideration will be at the sole discretion of the town or town's Traffic Engineer. The standards established in § 152.384 shall be followed. Both Manager Webb and Mr. Weller agreed that this did not apply because the intersections were not deemed deficient as the Level of Service (LOS) was never lower than LOS D. (See attachment A)
- The volume increase of 7% that was used to account for the increase of traffic during the summer was provided by the Towns Traffic Engineer Jeff Hohanadel.
- There were individual movements which were identified lower than a LOS D, however individual movements do not deem an intersection deficient.

The board reviewed the application in accordance with Section 152.210. On a motion by Mr.

Chadwick, seconded by Mrs. Ramsey, the Board unanimously recommended approval of the Special Use Permit for 1117 W. Corbett Avenue (Starbucks) to the Board of Commissioners based on the following criteria:

- (1.) The special use was allowed pursuant to § 152.210 and meets all the required conditions and specifications, including without limitation, those set out in § 152.211. All Board members agreed.
- (2.) The special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved. All Board members agreed.
- (3.) The special use will not substantially injure the value of adjoining or abutting property. OR the special use was a public necessity. All Board members agreed.
- (4.) The location and character of the special use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it was located. The special use shall demonstrate conformance to the Land Use Plan or other plan in effect at the time and address impacts of the project as required by G.S. §160A-382(b). All Board members agreed.

Board members were concerned with the lighting plan and the 7% increase that was used to account for summer traffic. Manager Webb was directed to ensure the lighting plan would meet the Town's specifications and to check with the Town's Traffic Engineer on the 7% increase he directed them to use.

### **Adjournment**

On a motion by Mr. Binanay, seconded by Mr. Meilleur, the meeting adjourned at 5:55 pm.

(Attachment A)

#### **FINAL SWANSBORO STARBUCKS TRAFFIC IMPACT ANALYSIS**

**Table ES-1: Level of Service Summary Table**

Level of Service (Delay, sec/veh)	2022 Existing		2024 No Build		2024 No Build - Seasonal Traffic		2024 Build		2024 Build - Seasonal Traffic	
	AM	PM	AM	PM	AM	PM	AM	PM	AM	PM
NC 24 & Queens Creek Road/Swansboro Middle School	C (30.2)	D (37.8)	C (33.9)	D (44.3)	D (38.3)	D (53.0)	C (34.5)	D (43.4)	D (39.4)	D (52.8)
NC 24 & Norris Road/Walmart Driveway 1	B (10.7)	B (19.9)	B (11.0)	B (18.9)	B (12.2)	C (23.7)	B (14.2)	C (21.6)	B (15.6)	C (25.3)
NC 24 & Walmart Driveway 2	B (11.0)	B (12.0)	B (11.3)	B (12.5)	B (11.5)	B (12.7)	B (11.5)	B (12.6)	B (11.7)	B (12.9)
NC 24 & Hammocks Beach Road	A (8.2)	B (10.6)	A (8.7)	B (10.2)	A (9.5)	B (12.4)	A (8.6)	B (10.5)	A (9.6)	B (12.2)

**Town of Swansboro  
Planning Board  
Regular Meeting Minutes  
November 1, 2022**

**Call to Order**

The meeting was called to order at 5:30 pm. Board members in attendance were Christina Ramsey, Scott Chadwick, Laurent Meilleur, and Ed McHale. Michael Favata, Sherrie Hancock, and Edward Binanay were absent.

**Business**

***Zoning Map Amendment to rezone Parcels Along Water Steet from B2HDO to R6SF***

Planner Correll reviewed the rezoning of the following properties from B2HDO to R6SF:

Par ID 023672 (no active address)  
Par ID 018369 (209 Water Street)  
Par ID 011128 (211 Water Street)  
Par ID 011057 (no active address)  
Par ID 005673 (no active address)  
Par ID 015594 (215 Water Street)  
Par ID 020460 (217 Water Street)  
Par ID 006144 (219 Water Street)  
Par ID 010430 (no active address)

Planner Correll explained that downzoning is consistent with the Waterfront access plan as well as the Land Use Plan which supports the small traditional single-family homes.

In response to inquiries from the board, the following was clarified by Mrs. Correll:

- Downzoning to single-family would keep the area's historical character.
- Although not part of the downzoning Casper family was informed and their concern was about the Waterfront Access Plan, Mrs. Correll clarified that the Access Plan was studied, and it was found that the plan identifies that portion of the future dock walk as a sidewalk along Water Street. The Casper's supported the residential character.
- Mrs. Correll would have to research building specifications for the board.
- A list of names of property owners who have been contacted about the downzoning was given to the board.
- The Board of Commissioners requested that staff consider and study the downzoning. The state statutes were investigated and there is an exception for local government to initiate downzoning of property.
- Staff provided this law to the Planning Board.

On a motion by Mr. Chadwick, seconded by Christina Ramsey the Board recommended approval of the rezoning from B2HDO to RS6F.

***Review Table of Permitted/ Special Uses***

Planner Correll reviewed the request from the Board of Commissioners to have the Planning Board review the table of permitted/ Special Uses. Focusing on residential first, there would possibly be two categories to choose from (1) staff approval with use standards in special uses. In this category, there would be standards that would be transferred into a new category if they were no longer considered special uses and staff would follow the same criteria and standards, (2) moving the special use review to the Board of Adjustments. Once recommendations are made, staff will prepare amendments for final review/ recommendation.

In response to why this task was given to the Planning Board, Planner Correll shared The Board of Commissioners would like to exercise its legislative power and allow the Board of Adjustments judicial review which is allowed by law.

On a motion by Mrs. Ramsey, seconded by Mr. Chadwick, the Table of Permitted/ Special Uses was unanimously tabled until they have a complete Board to hear the pros and cons. Three members were absent.

**Staff Comments**

Mrs. Ramsey would like to hear from the Board of Commissioners next meeting as to why they want this change for the Permitted/ Special Uses Tables.

Mr. Chadwick felt comfortable in allowing staff to make some decisions.

**Adjournment**

On a motion by Mr. Chadwick, seconded by Mrs. Ramsey, the meeting adjourned at 6:29 pm.





# Planning Board Meeting Agenda Item Submittal

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Item To Be Considered: Text Amendments related to Demolition by Neglect and Enforcement

Board Meeting Date: December 6, 2022

Prepared By: Andrea Correll, AICP Planner

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**Overview:** Following the Historic Preservation Commissions review of a Demolition by Neglect draft ordinance and specific statues related to such, the prepared UDO text amendment to Sections 152.484 through 152.486 was recommended unanimously.

**Background Attachment(s):** Draft Ordinance Amendments to UDO Section 152.484 through 152.486

**Recommended Action:** Recommend approval of the requested text amendments to the Board of Commissioners.

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**Action:** \_\_\_\_\_  
\_\_\_\_\_  
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## Draft Ordinance

**WHEREAS** North Carolina General Statute 160D-605 and 160D-701 requires that zoning regulations shall be made in accordance with a Comprehensive Plan; and

**WHEREAS** NCGS 160D-605 also states that when adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan; and

**WHEREAS** the Board of Commissioners finds that the proposed text amendment is consistent with the current Comprehensive Plan, specifically the CAMA Land Use Plan, Land Use Compatibility, Create Zoning Standards that Enhance the Function and Appearance of the Gateway Corridor; and Implementation Recommendations and Strategies, Other Community Priorities, Enhance Appearance and Maintain Small Town Coastal Character, and considers the action taken to be reasonable and in the public interest.

**NOW BE IT ORDAINED** by the Town of Swansboro Board of Commissioners that the Unified Development Ordinance is amended as follows:

### **TITLE XV: LAND USAGE**

#### **CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE**

##### **§ 152.484 DEMOLITION.**

(A) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure, or site within the district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Swansboro Historic Preservation Commission may negotiate with the owner and with other parties in an effort to find means of preserving the building. If the Swansboro Historic Preservation Commission finds that the building has no particular significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

(B) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except in cases where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(C) If the Historic Preservation Commission or Planning Board has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the Board of Commissioners, the demolition or destruction of

any building, site, or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Commission or Planning Board for a period of up to 180 days or until the Board of Commissioners takes final action on the designation, whichever occurs first.

### **§ 152.485 DEMOLITION BY NEGLECT**

Demolition by Neglect (DBN) shall mean and include the failure by the owner or such other person who may have legal possession, custody, and control of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant features), either designated as an historic landmark or found to have historic significance, to keep the exterior features free of decay, deterioration, and structural defects, in order to ensure that the same shall be preserved. The term “demolition by neglect” shall also include the failure of such owner or other person having such legal possession, custody, and/or control, to repair, upon written request by the Town of Swansboro Historic Preservation Commission on behalf of the Town of Swansboro, such exterior features as are found to be deteriorating, or to correct any condition contributing to deterioration, including, but not limited to, the following defined and prohibited conditions of neglect and defect:

1. Deterioration of exterior walls, foundations, or other vertical supports that cause leaning, sagging, splitting, listing, or buckling.
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that cause leaning, sagging, splitting, listing, or buckling.
3. Deterioration of external chimneys causing leaning, sagging, splitting, listing, or buckling.
4. Deterioration or crumbling of exterior plasters or mortars.
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
6. Defective protection or lack of weather protection for exterior walls and rood coverings, including lack of paint, or weathering due to lack of paint and/or other protective coverings.
7. Rotting holes, and other forms of decay.
8. Deterioration of exterior stairs, porches, handrails, windows, and door frames, cornices, entablatures, wall facings, and architectural details that cause the delamination, instability, loss of shape and form, or crumbling.
9. Heaving, subsidence, or cracking of sidewalks, steps or pathways.
10. Deterioration of fences, gates, and/or accessory structures.
11. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

### **§ 152.486 PROCEDURAL REMEDIES WHEN DEMOLITION BY NEGLECT IS DETERMINED**

1. Applicants must provide a sealed report from a structural engineer who has inspected the site and consult with the Town Planner who will consult with NC State preservation office on the submittal and ask for additional information if needed as well as the Town Building Official and Town Engineer.
2. The report must contain a breakdown of the structural integrity of the building including the roof, walls floors, windows, doors, and foundation. A detailed description of each structural component that needs work must be provided with the remedy for repair along with documentation that the component is 50% or more structurally unsound.
3. If water infiltration is occurring an engineer must provide a sealed site plan showing solutions to the stormwater issue. The calculations will be reviewed by the Town's Engineer.
4. Submit 2 sealed sets of building plans and a site plan along with any exhibits that are needed for the review. The Town staff will work through the review process prior to taking the recommended drawings and exhibits to the Swansboro Historic Commission for consideration of a COA to facilitate and document the corrective action needed.

### **§ 152.4857 COMPLIANCE AND ENFORCEMENT.**

(A) Compliance with the terms of the certificate of appropriateness shall be enforced by the Administrator and when appropriate by the Board of Commissioners. The discontinuance of work or the lack of progress toward achieving compliance with a certificate of appropriateness for a continuous period of six months shall be deemed a failure to comply with the certificate of appropriateness, and, without further action, the certificate of appropriateness shall be null and void. In addition to any other remedy provided by this chapter or by law, this chapter may be enforced in the same manner and violations hereof are punishable according to the procedures and penalties for violations of the zoning ordinance and town codes. In case any building, structure, site, area or object within the Historic District is about to be demolished, whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed, or destroyed except in compliance with the ordinance, the Town Board, the Commission, or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful demolition, destruction, material alteration, remodeling, or removal; to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such a building or structure.

(B) Additionally, nothing contained in this ordinance shall prohibit, impair, or limit in any way, the power of the Town of Swansboro to prevent the construction, reconstruction, alteration, restoration, or removal of buildings, structures, appurtenant fixtures, or outdoor signs in the Historic District in violation of the provisions of this chapter. The enforcement of any remedy provided herein shall not prevent the enforcement of other remedy or remedies provided herein or in other ordinances or laws. (See G.S. §§160A-175 and 160A-389).

(C) When Demolition by Neglect (DBN) properties have been identified and added to the DBN List, the general steps, actions, decision points, and owner's needed responses when receiving notice of violation from the Town Planner is as follows:

1. A completed DBN complaint form is submitted to the Planner and stamped with the received date and initials. Staff may fill out the complaint form based on email or phone call from a complaint. Email or regular mail is preferred, however if a phone call is received the Town Planner will respond by email and email should be sent to the complainer and the HPC. The Planner will report to the HPC at the next regular meeting.
2. Within 14 days following receipt of the DBN complaint, a status report of the complaint investigation and actions taken is mailed to the complainant and, if warranted, the property owner is notified of the violation. The complaint investigation is reported to the HPC at its next regular meeting if there is a basis for complaint. The Town Planner is the responsible party to prepare and present the reports to HPC.
3. If there is a basis for complaint, the property owner in violation has thirty calendar days to respond to the documented violation(s) contributing to demolition by neglect. The property owner may respond by phone, email or in writing. A follow-up shall be sent in the event the property owner responds by phone. A copy of that email shall be sent to the HPC within two business days of the call. The Planner shall maintain a record of communication with the property owner. The Town Planner is the responsible party to prepare and present the reports to HPC.
4. If the property owner fails to respond or to address the violation(s) by the required deadline, The Town Planner will report Town enforcement action at the next HPC meeting.
5. The HPC evaluates the staff notification of the DBN findings for a property and determines whether to proceed with further action.

#### **§ 152.4868 MUNICIPALLY OWNED PROPERTY.**

(A) Municipally owned property will be subject to the same regulations as privately owned property if located within the Historic District.

(B) If consideration is being made for possible town acquisitions of historic property, the Swansboro Historic Preservation Commission should provide input in all stages of planning on the usefulness of the acquisition. However, acquisition and restoration of historic property should remain the domain of private enterprise whenever possible.

This Ordinance shall be effective upon adoption.

Adopted by the Board of Commissioners in regular session, (Month) (Day), 2022.

Attest:

\_\_\_\_\_  
Alissa Fender, Town Clerk

\_\_\_\_\_  
John Davis, Mayor

## PLANNING BOARD STATEMENT OF CONSISTENCY

During its \_\_\_\_\_, 2022 regular meeting, the Town of Swansboro Planning Board recommended proposed amendments to the Unified Development Ordinance related to demotion by neglect.

This proposed amendment is **consistent** with the current Comprehensive Plan, specifically the CAMA Land Use Plan, Implementation Recommendations and Strategies, Other Community Priorities, Enhance Appearance and Maintain Small Town Coastal Character, and has been recommended for **approval** by the Planning Board.

This statement reflects the recommendation of the Town of Swansboro Planning Board this the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_

Vote

\_\_\_\_\_

Scott Chadwick, Planning Board Chairperson