



AGENDA BRUNSWICK COUNTY PLANNING BOARD

**6:00 P.M. Monday
July 13, 2020**

**Commissioners Chambers
David R. Sandifer Administration Bldg.
Brunswick County Government Center**

- 1) Call to Order.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Recognition of new Planning Board Member Bill Clark.
- 5) Roll Call.
- 6) Consideration of Minutes of the June 8, 2020 Meeting.
- 7) Agenda Amendments.
- 8) Public Comment.
- 9) Public Hearings.

A. Rezoning Z-790

Proposed rezoning of approximately 5.44 acres located at 6849 Sweet Gum Rd NW from R-7500 (Medium Density Residential) to C-LD (Commercial Low Density) for Tax Parcel 2120002411.

LAND USE PLAN MAP AMENDMENT LUM-790:

Request to amend Tax Parcel 2120002411 located at 6849 Sweet Gum Rd NW from LDR (Low Density Residential) to Commercial.

B. Planned Development – PD-30

Name: Avalon (Revision)

Applicant: CSD Engineering - Howard Resnick

Tax Parcel: 16900011

Location: Southport-Supply Road SE (NC 211)

Description: Avalon Planned Development was originally approved in November 2005 with 344 single family lots and 96 multifamily units on a gross site of 214.21 acres with an overall density of 2.05 units per acre. The proposed revision adjusts lot configuration and adds 7 single family lots increasing the overall density to 2.09 dwelling units per acre.

C. Planned Development – PD-31

Name: Calabash Palms

Applicant: Calabash Townhomes, LLC. - Amanda MacLeod

Tax Parcel: 2250011702

Location: Calabash Road NW (SR 1300)

Description: Calabash Palms is a proposed planned development consisting of 69 townhome units on a gross site of 9.56 acres creating an overall density of 7.22 units per acre.

D. Proposed Revisions to Amend Definitions Section and Provide Use Standards for Model Home, Display Home, and Real Estate Office in the Brunswick County Unified Development Office

- Staff Proposed Text Amendment
- Citizen Proposed Text Amendment

9) Other Business.

- Land Use Plan Update.
- Planning Board Case Update.
- Election of Officers.

10) Adjournment.

MINUTES
PLANNING BOARD
BRUNSWICK COUNTY, NC

6:00 P.M. Monday
June 8, 2020

Commissioners Chambers
David R. Sandifer Administration Bldg.
County Government Center
Old U.S 17 East

MEMBERS PRESENT

Eric Dunham, Chair
Joy Easley, Vice Chair
Richard Leary
Ron Medlin
William Bittenbender
Tom Simmons
Brett Riggs, Alternate

MEMBERS ABSENT

None

STAFF PRESENT

Kirstie Dixon, Director
Marc Pages, Senior Planner
Connie Marlowe, Admin. Asst. II
Jennifer Skaggs, Planning Tech.
Justin Brantley, Project Planner
Bryan Batton, Asst. County Attorney

OTHERS PRESENT

Michael House
James Ellis Bryant
John Hankins

Ruby Thomas
Margaret Singletary
Howard Resnik

I. CALL TO ORDER.

Mr. Dunham called the meeting to order at 6:01 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE.

Mr. Dunham said a prayer. The Chair asked everyone to stand and face the U.S. Flag to say the Pledge of Allegiance.

III. ROLL CALL.

There were no members absent.

IV. CONSIDERATION OF MINUTES OF THE 09-MAR-20 MEETING.

Mr. Medlin noted a correction on page 2 that should reflect Mr. Richard Leary as being absent rather than Mr. Ron Medlin. Mr. Leary made a motion to approve the 09-Mar-20 minutes with the noted correction and the motion was unanimously carried.

V. AGENDA AMENDMENTS.

There were none.

VI. PUBLIC COMMENT.

There were none.

VII. PUBLIC HEARINGS.

A. Rezoning Z-789 – (Ruby Thomas, Efrid Johnson, Willie Graham, and James Bryant).

Request rezoning of approximately 47.14 acres located near the intersection of Randolphville Road NE (SR 1402) and Johnsonville Road NE (SR 1493) from R-7500 (Medium Density Residential) to R-6000 (High Density Residential) for Tax Parcels 13900018, 1390001801, 1390008602, 1390008608, 1390009302, 1390009305, 1390009501, 1390009503, 1390009504, 1390009505, 1390009506, 1390009507, 1390009508, 1390009509, 1390009510, 13900096, 1390009601, and 13900097.

Mr. Pages addressed the Board. Mr. Pages read the Staff Report (attached). He identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval from R-7500 (Medium Density Residential) to R-6000 (High Density Residential) for Tax Parcels 13900018, 1390001801, 1390008602, 1390008608, 1390009302, 1390009305, 1390009501, 1390009503, 1390009504, 1390009505, 1390009506, 1390009507, 1390009508, 1390009509, 1390009510, 13900096, 1390009601, and 13900097.

Mr. Dunham asked staff about the non-conformities in the area that were mentioned in the Staff Report? Mr. Pages said there are existing single-wide mobile homes in the area that are not permitted in the current zoning district, but they are permitted in the proposed zoning change.

Mr. Bittenbender made a motion to open the Public Hearing and the motion was unanimously carried.

Ms. Ruby Lee Thomas addressed the Board. Ms. Thomas said she wants to put a single-wide mobile home on her property, but the current zoning designation does not allow for such. She

stated that she is currently homeless and she can only afford a single-wide mobile home on her fixed income.

Mr. James Ellis Bryant addressed the Board. Mr. Bryant expressed concern with the zoning sign placed in the vicinity. Mr. Pages provided a visual map showing the properties that are proposed to be rezoned to R-6000. He proceeded to explain the difference in the current zoning designation and the proposed zoning designation, in that, single-wide mobile homes are allowed in the R-6000 zoning district.

Ms. Margaret Singletary addressed the Board. Ms. Singletary said there is family-owned property in the immediate area and she is in favor of the proposed zoning change.

With no further comments, Ms. Easley made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Bittenbender made a motion to approve Tax Parcels 13900018, 1390001801, 1390008602, 1390008608, 1390009302, 1390009305, 1390009501, 1390009503, 1390009504, 1390009505, 1390009506, 1390009507, 1390009508, 1390009509, 1390009510, 13900096, 1390009601, and 13900097 to R-6000 (High Density Residential) and the motion was unanimously carried.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for REZONING be

APPROVED – CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment is consistent with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons:

The property is currently classified as MDR (Medium Density Residential) and the proposed zoning change is consistent with the land classification.

- The Planning Board further finds that the proposed zoning amendment is reasonable and in the public's interest for the following reasons:

There are family-owned properties in the area that have non-conforming uses that will become conforming with the proposed zoning change.

The Chairman stated that any person with standing may appeal their decision by providing written notice to the County Manager within 15 days of the Planning Board's decision. If an appeal is received in the allotted time, the case will move forward to the Brunswick County Board of Commissioners for a Public Hearing and their consideration. He further stated that if notice of the appeal is not provided in writing within 15 days, then the decision of the Planning Board shall be final.

B. Planned Development – PD-29

Name: Sunset Commons
Applicant: Michael House
Tax Parcels: 2270002308

Description: Sunset Commons is a proposed Planned Development consisting of 48 single family lots on a gross site of 22.35 acres creating an overall density of 2.15 dwelling units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department; and
- That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.

Mr. Dunham clarified that there are 2 homes per unit and each unit has a double driveway and Mr. Pages replied, yes.

Mr. Bittenbender asked staff about floodplain areas on the subject property and the potential for mitigation of the wetlands. Mr. Pages said the wetlands have been delineated on the site and there is no development proposed in the wetlands. Mr. Michael House interjected that all uplands are in a Flood Zone X.

Ms. Easley made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Michael House addressed the Board. Mr. House stated that Chatham Glenn is a single-family residence planned development to the south of the subject property and the proposed development will bridge the gap between single-family and commercial development.

Mr. Dunham asked about the cross-hatched area on the map and Mr. House said that area is proposed open space. He reiterated that the floodplains are contained within the wetlands on the site.

With no further comments, Mr. Bittenbender made a motion to close the Public Hearing and the motion was unanimously carried

Ms. Easley made a motion to approve Sunset Commons Planned Development with the noted conditions and the motion was unanimously carried.

C. Major Subdivision – SS-274

Name: Meridian Forest
Applicant: CSD Engineering
Tax Parcel: 1850002102
Location: Southport-Supply Road SE (NC 211)
Description: Meridian Forest Major Subdivision was approved in December 2017 with 66 single family lots. This expansion proposes to add 18 lots for a total of 84 single family lots on a gross site of 45.31 acres creating an overall density of 1.85 units per acre.

Ms. Skaggs addressed the Board. She read the Staff Report (attached). Ms. Skaggs identified the subject property and surrounding properties on a visual map.

Ms. Skaggs said staff recommend approval based on the following conditions:

- That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department;
- That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance; and
- That a road maintenance agreement be recorded with Paramount PUD and Avalon PUD.

Ms. Easley made a motion to open the Public Hearing and the motion was unanimously carried.

Mr. Howard Resnik, CSD Engineering, addressed the Board. Mr. Resnick said his company inherited this project from another engineering firm and the owner decided to go in a different direction. He stated that they have refined the proposed project to consolidate lots and create an overall better product.

Mr. Simmons asked about the elimination of the throughway off Southport-Supply Road SE (NC 211) for the lots on the southern portion of the project. Mr. Resnik said the southern lots are accessed through Paramount PUD and/or Avalon PUD. Mr. Dunham asked Mr. Resnik why there is no road maintenance agreement off Pleasant Hollow Court? Mr. Resnik said staff is requiring a road maintenance agreement be recorded with Paramount PUD and Avalon PUD. Ms. Easley clarified that Pleasant Holly Court is another accessway to Paramount PUD from Southport-Supply Road SE (NC211) and Mr. Resnik concurred.

With no further comments, Ms. Easley made a motion to close the Public Hearing and the motion was unanimously carried.

Mr. Leary made a motion to approve Meridian Forest Major Subdivision and the motion was unanimously carried.

VIII. OTHER BUSINESS.

- Planning Board Cases Update

Ms. Dixon addressed the Board. She stated that Rezoning Case 787CZ from the 09-Mar-20 Planning Board meeting was not appealed to the County Manager in the allotted time (15 days from the Planning Board's decision) so the Planning Board's decision stands.

IX. ADJOURNMENT.

With no further business, Ms. Easley made a motion to adjourn and the motion was unanimously carried.

REZONING STAFF REPORT



Prepared by Marc Pages, Senior Planner

Rezoning Case#: Z-790

July 13, 2020

APPLICATION SUMMARY

The applicant requests to rezone Tax Parcel 2120002411 consisting of 5.44 acres from R-7500 (Medium Density Residential) to C-LD (Commercial Low Density). This rezoning request is conventional, therefore, no conditions are proposed. All owners and adjacent owners have been notified via first class mail.

Location

6849 Sweet Gum Road NW

Tax Parcel

2120002411

Current Zoning

R-7500 (Medium Density Residential)

Proposed Zoning

C-LD (Commercial Low Density)

Surrounding Zoning

R-7500 and C-LD

Current Use

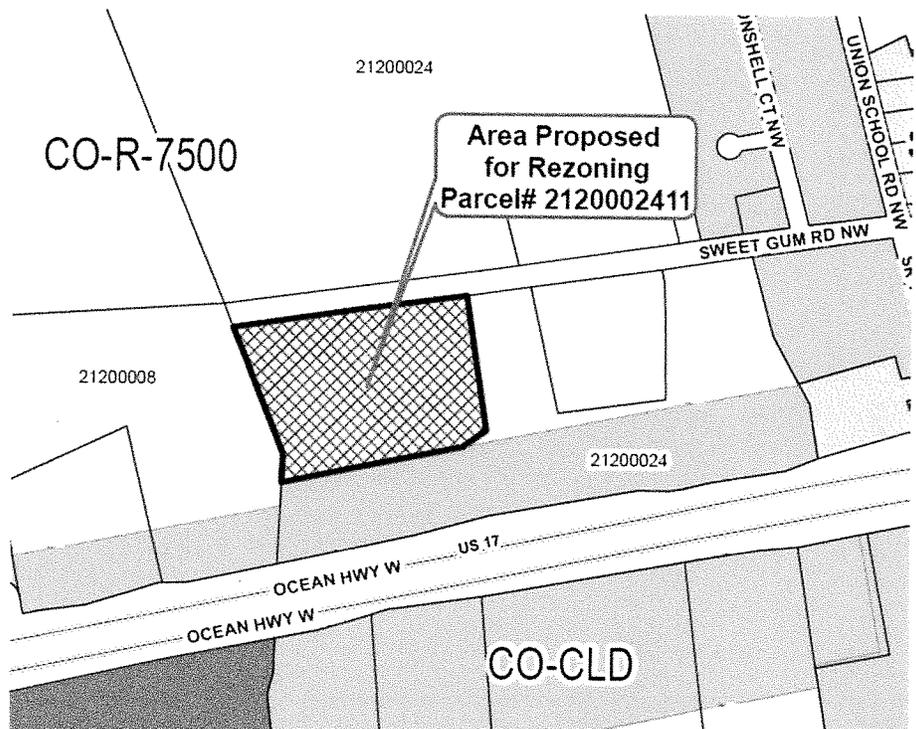
Residential

Surrounding Land Uses

Residential, Agricultural and Vacant Lands

Size

5.44 Acres



SITE CONSIDERATIONS

Zoning History: There has been no known rezoning activity on the site since 1994.

Buffers: If rezoned to C-LD, all non-residential uses will require a 0.4 (vacant) or 0.6 (developed) opacity buffer to R-7500 areas. A buffer is not required for adjacent non-residential uses zoned C-LD unless there is existing residential then a 0.4 opacity buffer will be required.

Traffic: There are no capacity deficiencies for this section of Ocean Highway West (US 17).

Utilities: Water and sewer is available from Brunswick County Utilities along Ocean Highway West (US 17). It is the developer's responsibility to coordinate with Brunswick County Utilities to connect to the water and sewer system.

Schools: There are no school capacity deficiencies at this time.

CIP Projects in Area: Brunswick Senior Center at Calabash (Completed 2018), West Brunswick Classroom Addition (FY 2021), Waccamaw School K-2 Building Replacement (FY 2021).

NCDOT Road Improvements in Area:

- New Highway – Carolina Bays Parkway (R-5876) – Planning and Design Phase.

Environmental Impacts:

- There are no Flood Hazard Zones located on the rezoning site.
- Biodiversity & Wildlife Habitat Assessment Score: The rezoning site scored 5 out of 10 due to wetlands on the site classified as substantial.
- The rezoning site lies within a half mile of a Voluntary Agricultural District.

ANALYSIS

"This District is intended primarily to be used in outlying areas, adjacent to major thoroughfares, with yards and other provisions for reducing conflicts with adjacent residential uses, and with substantial setbacks to reduce marginal friction on adjacent major thoroughfares. Commercial uses in this District will serve the needs of residential neighborhoods for auto-dependent commercial facilities; and serve the needs of highway-oriented tourist business."

CAMA Land Use Plan Classification: LDR (Low Density Residential)

- Proposed Zoning is NOT consistent with CAMA Land Use Plan
- Land Use Amendment (LUM-790) proposed from LDR to Commercial

Applicable CAMA Land Use Policies:

- P.16 states that Brunswick County strongly supports commercial nodes, including town or village centers, and the prohibition of strip commercialization.
- P.49 states that Brunswick County supports directing more intensive land uses to areas that have existing or planned infrastructure.

STAFF RECOMMENDATION SUMMARY

Staff recommends APPROVAL TO C-LD IN CONJUNCTION WITH A LAND USE PLAN AMENDMENT TO COMMERCIAL FOR TAX PARCEL 2120002411 based upon information provided, surrounding area, current uses, the Brunswick County CAMA CORE Land Use Plan, and other adopted Brunswick County plans and policies.

CONSISTENCY STATEMENT

FOR BRUNSWICK COUNTY PLANNING BOARD

ZONING AMENDMENT DESCRIPTION OR CASE NUMBER: Z-790



THE BRUNSWICK COUNTY PLANNING BOARD RECOMMENDATION

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the ZONING AMENDMENT be recommended to the Board of Commissioners for

APPROVED – CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment *is consistent with the CAMA Land Use Plan (Comprehensive Plan)* for the following reasons: _____

- The Planning Board further finds that the proposed zoning amendment *is reasonable and in the public interest* for the following reasons: _____

APPROVED – NOT CONSISTENT WITH COMPREHENSIVE PLAN

- The Planning Board finds that the proposed zoning amendment *is NOT consistent* with the CAMA Land Use Plan (Comprehensive Plan) for the following reasons: _____

- The Planning Board further finds that the approval of the proposed zoning amendment will amend the CAMA Land Use Plan (Comprehensive Plan) and the following changes have been considered to meet the needs of the community: _____

- The Planning Board further finds that the proposed zoning amendment *is reasonable and in the public interest* for the following reasons: _____

DENIED

- The Planning Board finds that the proposed zoning amendment *is* *is not* consistent with the CAMA Land Use Plan (Comprehensive Plan) and *is* *is not* in the public interest for the following reasons: _____

TABLED

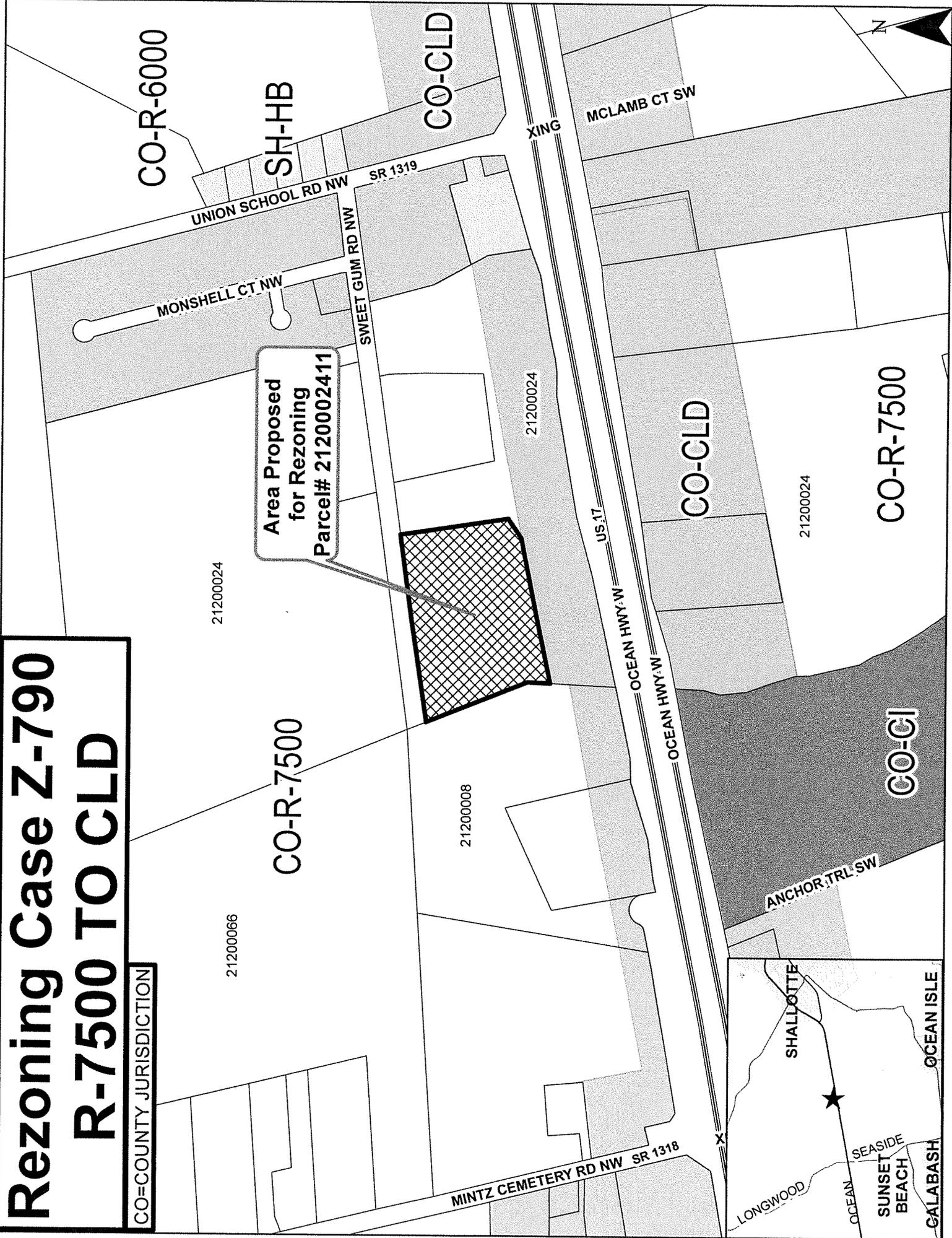
- The Planning Board *TABLES* the proposed zoning amendment to **Next Planning Board Meeting** **A Future Planning Board Meeting** in _____ months.

Excerpt from N.C.G.S. § 153A-341:

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration as to, among other things, the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the county. In addition, the regulations shall be made with reasonable consideration to expansion and development of any cities within the county, so as to provide for their orderly growth and development.

Rezoning Case Z-790 R-7500 TO CLD

CO=COUNTY JURISDICTION



Area Proposed
for Rezoning
Parcel# 2120002411

21200024

CO-R-7500

21200066

21200008

21200024

21200024

CO-R-7500

CO-CL

SHALLOTTE

OCEAN ISLE

LONGWOOD

OCEAN

SEASIDE
SUNSET
BEACH

GALABASH

CO-R-6000

SH-HB

CO-CLD

MCLAMB CT SW

UNION SCHOOL RD NW SR 1319

MONSHELL CT NW

SWEET GUM RD NW

XING

US 17

OCEAN HWY W

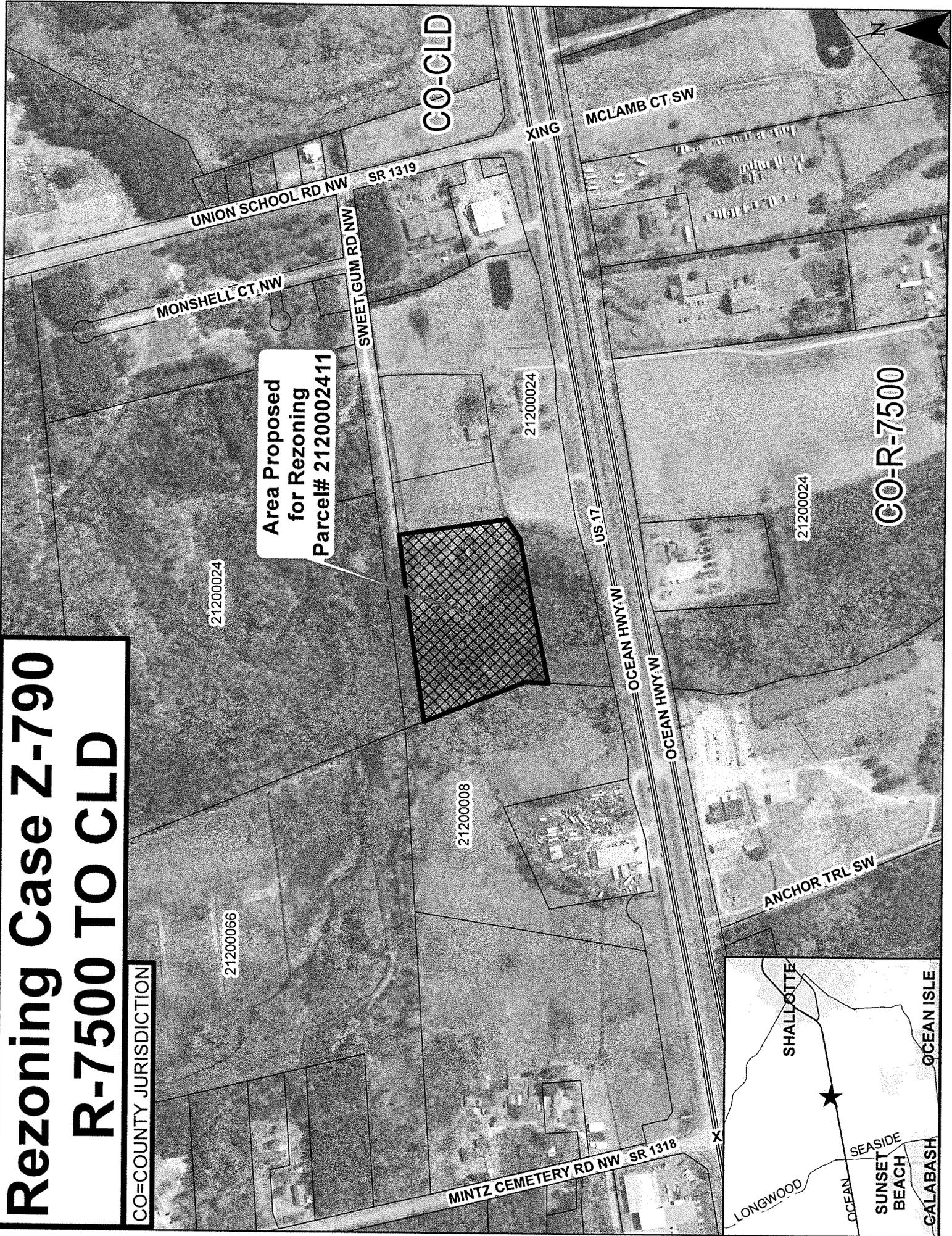
OCEAN HWY W

ANCHOR TRL SW

MINTZ CEMETERY RD NW SR 1318

Rezoning Case Z-790 R-7500 TO CLD

CO-COUNTY JURISDICTION



Area Proposed
for Rezoning
Parcel# 2120002411

21200024

21200024

21200024

21200066

21200008

CO-CLD

CO-R-7500

UNION SCHOOL RD NW SR 1319

MONSHELL CT NW

SWEET GUM RD NW

XING

MCLAMB CT SW

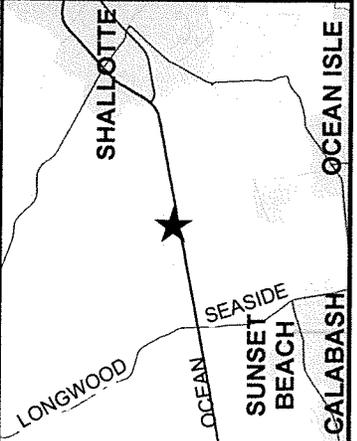
US 17

OCEAN HWY W

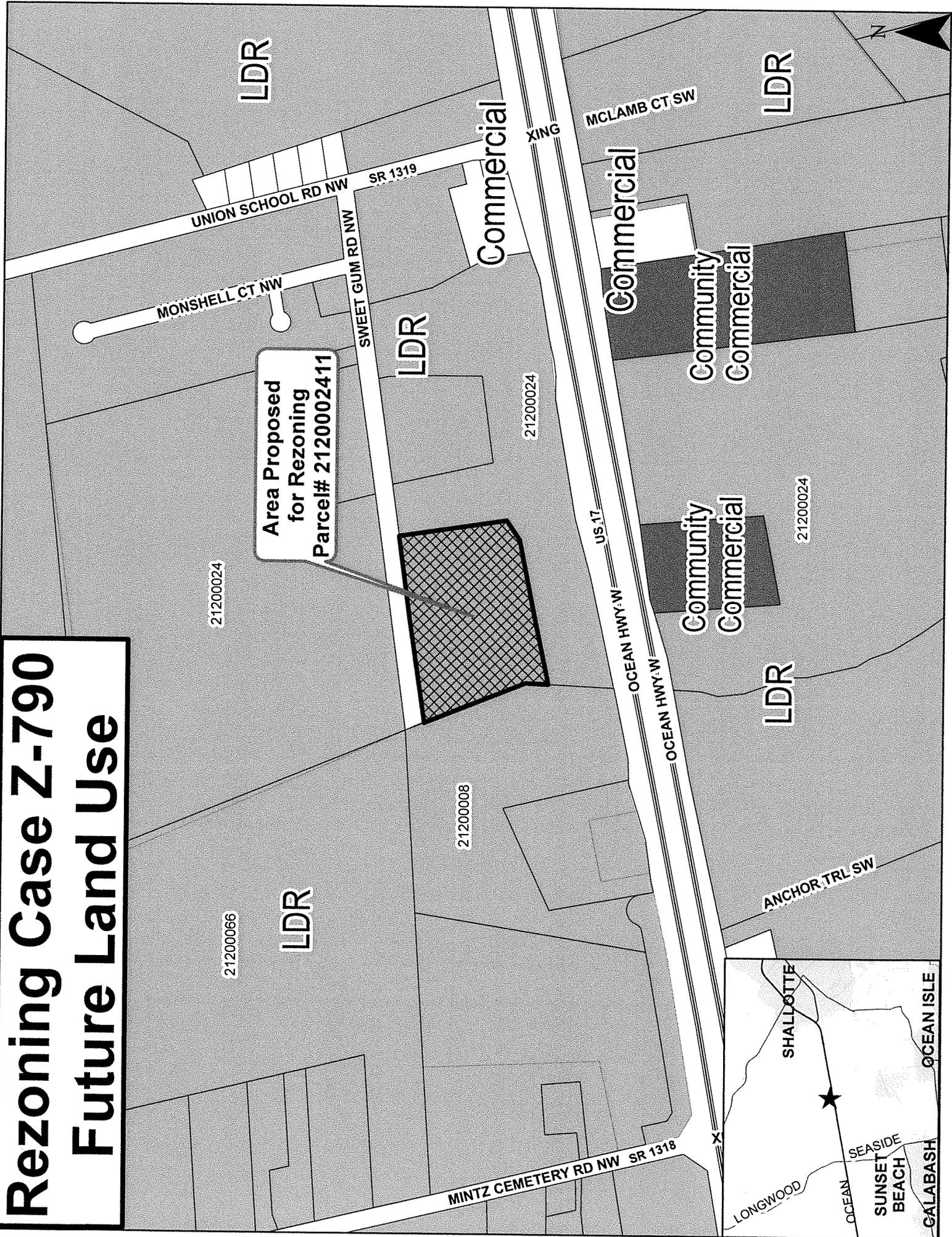
OCEAN HWY W

ANCHOR TRL SW

MINTZ CEMETERY RD NW SR 1318



Rezoning Case Z-790 Future Land Use





REZONING APPLICATION

<i>For Office Use Only</i>	
Rezoning Case Z- <u>790</u>	Invoice # <u>471230</u>
Date Received <u>4/28/2020</u>	
Northwest Jurisdiction <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

Brunswick County Planning • PO Box 249, Bolivia, NC 28422 • Phone: (910) 253-2025/1-800-621-0609 • Fax: (910) 754-2740
 Complete the following application. This form must be completely filled out. Incomplete applications will result in a delay of this application and slow down the rezoning process.

APPLICANT INFORMATION (This person will be the contact person and will receive all mailings)

Applicant Name(s):
Michael J Fulwood

Mailing Address:
6849 Sweet Gum Road, NW
Ocean Isle Beach, NC 28469

Phone: 910-471-5441 Email: michael.fulwood@atmc.net

PROPERTY OWNER INFORMATION (If different from above)

Owner Name(s):
Fulwood, Michael J ET Holly

Mailing Address:
6849 Sweet Gum Road, NW
Ocean Isle Beach, NC 28469

Phone: 910-471-5441 Email: michael.fulwood@atmc.net

PROPERTY INFORMATION

Property Address and/or Description of Location:
6849 Sweet Gum Road, NW
Ocean Isle Beach, NC 28469

Parcel Tax ID #(s): 2120002411	Total Site Acreage: 5.27
Current Zoning District(s): R7500	Proposed Zoning District(s): CLD

Conditional Zoning Request YES NO

Conditional Zoning have additional submittal requirements such as Conceptual Site Plan, Proposed Conditions, Proposed Uses, and the holding of a neighborhood meeting. Please include the additional information as an attachment to this application.

NOTE: If multiple parcels are being proposed for rezoning then write "see attached" and attach the list of the parcels. Make sure to include the Tax Parcel ID #, owner name(s)/address, and acreage information.

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STATEMENT OF REASONABLENESS

Please explain why the proposed zoning is reasonable for the area. Possible reasons could be the rezoning is consistent with the character of the area, the rezoning will match the surrounding zoning, or the rezoning is consistent with the Land Use Plan:

I want to rezone to meet the NC Board of Funeral Service requirements to license me as a Funeral Home. This would only mean that I could create an embalming room in an existing building on the property. I am already a funeral service licensee in NC and wish to be able to operate on my property instead of using embalming rooms in another facility. It would mean in a realistic sense that I would still live on the property and I have no plan now in the future to add a public meeting facility like a chapel for funeral or visitation services. I will continue to use churches or other public facilities for that. Traffic is not expected to change in any measurable way.

LAND USE COMPATIBILITY

Future Land Use Map Classification: ~~Commercial Low Density~~ LDR

Is the proposed rezoning consistent with the Land Use Plan? YES NO

If not consistent, please explain the change in conditions of the community which justify amending the Land Use Plan Map:

Property is in close proximity to a major corridor Union School Rd.

NOTE: The future Land Use Map Classification comes from the Brunswick Co. CAMA CORE Land Use Plan. If a rezoning request is not consistent then an amendment is required. Planning Staff can assist with this determination.

APPLICANT/OWNER SIGNATURE

In signing of this Rezoning Application, I certify that I have understand the application guidelines and that incomplete applications will delay my application and my rezoning. I ALSO UNDERSTAND THAT MY REZONING REQUEST MUST BE CONSISTENT WITH THE LAND USE PLAN. I further certify that I am authorized to submit this application and that all the information presented in this application is accurate to the best of my knowledge, information, and belief.

Applicant Signature: Maura J. Fulwood Date: 3-26-2020

Owner Signature: Maura J. Fulwood Date: 3-26-2020

Owner Signature: Holly J. Fulwood Date: 3-26-2020

NOTE: If there are multiple owners that need to sign have them sign under the owner signature or attached additional sheets.

Brunswick County Jurisdiction Fees

- | | | |
|--|--|--|
| <input type="checkbox"/> <1.0 acres (\$350) | <input type="checkbox"/> 1.0 to <5 acres (\$400) | <input checked="" type="checkbox"/> 5.0 to <25 acres (\$450) |
| <input type="checkbox"/> 25 to <50 acres (\$600) | <input type="checkbox"/> 50+ acres (\$1,200) | <input type="checkbox"/> Conditional Zoning (Add \$200) |

City of Northwest Jurisdiction Fees

- | | | |
|--|--|---|
| <input type="checkbox"/> <1.0 acres (\$1,650) | <input type="checkbox"/> 1.0 to <5 acres (\$1,760) | <input type="checkbox"/> 5.0 to <25 acres (\$1,870) |
| <input type="checkbox"/> 25 to <50 acres (\$2,090) | <input type="checkbox"/> 50+ acres (\$2,200) | <input type="checkbox"/> Conditional Zoning (Add \$550) |

Please note that any continuance request after initial advertising will incur an additional \$500 fee for Brunswick County Jurisdiction and \$550 for City of Northwest Jurisdiction.

CASE Z-790

ADJACENT PROPERTY OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
21200066	FULWOOD JERRY T	80 MINTZ CEMETERY RD NW	OCEAN ISL BCH	NC	28469-3512
21200024	FULWOOD EULALIA A	5886 OCEAN HWY W	SHALLOTTE	NC	28459
21200008	FULWOOD DENNIS H ETUX	PO BOX 1218	SHALLOTTE	NC	28459-1218

OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
2120002411	FULWOOD MICHAEL J ET HOLLY	6849 SWEET GUM RD	OCEAN ISLE BEACH	NC	28469

APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
2120002411	FULWOOD MICHAEL J ET HOLLY	6849 SWEET GUM RD	OCEAN ISLE BEACH	NC	28469

**BRUNSWICK COUNTY
STAFF REPORT AND RECOMMENDATION**

Application No. PD-30
Applicant: CSD Engineering – Howard Resnick
Project Name: Avalon Planned Development Revision
Property Location: Southport-Supply Rd. SE (NC 211)
Parcel Number: 16900011
Zoning District: R-6000 (High Density Residential)
Surrounding Zoning **North:** R-7500 (Medium Density Residential)
South: R-6000
East: R-6000 and RR (Rural Residential)
West: R-6000 and R-7500

Proposed Use: Avalon Planned Development was originally approved in November 2005 with 344 single family lots and 96 multifamily units on a gross site of 214.21 acres with an overall density of 2.05 units per acre. The proposed revision adjusts lot configuration and adds 7 single family lots increasing the overall density to 2.09 dwelling units per acre.

During the economic downturn a decade ago, Avalon was partially completed with some lots sold to individuals and the remainder of the property foreclosed on by multiple banks. The southern portion was later bought by D. R. Horton and is currently nearing completion. The northern portion of the development had improvement guarantees (bond sureties) on the property. Once secured by Brunswick County, the infrastructure was installed to the existing lots. Unfortunately, there was not enough bond money to install the necessary electrical service. Of the 88 recorded lots in the northern portion, 48 are owned by individuals with the remainder owned by the developer.

Approval Criteria

- Proposed infrastructure will include:
 1. **Water** and **Sewer** will be provided by Brunswick County.
 2. **Roads** will be private.
 3. **Electrical** service is currently not installed in the northern portion of Avalon. The developer will install the missing electrical service to the existing and unrecorded lots.
- The proposed additional lots will not result in any additional driveway permitting requirements by NCDOT.
- Parking will be off-street, and the proposed project meets the minimum vehicular access point requirements.
- The total **Open Space** to be provided is **73.40** acres which exceeds the 2005 site plan requirement of **22.63** acres. The proposed additional 7 lots are to be placed in an area previously labeled as open space, but the reconfiguration of the lots and the alleys has not resulted in a net loss of overall open space.
- Surrounding uses include single family residential and vacant land.
- Adjacent property owners were notified via US mail and a notification sign was posted on the subject property.
- TRC was held on April 16, 2020.
- A Neighborhood Meeting consistent with UDO Section 9.2 was held on July 1, 2020 at Lockwood Folly Park.

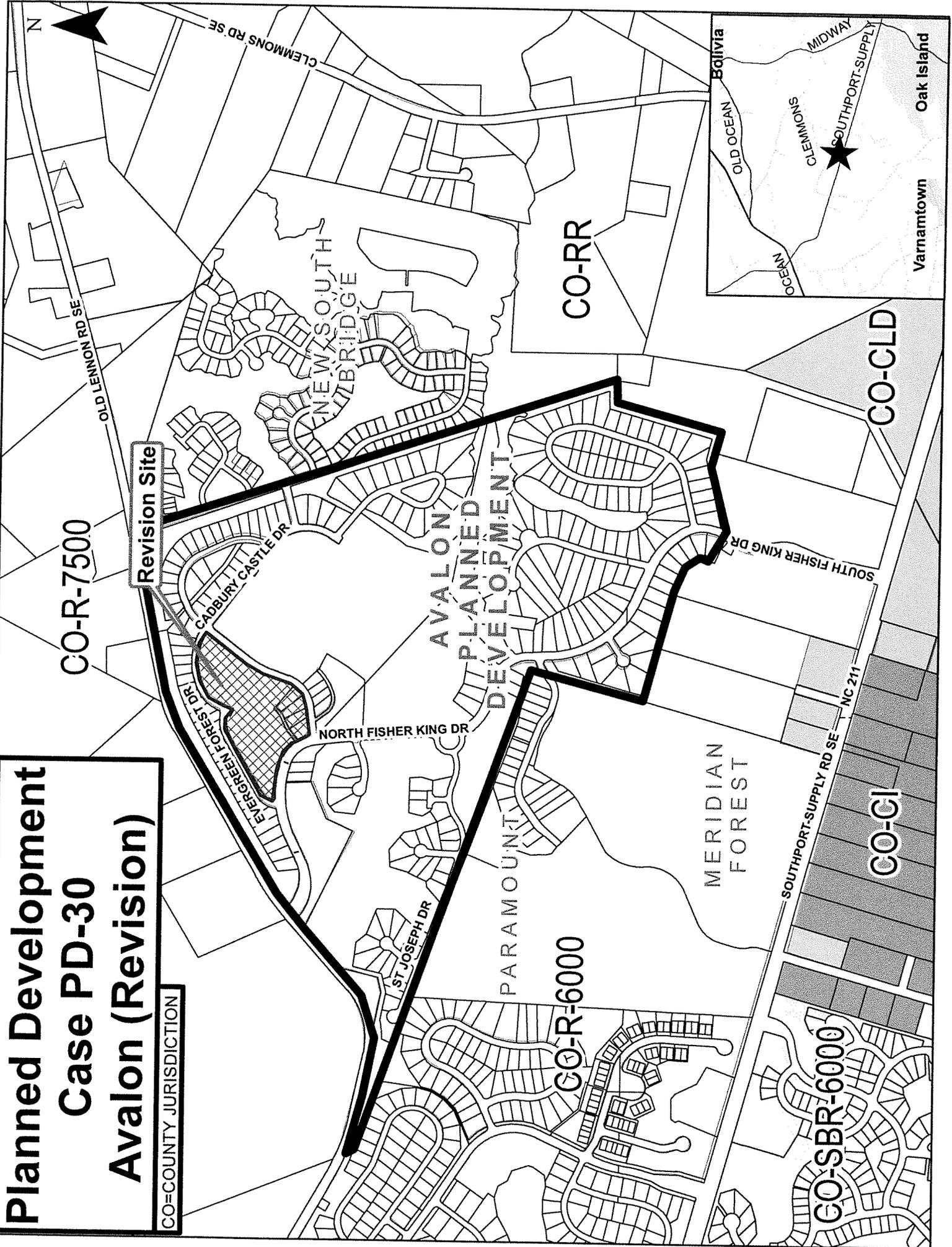
If approved, this development shall have a vested right for a period of three years. A two-year extension may be requested by the applicant to the Brunswick County Planning Department.

Staff recommends approval based on the following conditions:

1. That the development shall proceed in conformity with all plans and design features submitted as part of the Planned Development application and kept on file by the Brunswick County Planning Department.
2. That the development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.

Planned Development Case PD-30 Avalon (Revision)

CO-COUNTY JURISDICTION



Planned Development Case PD-30 Avalon (Revision)

CO=COUNTY JURISDICTION

Revision Site
A Portion of
Parcel# 16900011

CO-R-7500

AVALON
PLANNED
DEVELOPMENT

PARAMOUNT

CO-R-6000

MERIDIAN
FOREST

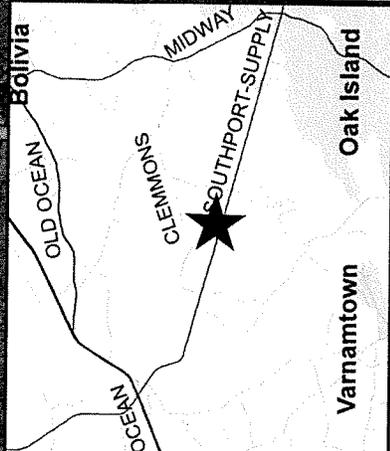
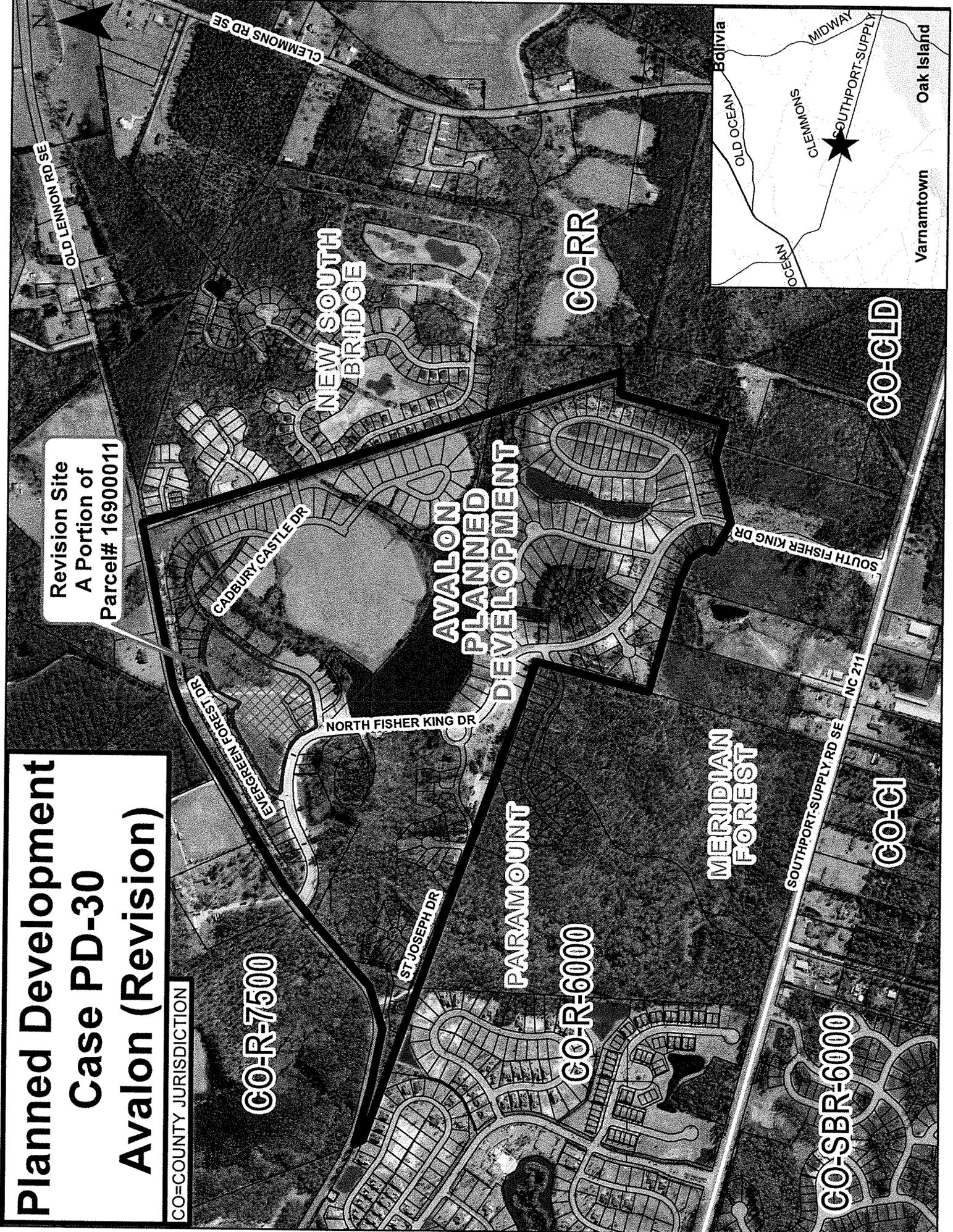
CO-SBR-6000

CO-CI

CO-CLD

CO-RR

NEW SOUTH
BRIDGE





Major Subdivision

Application and Checklist

Fee: \$350

For Office Use Only	
File # <u>PD-30</u>	Receipt # _____
Date Submitted: <u>3/26/2020</u>	

This application is a request to obtain approval to construct a Major Subdivision of more than 10 lots consistent with a submitted master site plan that identifies permitted land uses, densities, building setbacks, heights, lot size, width, buffers, off-street parking and street widths. Please reference Section 8.2.12. of the Brunswick County Unified Development Ordinance (UDO) for requirements regarding Major Subdivisions.

Please fill out form completely, supplying all necessary information and documentation to support your request.

Property Owner	Name	<u>LAND LIMITED, Anthony Ambrosio</u>	Phone	<u>732-330-6953</u>
	Address	<u>8 HILLSIDE AVE STE 103</u>	Fax	_____
	City, St, Zip	<u>Montclair, NJ 07042-2129</u>	Email	<u>TPB.LMB@verizon.net</u>

Applicant or Representative	Name	<u>Howard Resnik, PE</u>	Phone	<u>910-791-4441</u>
	Address	<u>PO BOX 4041</u>	Fax	_____
	City, St, Zip	<u>Wilmington, NC 28406</u>	Email	<u>howard@cSD-engineering.com</u>

Property Information	Address	_____
	Tax Parcel(s)	<u>1690011</u>
	_____	_____
	Acreage	<u>37.08</u>
	Current Zoning	<u>R-6000</u>
Public Utilities Available? Water <input checked="" type="checkbox"/> Sewer <input checked="" type="checkbox"/>		

Project Information	Project Name	<u>Avalon</u>
	Modification or Expansion Of Existing Subdivision?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
	Single Family Acres	<u>37.08</u>
	Commercial Acres	_____
	Number of Lots	<u>33</u>

Authorization	Property Owner Signature	<u><i>Anthony Ambrosio</i></u>	Date	<u>3-9-2020</u>
	Applicant/Representative Signature	<u><i>H.R.</i></u>	Date	<u>3-17-2020</u>

Please submit fifteen folded copies and one electronic copy of the site plan with application.



Brunswick County Planning Department
P.O. Box 249
75 Courthouse Drive N.E., Bldg I
Bolivia, NC 28422
(910) 253-2025

April 17, 2020

CSD Engineering
PO Box 4041
Wilmington, NC 28406

RE: Avalon Planned Development Revision
File # PD-30

Dear Mr. Broyhill,

The Brunswick County Technical Review Committee (TRC) have reviewed the preliminary plans for the above referenced project.

Please find below comments with regards to the review of the project.

- Much of the northern half of Avalon Planned Development does not have electrical service installed to the existing lots. Is this being addressed with this revision?
- Please verify your lot counts as I am only seeing an additional 7 lots over what was originally approved. The original approval had 344 lots and the new site plan indicates 371 lots.
- Please note that per UDO Section 9.2., any modification to an existing Major Subdivision that requires a public hearing must first hold a neighborhood meeting at least 10 days prior to the Planning Board hearing.
- Brigit Flora with Brunswick County Engineering had the following comments regarding stormwater:
 - Project has existing County and State Stormwater Permit which will need to be modified.
 - Calculations will need to be provided showing that the runoff from the increase in BUA from additional lots can be handled by the existing permitted stormwater ponds per the county requirements.
 - A final stormwater inspection is required, and the stormwater pond will need to be certified by the Engineer once construction is complete and before lots can be platted.
- Amy Aycock with Brunswick County Engineering had the following comments regarding the utilities:
 - Water system will need to be completed on Cadbury Castle and connect to the existing 8" stub-outs on Evergreen Forest Dr & North Fisher King Dr
 - Low pressure sewer system will need to be completed and connect to the stub out on North Fisher King Dr
 - Street ROW will need to be defined/recorded and street completed
- ATMC has facilities available to provide fiber to the home service for telephone, cable, and internet service to the project. Please contact Dane Stanley prior to

construction to forward a digital file of the project. He may be contacted at jdstanley@atmc.coop.

- Please forward a digital file of the project to Brunswick Electric 30 days prior to construction. Contact Tim Dean at 754-4391.

Please return a digital copy of the revised plans to the Brunswick County Planning Department by 12:00 p.m. on April 27, 2012. Revisions will be reviewed, and you may be asked for additional hard copies for Planning Board distribution.

If you have any questions, please feel free to contact me at 910-253-2056.

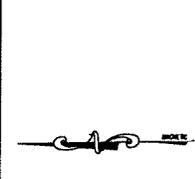
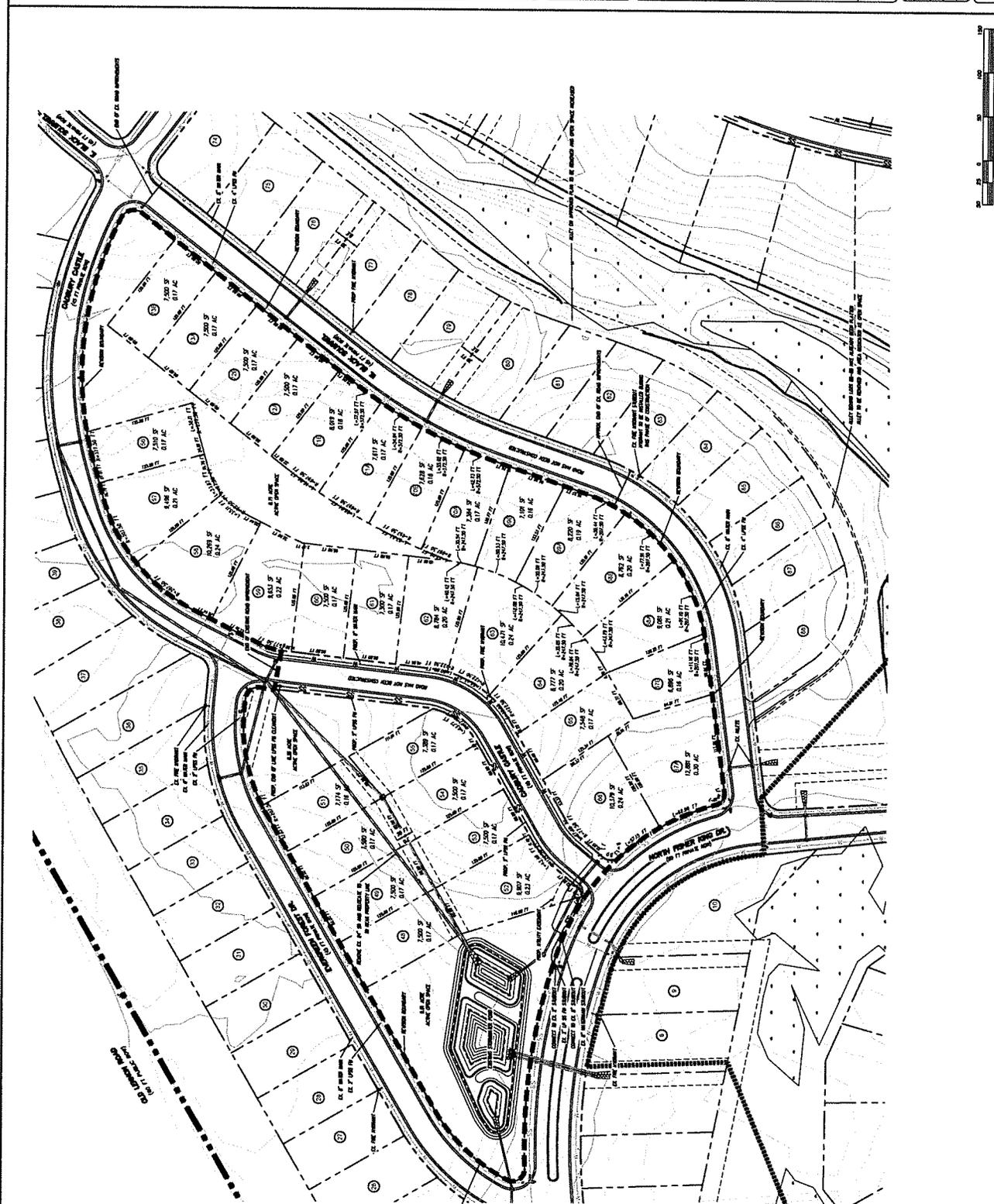
Sincerely,

A handwritten signature in cursive script that reads "Marc A. Pages". The signature is written in black ink and is positioned above the typed name.

Marc Pages
Senior Planner

REV. NO.	REVISIONS	BY	DATE
1	ISSUE FOR PURPOSE OF RECORDS	MB	8-12-20

DATE: 7-26-2020
DRAWN BY: MB
CHECKED BY: MBP
PROJECT NO.: 05-0001

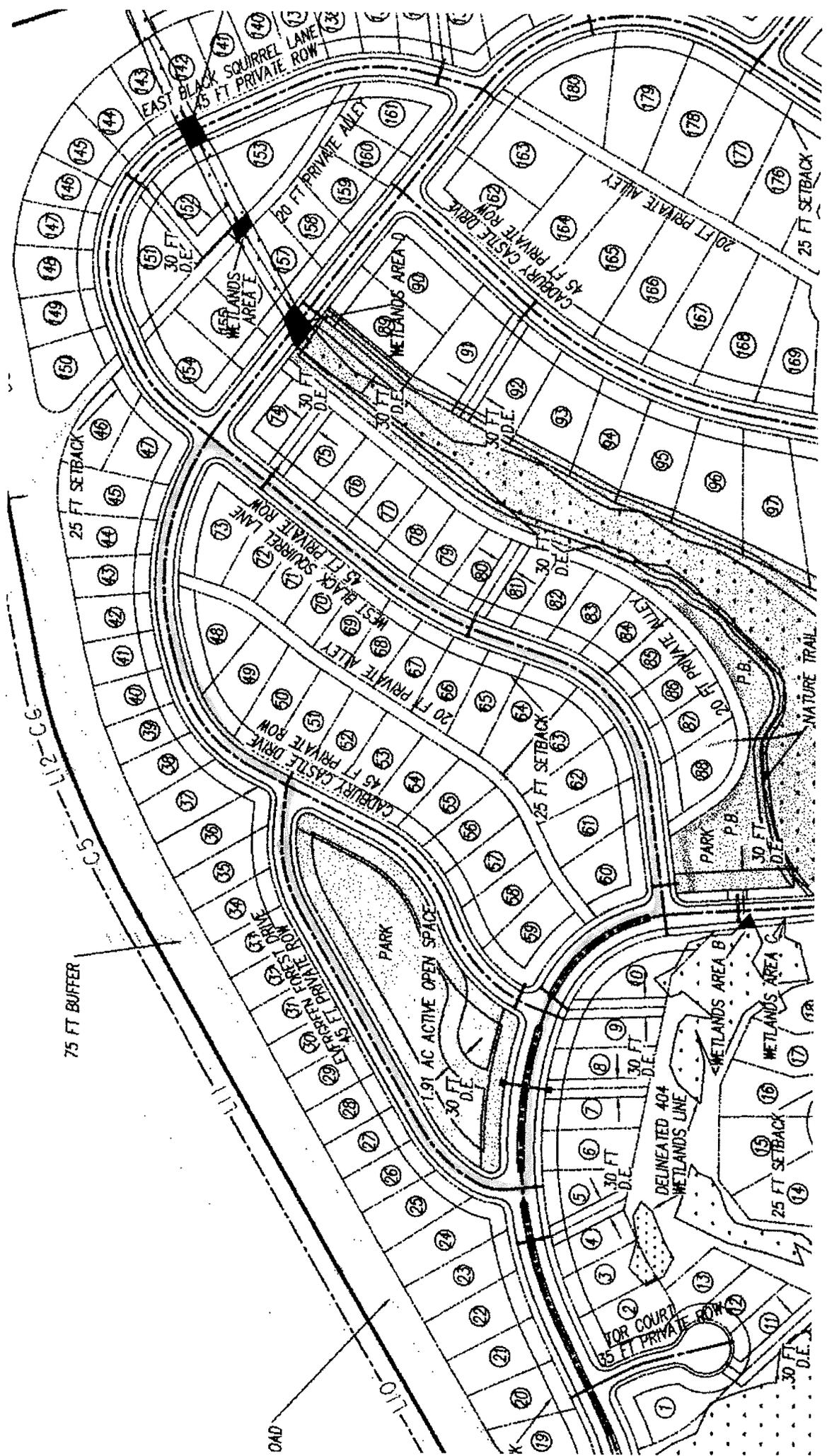


LEGEND

[Symbol]	EXISTING LOT BOUNDARIES
[Symbol]	PROPOSED LOT BOUNDARIES
[Symbol]	EXISTING DRIVEWAYS
[Symbol]	PROPOSED DRIVEWAYS
[Symbol]	EXISTING STREETS
[Symbol]	PROPOSED STREETS
[Symbol]	EXISTING SIDEWALKS
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[Symbol]	PROPOSED CURBS
[Symbol]	EXISTING DRIVEWAYS
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[Symbol]	EXISTING SIDEWALKS
[Symbol]	PROPOSED SIDEWALKS
[Symbol]	EXISTING UTILITY LINES
[Symbol]	PROPOSED UTILITY LINES
[Symbol]	EXISTING CURBS
[Symbol]	PROPOSED CURBS

REVISIONS TO BE MADE BY THE ENGINEER
 AS SHOWN ON THIS PLAN

2005 Plan



CASE PD-30

ADJACENT PROPERTY OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
185CC026	MAHON EILEEN ETALS	6 E CHATSWORTH LN	FARMINGDALE	NJ	07727-4327
16900011	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA00101	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA006	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA002	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA003	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA004	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA005	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185CC024	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA001	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA007	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185DA008	LAND LIMITED LLC	8 HILLSIDE AVE STE 103	MONTCLAIR	NJ	07042-2129
185CE002	VAN ATTA CHRISTINE M AND	1337 N FISHER KING DR SE	BOLIVIA	NC	28422
185CE001	SMITH JASON ETUX	1333 N FISHER KING DR	BOLIVIA	NC	28422
1690001101	D R HORTON INC	4049 BELLE TERRE BLVD	MYRTLE BEACH	SC	29579-9430
185CE003	D R HORTON INC	4049 BELLE TERRE BLVD	MYRTLE BEACH	SC	29579-9430
185CC021	BURNETT EDWIN L III AND	4028 BARNES BLF SE	SOUTHPORT	NC	28461-7448
185CC027	HEWETT LESTER DEAN ET NANCY	PO BOX 192	SUPPLY	NC	28462
185CC007	CAVIN IRIS B	4999 GLEN COVE DRIVE	SOUTHPORT	NC	28461
185CC012	SU ZHONG	6733 WANNAMAKER LANE	CHARLOTTE	NC	28266
185CC013	STOMBAUGH ELROY G ETUX MAUREEN A	5123 MINNESOTA DR SE	SOUTHPORT	NC	28461
185CC023	STOMBAUGH ELROY G ETUX MAUREEN A	5123 MINNESOTA DR SE	SOUTHPORT	NC	28461
185CC014	MONTENARANO JEFF ETUX JENNIFER	4 HEMLOCK LANE	KINNELON	NJ	7405
185CC016	GRELA MICHAEL ETUX TRACEY G	5052 WYNIC WYND	SOUTHPORT	NC	28461
185CC017	PHILLIPS LINDA R	458 TRAPPE ROAD	BALTIMORE	MD	21222
185CC025	KLEINKLAUS JOSEPH E	58 SUNSET PLACE	ONEONTA	AL	35121
185CC029	CUNNEEN PETER ETUX KIMBERLY	34 ELLEN AVENUE	BABYLON	NY	11702
185CC006	HOLLADAY JAMES E	4 FOREST HILLS DRIVE	WILMINGTON	NC	28403
185CC020	LEFTWICH CURTIS C JR	2509 SPRINGFIELD PARK DR	RALEIGH	NC	27614
185CC015	TAYEBI REAL ESTATE I LLC	PO BOX 928769	SAN DIEGO	CA	92192
185CD029	TAYEBI REAL ESTATE I LLC	PO BOX 928769	SAN DIEGO	CA	92192
185CC008	LAWRENCE CARSON P ETVIR	111 E BAY STREET	SOUTHPORT	NC	28461
185CC009	HAWLEY MARK	365 S. ATLANTIC AVE APT 3	PITTSBURG	PA	15224-2310
185CC018	BURNETT EDWIN L IV	4028 BARNES BLF SE	SOUTHPORT	NC	28461-7448
185CC011	PHILLIPS RANDALL CRAIG	458 TRAPPE RD	DUNDALK	MD	21222-2249
185CC019	MATHEWS JOSEPHINE	2015 CAWOOD FALLS LN	KNOXVILLE	TN	37931-4065
185CC010	ELB FAMILY LP	4028 BARNES BLF SE	SOUTHPORT	NC	28461-7448
185CC005	LAWRENCE GARY S ETUX PAMELA T	PO BOX 11369	SOUTHPORT	NC	28461-1369

OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
16900011	LAND LIMITED LLC	C/O ANTHONY P AMBROSIO	MONTCLAIR	NJ	07042-2129

APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
16900011	HOWARD RESNIK	PO BOX 4041	WILMINGTON	NC	28406

**BRUNSWICK COUNTY
STAFF REPORT AND RECOMMENDATION**

Application No. PD-31
Applicant: Calabash Townhomes, LLC – Amanda MacLeod
Project Name: Calabash Palms Planned Development
Property Location: Calabash Road NW (SR 1300)
Parcel Number(s): 2250011702
Zoning District: R-7500 (Medium Density Residential)
Surrounding Zoning **North:** R-7500 (Medium Density Residential)
South: R-7500 (Medium Density Residential)
East: R-7500 (Medium Density Residential)
West: R-7500 (Medium Density Residential)

Proposed Use: Calabash Palms is a proposed Planned Development consisting of 69 townhomes on a gross site of 9.56 acres creating an overall density of 7.22 dwelling units per acre.

Approval Criteria

- The majority of surrounding uses consists of single family residential and vacant land.
- The proposed project meets minimum vehicular access point requirements.
- Proposed infrastructure:
 1. **Water** and **Sewer** will be provided by Brunswick County
 2. **Roads** will be private.
- The required Open Space for the development is 1.91 acres. The developer is proposing 3.61 acres of dedicated open space. The developer is also providing 0.70 acres of recreation space of which 0.61 acres is required.
- A NCDOT driveway permit will be required with possible intersection improvements.
- Parking will be off-street with 2 parking spaces provided per unit plus an additional 23 communal spaces.
- A 0.6 opacity 20-foot buffer with a 6-foot opaque wooden fence will be provided.
- The developer is requesting the 25% density bonus permissible by the UDO for project that exhibit elements of Exceptional Design. The Exceptional Design elements to be included in the project are as follows:
 1. The townhomes will be constructed to meet Energy Star certification.
 2. The developer is proposing 3.61 acres of open space where as 1.91 acres are required.
 3. Sidewalks are provided throughout the development.
 4. Mail kiosk is located off the street.
 5. 23 additional off-street parking spaces will be provided for the community.
 6. Street trees and open space trees to be provided.
- Adjacent property owners were notified via US mail and a notification sign was posted on the subject property.
- TRC was held on April 16, 2020.
- A neighborhood meeting was held on June 30, 2020.

If approved, this development shall have a vested right for a period of three years. A two-year extension may be requested by the applicant to the Brunswick County Planning Department.

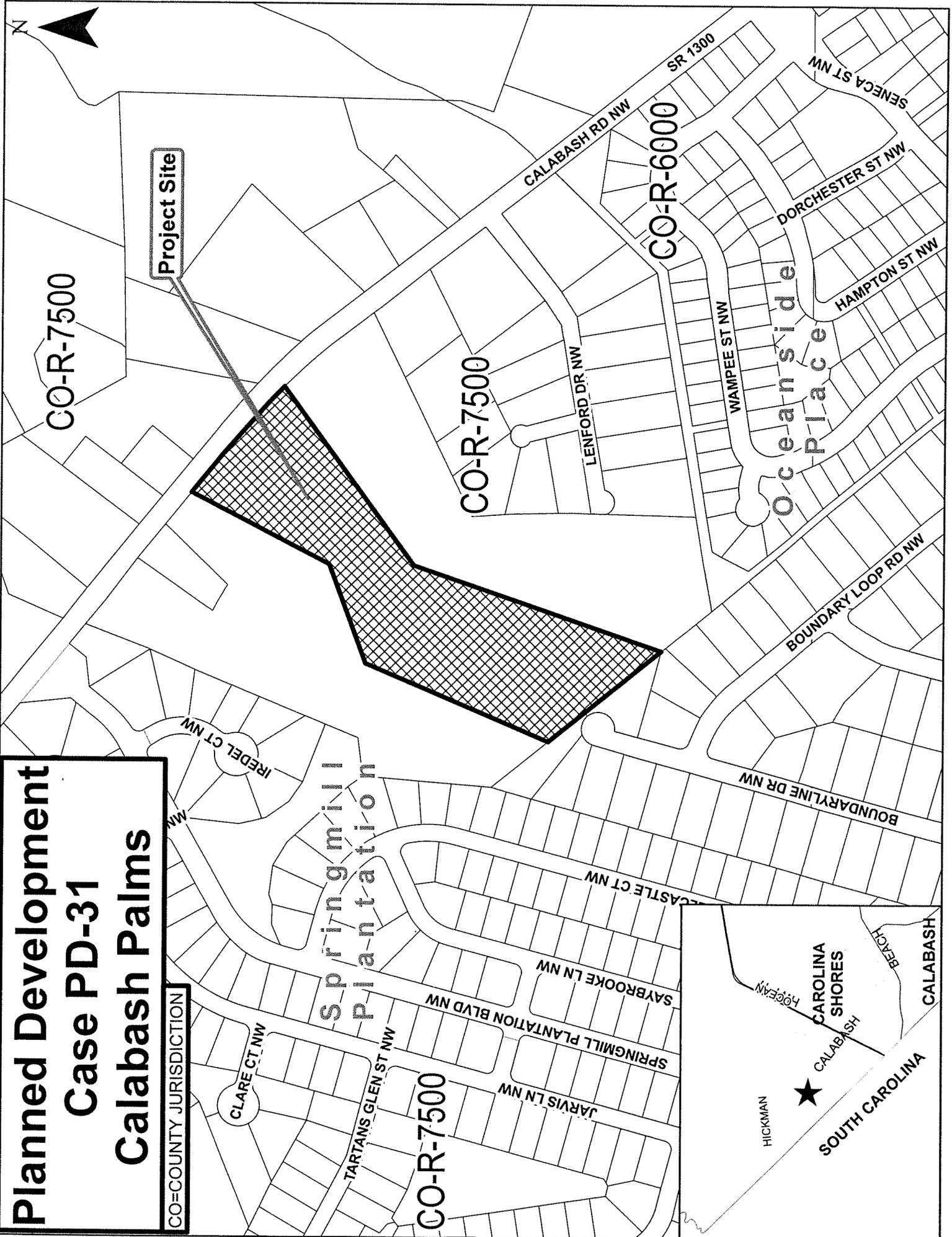
Staff recommends approval based on the following conditions:

1. That the development shall proceed in conformity with all plans and design features submitted as part of the planned development application and kept on file by the Brunswick County Planning Department.
2. That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance.
3. All Exceptional Design elements must proceed in conformity of the site plan.

Planned Development Case PD-31 Calabash Palms

CO=COUNTY JURISDICTION

Project Site



Planned Development Case PD-31 Calabash Palms

CO=COUNTY JURISDICTION

Project Site

CO-R-7500

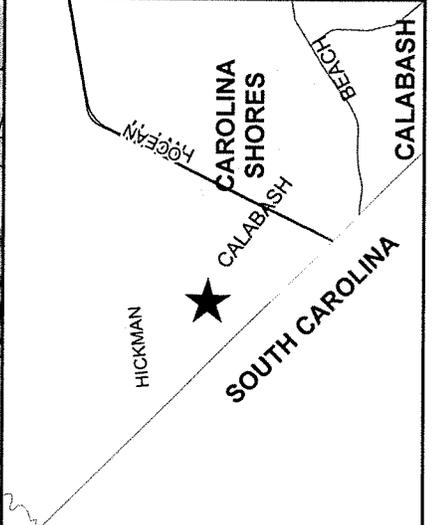
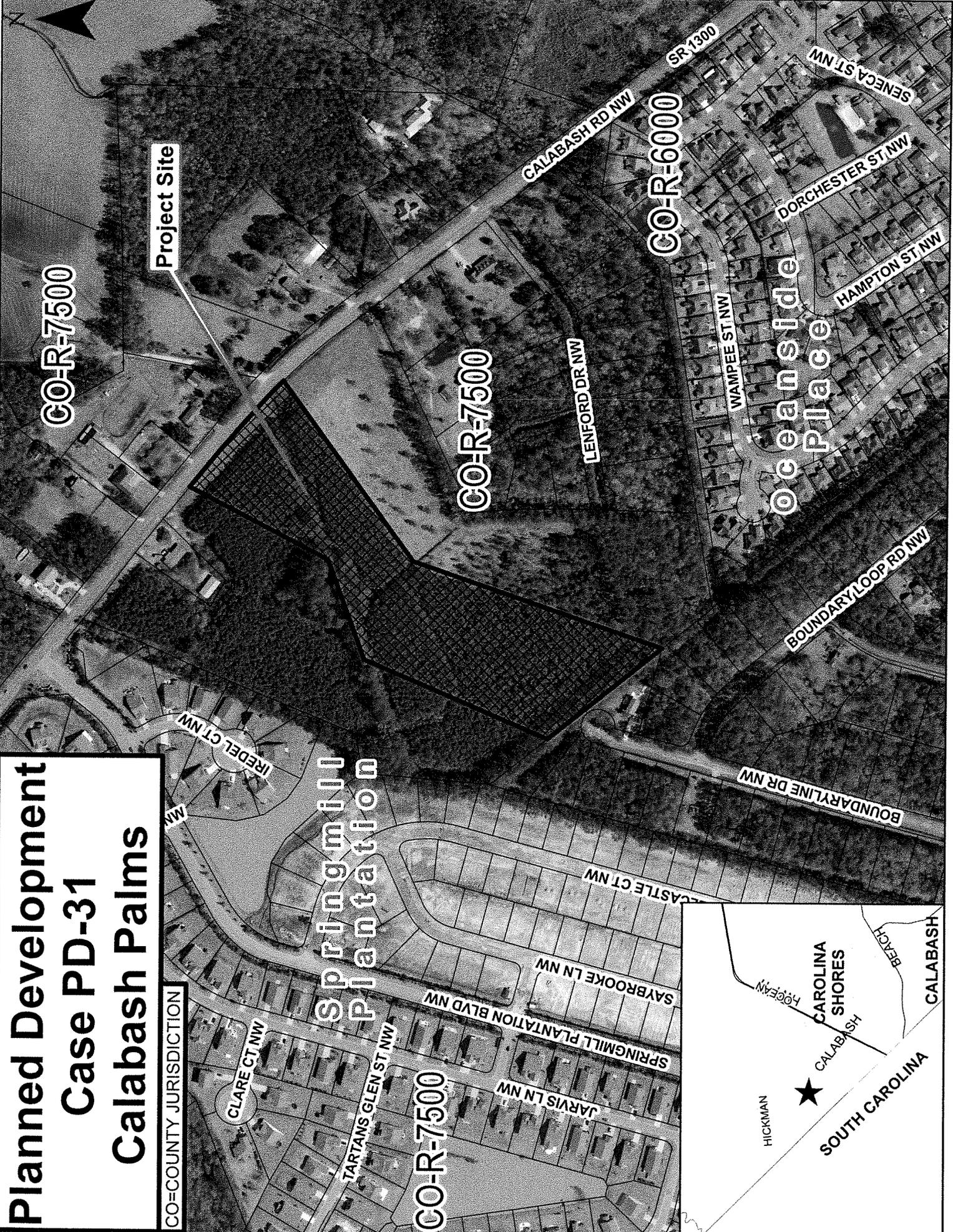
CO-R-7500

CO-R-6000

CO-R-7500

Springmill
Plantation

Oceanside
Place



CALABASH RD NW

SR-1300

SENECA ST NW

DORCHESTER ST NW

HAMPTON ST NW

WAMPEE ST NW

LENFORD DR NW

BOUNDARY LOOP RD NW

BOUNDARYLINE DR NW

CASTLE CT NW

SAVROOKE LN NW

SPRINGMILL PLANTATION BLVD NW

JARVIS LN NW

TARTANS GLEN ST NW

CLARE CT NW

IREDEL CT NW



Planned Development (PD)

Application and Checklist

Fee: \$500 (Brunswick County Jurisdiction)
\$880 (City of Northwest Jurisdiction)

Brunswick County Planning Dept. 910-253-2025

For Office Use Only	
File # <u>PD-31</u>	Invoice # <u>8383/32020</u>
Date Received: <u>4/3/2020</u>	
Northwest Jurisdiction	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

This application is a request to construct a Planned Development consistent with a submitted master site plan that identifies permitted land uses, densities, building setbacks, heights, lot layout, buffers, off-street parking and street widths. This application should only be used if the proposed development is requesting flexibility in zoning requirements in order to achieve a development as an alternative to a conventional zoning design standards. Please reference Section 4.3.1. of the Unified Development Ordinance (UDO) for requirements regarding Planned Developments (PD's).

Please fill out form completely, supplying all necessary information and documentation to support your request.

Property Owner	Name Brenda Hammond Hardwick	Phone 843-333-6134
	Address 8460 Spring Branch Road	Fax n/a
	City, St, Zip Nichols, SC 29581	Email corey94@sccoast.net

Applicant or Representative	Name Calabash Townhomes LLC/ McKim and Creed - Amanda MacLeod	Phone 336-345-0487/ 910-297-0394
	Address 2919 Breezewood Avenue, Suite 100/ 243 N Front Street	Fax - 910-251-8282
	City, St, Zip Fayetteville, NC 28303/ Wilmington, NC 28401	Email KerryAvant@hhhomes.com/ amacleod@mckimcreed.com

Property Information	Address Calabash Road NW
	Tax Parcel(s) Parcel ID: 2250011702 Parcel PIN: 102603011217
	Acreage +/- 9.56 Acres
	Current Zoning R7500
	Public Utilities Available: <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Sewer

Project Information	Project Name Calabash Palms
	Modification or Expansion Of Existing PD? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
	Single Family Acres n/a Lots
	Multi-Family Acres 69 Units
	Commercial Acres n/a

Authorization	Property Owner Signature <u>[Signature]</u>	Date <u>4/2/20</u>
	Applicant/Representative Signature <u>[Signature]</u>	Date 06/26/2020
	<u>[Signature]</u>	

Please submit three folded copies and one electronic copy of the site plan with application.



Brunswick County Economic Development & Planning
P.O. Box 249
75 Courthouse Drive N.E., Bldg I
Bolivia, NC 28422
(910) 253-2025

February 14, 2020

Amanda MacLoed
McKim and Creed
243 N. Front Street
Wilmington, NC 28401

**RE: Calabash Palms Planned Development
File # PD-31**

Dear Ms. MacLoed,

The Brunswick County Technical Review Committee (TRC) have reviewed the preliminary plans for the above referenced project.

Please find below comments with regards to the review of the project.

- Please indicate the specific recreational use of each individual recreation space areas.
- Please indicate minimum front yard setback – distance from structure to R/W.
- Please indicate the minimum driveway depth – distance from garage to R/W.
- Note that the Homeowners Association will be responsible for the maintenance of all roads, buffers and open space areas within the development.
- Please note whether trash service will be utilized by individual roll-out cans or with a communal dumpster. If a dumpster is to be used, indicate proposed location.
- Please list the exceptional design elements on the site plan. In addition to the items you listed in your previous email, also include the proposed sidewalks and communal parking.
- Please note on the plan that a Heritage Tree Survey will be required prior to the approval of the final plats.
- Please provide road names for the proposed roads. To secure names, please contact Jan Clemmons with county GIS at 910-253-2392.
- Brad Babson with Brunswick County Code Administration had the following comments regarding the fire requirements:
 - Need to show that the Cul-de-sac is a minimum of 96 feet in diameter. (Please note that this diameter can be reduced to the indicated 70' diameter with local fire chief approval. Contact Brad Babson, BC Fire Marshall at 910-253-2043 for more information.
 - Revise site / utility plan. Need to provide fire hydrant flow test results within a year of date on the utility plan.

- Revise site / utility plan. Need to provide construction type and maximum proposed square footage to determine minimum needed fire flow for each building type. Additional fire hydrant or other fire protection requirements may be required.
- Revise site plan. If there are more than two buildings or more than two units on a single parcel, then buildings will be required to be built to the 2018 NC building code and require fire sprinkler systems per NFPA 13D. Revise site plan to show parcel lines for each unit if using 2018 NC residential code for design which requires no fire sprinkler system.
- Condition1: All fire lines and proposed hydrant shall be installed prior to bring any combustible construction materials to the job site
- Amy Aycock with Brunswick County Engineering had the following comments regarding the utilities:
 - Existing 8" watermain on Calabash Rd
 - Fire hydrant will be required at the entrance to the development, then every 800'
 - Need a fire hydrant at the end of the main on the cul-de-sac for fire protection and system flushing
 - May need to add an additional fire hydrant on Road B
 - Proposed gravity sewer will connect to the gravity sewer system in the proposed Calabash Station.
 - The sewer pump station in Calabash Station must be designed to handle the flow from both proposed developments with regards to wetwell sizing and pumps
 - Public Utility easement is required over the water & sewer mains
- Brigit Flora with Brunswick County Engineering had the following comments regarding stormwater:
 - Please show the direction of the perimeter drainage swales on the plans.
 - As the general notes mention, State and County Stormwater Permits are required before any constructions begins. A state Erosion Control Permit must be obtained before any land disturbing begins.
- Patrick Wurzel with NCDOT Division 3 had the following comments regarding the road connection:
 - A NCDOT Driveway Permit is required. Submit a plan in accordance with pages 14 and 15 of the Policy on Street and Driveway Access to North Carolina Highways to include access locations within 500' of the proposed access on both sides of the State road. Submit to the local NCDOT District Engineer's Office.
 - A NCDOT Encroachment Agreement is required for any utility connections or installation within NCDOT right-of-way.
- Please be aware that during stormwater plan review, a 10' maintenance and access easement to and around any ponds will be required.
- ATMC has facilities available to provide fiber to the home service for telephone, cable, and internet service to the project. Please contact Dane Stanley prior to construction to forward a digital file of the project. He may be contacted at jdstanley@atmc.coop.
- Please forward a digital file of the project to Brunswick Electric 30 days prior to construction. Contact Tim Dean at 754-4391.

Please return a digital copy of the revised plans to the Brunswick County Planning Department by 12:00 p.m. on April 27, 2012. Revisions will be reviewed, and you may be asked for additional hard copies for Planning Board distribution.

If you have any questions, please feel free to contact me at 910-253-2056.

Sincerely,

Marc Pages

A handwritten signature in cursive script that reads "Marc C. Pages". The signature is written in black ink and is positioned below the typed name.

CASE PD-31

ADJACENT PROPERTY OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
240BD034	TAYLOR DOUGLAS WAYNE ET	6625 OLD SHALLOTTE RD NW	OCEAN ISL BCH	NC	28469
2250010901	CARTER SHIRLEY A	650 CALABASH RD NW	CALABASH	NC	28467
2250011104	KARBACK JOHN ET KATHERINE	4417 MANDI AVE	LITTLE RIVER	SC	29566
2250010906	RANDONE BRYAN J	670 CALABASH RD NW	CALABASH	NC	28467-1903
22500117	ALLEN IRMA H	1036 MURPHY ROAD	SEVIERVILLE	TN	37862
240AA001	MULLINS MICHAEL L	1515 JEFFERSON DAVIS HWY APT 1	ARLINGTON	VA	22202
240BD035	ATRIUM HOMES INC	315 FRIDAY DR	WILMINGTON	NC	28411-9645
240BD037	HILL JORDAN ANJANETTE DENEEN	814 BOUNDARYLINE DR NW	CALABASH	NC	28467-1743
2250011703	AUDREY L VETTER TRUST	PO BOX 426	CHESTERFIELD	VA	23832-0006

OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
2250011702	HARDWICK BRENDA HAMMOND	8460 SPRING BRANCH ROAD	NICHOLS	SC	29581

APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
2250011702	RHH Land Investors	2919 Breezewood Ave, Suite 100	Fayetteville	NC	28303
2250011702	McKim and Creed - Amanda MacLeod	243 N Front Street	Wilmington	NC	28401



BRUNSWICK COUNTY PLANNING DEPARTMENT

75 Government Drive, Building I • P.O. Box 249 • Bolivia, NC 28422

www.brunswickcountync.gov/planning • (910)253-2025

MEMORANDUM

DATE: July 6, 2020

TO: Planning Board Members

FROM: Kirstie Dixon, Planning Director

RE: UDO Text Amendments - Residential Show Homes, Model Homes, & Real Estate Sales Offices

This memo outlines proposed revisions to the Brunswick County Unified Development Ordinance (UDO) related to residential show homes, model homes, and real estate sales offices. Planning Staff has reached out and shared these proposed text amendments with several development groups and several community groups for awareness and feedback. *Below are the Staff Proposed Text Amendments and the Ciizen Proposed Text Amendment.*

○ **STAFF PROPOSED TEXT AMENDMENTS:**

These Brunswick County Unified Development Ordinance (UDO) Text Amendments were drafted by Planning Staff to address residential show homes, model homes, and real estate sales offices within unincorporated Brunswick County as requested by the Brunswick County Zoning Board of Adjustment (BOA) based upon two BOA Cases. *Below are the BOA cases that revealed the need to address model homes and sale offices within the UDO:*

● **CASE 19-05A CASE SUMMARY:**

Case 19-05A is an appeal of staff's interpretation of the Brunswick County Unified Development Ordinance related to sales offices and model home. This appeal case centered around an existing home located in Brunswick Plantation Planned Development that was proposed to be used as a sales office/model home. The applicant, CAW CAW Land Corporation & Mason H. Anderson, appealed a staff interpretation of sales offices and model homes. The case was placed on the July 11, 2019 BOA Agenda but not heard by the BOA as the applicant withdrew the case a few days prior to the meeting. The applicant agreed to meet standards/requirements/conditions for model homes and sales offices as outlined by staff. **This case revealed the need to address model homes and sale offices within the UDO.**

● **CASE 19-12A CASE SUMMARY:**

Case 19-12A is an appeal of staff's interpretation to the Brunswick County Unified Development Ordinance related to standards/requirements/conditions to which a model homes can operate in Brunswick County. This appeal case centers around an existing home located in Brunswick Plantation Planned Development that was approved by staff

to be used as a model home with a list of standards/requirements. The applicant, Brunswick Plantation POA Incorporated, appealed staff interpretation of the standards/requirements/conditions to which a model home can operate. Case 19-12A was heard by the BOA over three meetings in 2019 and included public hearings as required. **The BOA decision modified the set of standards/requirements/conditions to which a model home can operate. This decision set the standard for all model homes and sales offices within unincorporated Brunswick County. This case revealed the need to address model homes and sale offices related standards within the UDO.**

THE FOLLOWING DOCUMENTS ARE ATTACHED TO ASSIST WITH THE TEXT AMENDMENT:

- Brunswick County Unified Development Ordinance Text Amendments related to residential show homes, model homes, and real estate sales offices drafted and proposed by Planning Staff.
 - Brunswick County Zoning Board of Adjustment Case 19-05A Staff Report.
 - Brunswick County Zoning Board of Adjustment Meeting Minutes from July 11, 2019, denoting the withdrawal of Case 19-05A.
 - Brunswick County Zoning Board of Adjustment Case 19-12A Staff Report.
 - Brunswick County Zoning Board of Adjustment Meeting Minutes from August 22, 2019, September 12, 2019, and October 17, 2019, regarding Case 19-05A.
 - Brunswick County Zoning Board of Adjustment Case 19-12A Order.
 - Feedback Received from Teresa Casey, Winding River ABCPOA.
- **CITIZEN PROPOSED TEXT AMENDMENT:**
This Brunswick County Unified Development Ordinance (UDO) Text Amendment is a *Citizen Proposed Text Amendment* to allow for specific uses to be located anywhere in a Planned Development. Uses will include model homes, real estate sales offices, management offices, signage advertising the Planned Development, and attendant parking facilities.

**REQUESTED TEXT AMENDMENT AS SUBMITTED BY
TRIPP SLOANE & MASON ANDERSON**

Sales offices, Management offices, signs advertising the Planned Community, and Model Homes, together with attendant parking facilities may be located on any lot within the Planned Community. These facilities which are in a Residential Area in the Planning Community may not be occupied for these purposes once the Declarant/Developer is no longer offering any property in the Planned Community for sale or lease.

SHOULD THE BOARD WISH TO CONSIDER THIS TEXT AMENDMENT, PLANNING STAFF PROPOSES THAT THE TEXT AMENDMENT BE MODIFIED TO FIT INTO THE OVERALL CONTEXT OF THE UDO.

Insert Section 4.3.1.D.7. into Section 4.3.1.D., Uses Permitted Within Planned Developments, as follows:

7. Model homes, real estate sales offices, management offices, Sales offices, Management offices, signs signage advertising the a Planned Development Planned Community, and Model Homes, together with and attendant parking facilities may be located on any lot within the a Planned Development Planned Community. These facilities which are in a Residential Area in the Planned Community may not be occupied for these purposes once the Declarant/Developer is no longer offering any property in the Planned Community for sale or lease.

OPTIONAL ADDITIONS SHOULD THE BOARD DESIRE TO CLARIFY OTHER REQUIREMENTS THAT MUST BE MET:

- Additional requirements may be imposed by the North Carolina Building Codes, North Carolina Fire Codes, and Environmental Health Codes.
- All limited standards and design/performance requirements within the UDO must be met prior to obtaining zoning approval and receiving a certificate of occupancy (c/o).

THE FOLLOWING DOCUMENTS ARE ATTACHED TO ASSIST WITH THE CONSIDERATION OF THE TEXT AMENDMENT:

- Citizen Proposed Brunswick County Unified Development Ordinance Text Amendment to allow for specific uses to be located anywhere in a Planned Development.
- Feedback Receive from Teresa Casey, Winding River ABCPOA.

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO CONTACT ME BY EMAIL AT KIRSTIE.DIXON@BRUNSWICKCOUNTYNC.GOV OR BY PHONE AT 910/253-2027.

Brunswick County Unified Development Ordinance

PROPOSED TEXT AMENDMENTS RELATED TO RESIDENTIAL SHOW HOMES, MODEL HOMES, AND REAL ESTATE SALES OFFICES

(June 23, 2020)

Below are proposed text amendments to the Brunswick County Unified Development Ordinance (UDO) related to residential show homes, model homes, and real estate sales offices:

- Add definitions for residential show homes, model homes, and real estate sales offices within the *Definition Section* as follows:

Residential Show Home: A residential home or unit that is completed, furnished, landscaped, and decorated to show to prospective buyers features of homes available for purchase within a development or subdivision. Information about the home, the subdivision, or the development may be displayed inside the home. Residential show homes are located within a new section of a development or subdivision that is under construction and are considered a temporary residential use since they are often available for purchase and sold strictly for residential household living. Prospective buyers often can schedule a showing, a viewing, a tour or attend an open house. A residential show home is commonly referred to as a display home.

Model Home: A structure or unit that is completed, furnished, landscaped, and decorated to show to prospective buyers features of homes available within a new development or subdivision that have limited spaces for real estate sales and related transactions such as office spaces, conference rooms, workstations, design centers, and related storage. Model homes are often available for purchase and are located within a new section of the development or subdivision that is under construction. Office spaces, conference rooms, workstations, design centers, and related storage shall not exceed 30% of the gross floor area of the model home. Model homes that exceed 30% of gross floor area are considered real estate sales offices and then must meet Limited Use Standards for both real estate sales offices and model homes.

Real Estate Sales Office: A commercial office space used for real estate sales and related transactions such as office spaces, conference rooms, workstations, design centers, and related storage. A real estate sales office may be located as a "stand-alone" professional office or "combined with a model home." Real estate offices that are combined with a model home must meet Limited Use Standards for both real estate sales offices and model homes.

- Amend *Section 5.5.2., Temporary Uses Exempt From Permits*, by adding *Section 5.5.2.E.* to allow residential show homes as a temporary use that does not require a permit.

E. Residential Show Homes are permitted in accordance with the following:

1. Must meet all the requirements for residential and household living requirements (including off-street parking as outlined in Section 6.12., Off-Street Parking & Loading) for the zoning district where it is located.
2. There shall be no external evidence of the activity.
3. Must maintain the residential character of the neighborhood.
4. Residential show homes are typically furnished and decorated to show prospective buyers the living space and features of homes.

5. While a room may be staged as an office, workstations for real estate sales and related transactions are not permitted.
 6. Office spaces, conference rooms, workstations, and design centers are not permitted.
 7. Storage related to showing the home shall not exceed 10% of the square footage of the home.
 8. There shall be no events or gatherings held in the residential show home other than open houses.
 9. Permanent signs are not permitted. Two temporary signs shall be allowed during real estate showings, tours, or open houses. Signs may be of A-frame "sandwich board" style signs, personal property, or real estate signs. Signs shall be no larger than 16 square feet.
- **Amend Section 5.1. Use Interpretation, to add model homes and real estate sales offices as principal uses.**
 - Add Model Home to Section 5.1.2.A., Household Living, under "Principal Use"
 - Add Real Estate Sales Office to Section 5.1.5.A., All Office Uses, under "Principal Use"
 - **Amend Section 5.2.3., Use Table, to define which zoning district that residential show homes, model homes, real estate sales offices are permitted by Limited Use.**
 - Model Home – Allowed by Limited Use in the following zoning districts: RR; R-7500; R-6000; SBR-6000; MR-3200; CLD; NC; & CI. Reference Limited Standard Section 5.5.3.E.
 - Real Estate Sales Office – Allowed by Limited Use in the following zoning districts RR; CLD; NC; & CI. Reference Limited Standard Section 5.3.6.C.
 - **Amend Section 5.3., Limited Use Standards, to add the following limited standards for model homes and real estate sales offices:**
 - **Add Section 5.5.3.E. Model Home**
 - E. Model Homes shall be permitted in accordance with Section 5.2., Use Table, and subject to the following requirements:
 1. A development permit shall be required. Additionally, model homes require a change of use permit to transition from the model home to household living.
 2. All model homes must meet all the requirements for residential dwellings and household living requirements for the zoning district where it is located.
 3. Model homes must maintain the residential character of the community.
 4. All parking elements shall be designed and constructed in accordance with the following:
 - a. Driveways.
 - i. Use of conventional residential driveways for parking is allowed.
 - ii. Use of a separate parking area is allowed but not required.
 - iii. Parking spaces that do not require vehicles to back-up into a street or alleyway are encouraged.
 - b. Must be consistent with the design standards outlined in Section 6.12., Off-Street Parking & Loading.
 5. Office spaces, conference rooms, workstations, design centers, and related storage shall not exceed 30% of the gross floor area of the model home. Model homes that exceed 30% of gross floor area are considered real estate sales offices and must then meet Limited Use Standards for both real estate sales offices and model homes.
 6. Garages conversions are allowed.
 7. Standard operating hours shall be limited from 8:00 a.m. to 8:00 p.m.
 8. There shall be no events or gatherings held in the model home other than open houses.

9. One freestanding on-premise sign no larger than 16 square feet is permitted. The sign may not be illuminated and must be of commercial quality and design.
10. Model homes shall be constructed in conformance with all applicable North Carolina Building Codes, North Carolina Fire Codes, and Environmental Health Codes.

o **Add Section 5.3.6.C., Real Estate Sales Office**

C. Real estate sales offices may be located as a “stand-alone” professional office or “combined with a model home;” shall be permitted in accordance with Section 5.2., Use Table; and subject to the following requirements:

1. A development permit shall be required and a change of use permit is required, if transitioning to a different use such as a residential.
2. All real estate sales offices must comply with zoning standards for office uses within the zoning district where they are located.
3. Real estate sales offices “combined with a model home” must:
 - a. Maintain a residential character of the neighborhood.
 - b. Comply with Limited Use Standards for model homes outlined in Section 5.5.3.E., Model Home.
4. Signage is allowed consistent with Article 8, Signs.
5. Off-street parking is required consistent with Section 6.12., Off-Street Parking and Loading.
6. All real estate sales offices shall be constructed in conformance with all applicable North Carolina Building Codes, North Carolina Fire Codes, and Environmental Health Codes.

- **Amend Section 8.7., Signs allowed without a Permit, to allow residential show homes to have temporary signage without a permit.**

8.7.11 [RESERVED] Temporary Residential Show Home Signs

A. Description

A temporary sign identifying and announcing the real estate showings, tours, or open houses at a residential show home. Temporary on-premise A-frame “sandwich board” signs that are customarily used to advertise real estate open houses shall be allowed.

B. Standards.

1. A maximum of two temporary on-premise A-frame “sandwich board” style signs that are customarily used to advertise real estate, real estate showings, tours, or open houses shall be allowed.
2. Signs must be removed after the showing, tour, or open house.
3. Signs shall be no larger than 16 square feet is permitted.
4. All such signs shall be located off the street right of way.

- **Amend table in Section 6.12.6.A.3., Required Parking, to add off-street parking space standards for residential show homes, model homes, and real estate sales offices.**

<u>Use Category</u>	<u>Use</u>	<u>Spaces Required</u>
Residential - Household Living	Residential Show Home	2 standard spaces;
Residential - Household Living	Model Home	4 standard spaces; Plus 1 accessible space
Office - Office Uses	Real Estate Sales Office	1 standard space per 300 sq. ft.*

**See Appendix B for enclosed accessibility floor area requirements*

**BRUNSWICK COUNTY BOARD OF ADJUSTMENT
APPEAL OF STAFF DECISION
STAFF REPORT**

July 11, 2019

Application No. 19-05A

Applicant: Caw Caw Land Corporation and Mason H. Anderson

Property Location: 252 South Middleton Drive, Calabash NC 28467

Parcel Number: 210IA058

Zoning District: SBR-6000 (High Density Site Built Residential)

Surrounding Zoning **North:** SBR-6000 **South:** SBR-6000
 East: SBR-6000 **West:** SBR-6000

Proposed Use of Property: Sales Office or Model Home

The application was submitted to the Brunswick County Planning Department on May 6, 2019.

Appeal: The applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance as to the use of an existing home at 252 South Middleton Drive as a sales office or model home.

Relevant Information

- A public hearing was duly noticed as a sign was posted on the subject parcel and adjoining property owners were notified of the meeting.
- Caw Caw Land Corporation is the owner of the home located at 252 South Middleton Drive.
- Caw Caw Land Corporation is the owner of Tax Parcel 210IA058, the parcel on which the home is located. Mason H. Anderson is the President of Caw Caw Land Corporation per documents filed with the North Carolina Secretary of State.
- On February 12, 2019, an e-mail was sent to the Zoning Administrator stating that a single-family home located at 252 South Middleton Drive (Tax Parcel 210IA058) was in the process of being converted into a professional office space.
- The subject property contains 0.41 acres in total. It is zoned High Density Site Built Residential (SBR-6000) and it is within a platted residential section of the Brunswick Plantation Planned Development.
- The Brunswick County Land Use Plan designates this parcel as Low Density Residential (LDR).
- Land uses surrounding the subject property consist of single-family residential homes.

- Correspondence was sent to Mr. Anderson on March 15, 2019 stating that it is staff's interpretation that this relocated use is a sales office as opposed to a model home. Anderson was asked to relocate the sales office into a commercial area of the Brunswick Plantation Planned Development. A Change of Use Permit Application was provided for the owner to complete. The County asked that all activities at the address cease and that no additional construction on the parcel take place until this matter is resolved.
- On March 19, 2019 Mr. Anderson filed Application 451478 for a Change of Use (see attached). Per the application, the used was to be changed from a single-family home to a sales office/model home.
- The Planning Department was contacted on April 5, 2019 by Mr. Phil Norris on behalf of the owner(s). It was stated that "if the determination is made for the use as a model home sales location, Mr. Anderson would like to withdraw the Change of Use Application previously submitted.
- On April 10, 2019 correspondence was sent to Mr. Anderson and Mr. Norris regarding the commercial activity taking place. With the additional information provided in the Change of Use Application, our interpretation was that the activity proposed for this location is a sales office and more intensive than a model home.
- Staff defined a model home as "a term for a 'display' version of a home within a new development or new section of development that is furnished and decorated to show to prospective buyers the living space and features of homes that are available. An office may be provided within the home or with the garage for staff housing the model. Model homes are available for purchase and are typically at a location only for the time during which the section is being developed".
- Staff defined a sales office as "the office of a company responsible for selling its goods or services. The expanded hours of operation proposed (8:00 a.m. – 5:00 p.m.), broaden usage of the structure for business purposes as opposed to display purposes, and the increase in vehicular and pedestrian traffic moves the use from residential to commercial".
- Two options were offered for Caw Caw Land Development to have a sales office at this location: (1) If you do not agree with the interpretation of the use, you may appeal the interpretation to the Brunswick County Board of Adjustment. If the Board of Adjustment determines that the proposed use meets the definition of a model home, the residential designation of the parcel will remain. Activities conducted in the structure would be limited to those that are consistent with the model home definition. If the Board determines that the proposed use meets the definition of a sales office, the Brunswick Plantation Master Plan would require modification by the Brunswick County Planning Board for the commercial use; or (2) Request a modification of the Brunswick Plantation Master Plan to change 252 South Middleton Drive from residential to commercial. This would require a Neighborhood Meeting that meets all the neighborhood meeting requirements outlined in the UDO and an updated Master Site Plan for Brunswick Plantation Planned Development.
- On May 6, 2019 a Notice of Appeal to the Board of Adjustment was filed with the Brunswick County Planning Department.
- On May 22, 2019 the applicant's attorney (Matthew A. Nichols) requested to continue the hearing for the appeal from the Board of Adjustment's June 13, 2019 Meeting until the Board's July 11, 2019 meeting. "The purpose of this continuance

request is to allow my clients additional time to discuss this matter with County Staff in an effort to resolve this matter if possible.”

- On June 17, 2019 Attorney Nichols, the Assistant County Attorney and the Zoning Administrator met.
- On June 20, 2019 Attorney Nichols proposed a “settlement”.
- On June 25, 2019 Brunswick County outlined the conditions regarding the extent to which the model home may be used and still retain the residential character (see attached). The correspondence went on to state that if they wished to cancel the pending appeal based upon the criteria provided, such must be done by the close of business on Wednesday, June 26th.
- As of July 2, 2019 the appeal has not been cancelled by the applicant.

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

5:00 P.M., Thursday
July 11, 2019

Commissioners Chambers
David R. Sandifer Administration Building
Brunswick County Government Center
Old Ocean Highway East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Mary Ann McCarthy
Marian Shiflet
Virginia Ward
Clayton Rivenbark, Alternate

MEMBERS ABSENT

Alan Lewis

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Justin Brantley, Project Planner

OTHERS PRESENT

Franco Micciche
Jerome Munna
Richard Cox
Joshua Torbich
Loretta Brown
Russell Brown

I. CALL TO ORDER.

The Chairman called the meeting to order at 5:05 p.m.

II. SWEARING IN OF NEW MEMBER

Ms. Marian Shiflet was sworn as a new member of the Board of Adjustment by Mr. Batton.

III. ROLL CALL.

Mr. Lewis was absent. Mr. Clayton Rivenbark served as an Alternate.

IV. CONSIDERATION OF MINUTES OF THE MAY 9, 2019 MEETING.

Mr. Rivenbark made a motion to accept the minutes of the May 9, 2019 meeting as written. The motion was seconded by Ms. McCarthy and unanimously carried.

V. AGENDA AMENDMENTS.

A) Request to postpone Case 19-10S (Richard King) up to six (6) months. Ms. Bunch stated that the first amendment to the agenda was a request by the applicant to postpone the case for up to six (6) months, citing health issues. Ms. Shiflet made a motion to table Case 19-10S for up to six (months). The motion was seconded by Ms. McCarthy and unanimously carried.

~~B) Request to withdraw Case 19-05A (Caw Caw Land Corporation and Mason H. Anderson). Ms. Bunch stated that the applicant has chosen not to appeal the case and will come into compliance.~~

VI. FUNCTIONS OF THE BOARD OF ADJUSTMENT.

Ms. McCarthy explained that the Board of Adjustment is a quasi-judicial Board assigned the function of acting between the Zoning Administrator or Planning Director, who administer the Unified Development Ordinance (UDO), and the courts, which would have the final say on any matter. The Board's duties are to hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or Planning Director; to grant Special Use Permits and to grant Variances.

Ms. McCarthy said that the public hearing is not to solicit broad public opinion about how the Board should vote on a matter; rather, it is a time for submittal of relevant, factual evidence in the record by the applicants, proponents, opponents and staff. All parties involved must be affirmed or sworn in as required by the North Carolina General Statutes. The opposing parties have the right to cross examine witnesses and file documents into the record.

Ms. McCarthy stated that the Chairman will announce the case; the Zoning Administrator will submit into evidence the Staff Report; the applicant or person filing the application will present relevant evidence to the Board as it relates to the Approval Criteria outlined in Section 3.5.9.B. of the UDO; the opposition will have an opportunity to speak; and then the Zoning Administrator will provide recommended conditions based on the approval criteria and information provided during the public hearing. Once all parties have addressed the Board, all parties will have the opportunity for rebuttals and the Chairman will summarize all evidence presented. All parties will have the opportunity to comment on the summation given to the Board. Once the summary is accepted, the public

**BRUNSWICK COUNTY BOARD OF ADJUSTMENT
APPEAL OF STAFF DECISION
STAFF REPORT**

September 12, 2019

Application No. 19-12A

Applicant: James R. Todd for Brunswick Plantation Property Owners Association, Incorporated

Property Location: 252 South Middleton Drive, Calabash NC 28467

Parcel Number: 210IA058

Zoning District: SBR-6000 (High Density Site Built Residential)

Surrounding Zoning **North:** SBR-6000 **South:** SBR-6000
 East: SBR-6000 **West:** SBR-6000

Proposed Use of Property: Model Home

The application was submitted to the Brunswick County Planning Department on July 25, 2019.

Appeal: The applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance that Caw Caw Land Corporation can operate a model home at 252 S. Middleton Drive, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw land Corporation.

Relevant Information

- A public hearing was duly noticed as a sign was posted on the subject parcel and adjoining property owners were notified of the meeting.
- Caw Caw Land Corporation is the owner of the home located at 252 South Middleton Drive.
- Caw Caw Land Corporation is the owner of Tax Parcel 210IA058, the parcel on which the home is located. Mason H. Anderson is the President of Caw Caw Land Corporation per documents filed with the North Carolina Secretary of State.
- On February 12, 2019, an e-mail was sent to the Zoning Administrator stating that a single-family home located at 252 South Middleton Drive (Tax Parcel 210IA058) was in the process of being converted into a professional office space.
- The subject property contains 0.41 acres in total. It is zoned High Density Site Built Residential (SBR-6000) and it is within a platted residential section of the Brunswick Plantation Planned Development.
- The Brunswick County Land Use Plan designates this parcel as Low Density Residential (LDR).

- Land uses surrounding the subject property consist of single-family residential homes.
- Correspondence was sent to Mr. Anderson on March 15, 2019 stating that it is staff's interpretation that this relocated use is a sales office as opposed to a model home. Anderson was asked to relocate the sales office into a commercial area of the Brunswick Plantation Planned Development. A Change of Use Permit Application was provided for the owner to complete. The County asked that all activities at the address cease and that no additional construction on the parcel take place until this matter is resolved.
- On March 19, 2019 Mr. Anderson filed Application 451478 for a Change of Use (see attached). Per the application, the use was to be changed from a single-family home to a sales office/model home.
- The Planning Department was contacted on April 5, 2019 by Mr. Phil Norris on behalf of the owner(s). It was stated that "if the determination is made for the use as a model home sales location, Mr. Anderson would like to withdraw the Change of Use Application previously submitted.
- On April 10, 2019 correspondence was sent to Mr. Anderson and Mr. Norris regarding the commercial activity taking place. With the additional information provided in the Change of Use Application, our interpretation was that the activity proposed for this location is a sales office and more intensive than a model home.
- Staff defined a model home as "a term for a 'display' version of a home within a new development or new section of development that is furnished and decorated to show to prospective buyers the living space and features of homes that are available. An office may be provided within the home or with the garage for staff housing the model. Model homes are available for purchase and are typically at a location only for the time during which the section is being developed".
- Staff defined a sales office as "the office of a company responsible for selling its goods or services. The expanded hours of operation proposed (8:00 a.m. – 5:00 p.m.), broaden usage of the structure for business purposes as opposed to display purposes, and the increase in vehicular and pedestrian traffic moves the use from residential to commercial".
- Two options were offered for Caw Caw Land Development to have a sales office at this location: (1) If you do not agree with the interpretation of the use, you may appeal the interpretation to the Brunswick County Board of Adjustment. If the Board of Adjustment determines that the proposed use meets the definition of a model home, the residential designation of the parcel will remain. Activities conducted in the structure would be limited to those that are consistent with the model home definition. If the Board determines that the proposed use meets the definition of a sales office, the Brunswick Plantation Master Plan would require modification by the Brunswick County Planning Board for the commercial use; or (2) Request a modification of the Brunswick Plantation Master Plan to change 252 South Middleton Drive from residential to commercial. This would require a Neighborhood Meeting that meets all the neighborhood meeting requirements outlined in the UDO and an updated Master Site Plan for Brunswick Plantation Planned Development.
- On May 6, 2019 a Notice of Appeal to the Board of Adjustment was filed with the Brunswick County Planning Department.
- On May 22, 2019 the applicant's attorney (Matthew A. Nichols) requested to continue the hearing for the appeal from the Board of Adjustment's June 13, 2019

Meeting until the Board's July 11, 2019 meeting. "The purpose of this continuance request is to allow my clients additional time to discuss this matter with County Staff in an effort to resolve this matter if possible."

- On June 17, 2019 Attorney Nichols, the Assistant County Attorney and the Zoning Administrator met.
- On June 20, 2019 Attorney Nichols proposed a "settlement".
- On June 25, 2019 Brunswick County outlined the conditions regarding the extent to which the model home may be used and still retain the residential character (see attached). The correspondence went on to state that if they wished to cancel the pending appeal based upon the criteria provided, such must be done by the close of business on Wednesday, June 26th.
- On July 5, 2019 the appeal was withdrawn by the applicant.
- On July 24, 2019 correspondence was sent advising the applicant that full compliance with the conditions outlined in the June 25, 2019 correspondence is required within 30 days of the date of the withdrawal of the appeal, except for Item 4, which must be fully compliant within 60 days of the date of the withdrawal of the appeal, or the applicant will be in violation of the Brunswick County UDO.
- On July 25, 2019 James R. Todd filed an application for the Brunswick Plantation Property Owners Association, Inc. to appeal an interpretation of the Brunswick County UDO that Caw Caw Land Corporation can operate a model home at 252 S. Middleton Drive, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

6:00 P.M., Thursday
August 22, 2019

Commissioners Chambers
David R. Sandifer Administration Building
Brunswick County Government Center
Old Ocean Highway East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Mary Ann McCarthy
Marian Shiflet
Virginia Ward
Alan Lewis

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Justin Brantley, Project Planner

OTHERS PRESENT

Scott Dutton, ATMC

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:02 p.m.

II. ROLL CALL.

There were no members absent.

III. CONSIDERATION OF MINUTES OF THE JULY 11, 2019 MEETING.

Ms. Shiflet made a motion to accept the minutes of the July 11, 2019 meeting as written. The motion was seconded by Ms. McCarthy and unanimously carried.

IV. AGENDA AMENDMENTS.

Ms. Bunch requested to move the Election of Officers to the end of the meeting.

V. OLD BUSINESS.

- A) ~~19-12A:~~ Appeal of Decision
Applicant: James R. Todd/Brunswick Plantation Property Owners Association
Location: 252 S. Middleton Drive, Calabash, NC 28467
Tax Parcel 210IA058
Applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

The Chairman read the agenda description of case 19-12A, an appeal from James R. Todd/ Brunswick Plantation Property Owners Association. He stated that the applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance (UDO) that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

The Chairman stated that the public hearing portion of the meeting has been concluded and due to the length of the meeting, the meeting was continued to this meeting. He stated that the purpose of this meeting is to make a decision based on the evidence heard at the September 12th, 2019 meeting.

Brunswick County Assistant Attorney Bryan Batton stated that he will give a timeline of what was heard in the last meeting. He continued that this case was an appeal of a zoning interpretation letter from Ms. Bunch. The appeal was filed by the property owners association, but the letter was directed to the developer. He stated that testimony was heard from the developer, property owners association, and citizens. Mr. Batton continued that the case was tabled until today's date for deliberation and a decision. He stated that the appeal itself, in his interpretation, is two-fold: (1) it challenged the ability to have a model home as a permitted use within a residential area; (2) and it appealed the staff decision letter directly and the conditions within the letter.

Mr. Batton stated that this Board in an appeal of a staff decision, has the power to reverse the decision, affirm the decision, or modify the decision based on evidence presented. He stated unlike variances or special use permits, the appeal of a staff decision requires a majority of three-fifths of the Board membership where the others are four-fifths.

The Chairman stated that the board members will work through the worksheet, then make a decision. He stated that the findings of facts will be listed based upon the evidence that was heard at the hearing. Following deliberation by the Board, the following decision was made by the Board.

DECISION:

Having held a hearing on September 12, 2019 and continuing until October 17, 2019, to consider Application Number 19-12A (Tax Parcel 210IA058) submitted by James R. Todd on behalf of the Brunswick Plantation Property Owners Association, Inc, an appeal of the adverse decision relating to:

Staff interpretation of the Brunswick County Unified Development Ordinance (UDO) that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

Insofar as the Ordinance affects the use of a single-family dwelling presently located at 252 S. Middleton Drive, Calabash NC 28467, having heard all the evidence and arguments presented at the hearing, the Brunswick County Board of Adjustment makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. **There was substantial evidence in the record to show the following FACT(S):**
 - The subject parcel is used as a sales office at present and not as a model home.
 - The staff decision to define a model home was necessary, as it was not defined in the UDO.
 - The June 25, 2019 correspondence to the Caw Caw Land Corporation outlining the conditions was agreed to by the developer.
 - The Property Owners Association (POA) appealed the interpretation of staff stating what was allowed was not of a residential use.
 - The June 25, 2019 correspondence clearly stated that a sales office was not to be operated at this location.
 - The POA objected to the staff conditions, as what was described was not a “residential use”. A sales office is a commercial use.

2. **(b) The resolution of this case depends solely on an interpretation of the Ordinance language, without regard to the particular facts of this case. Therefore, it is the Board’s CONCLUSION that the following sections or provisions of the Ordinance shall in this case and hereafter be interpreted as follows:**
 - A sales office is a commercial use and will not be allowed in residential areas.
 - Brunswick County allows a model home as a residential use.

- As the Brunswick County Unified Development Ordinance does not define a model home, the Board is therefore modifying the June 25, 2019 letter to the property owner as stated herein.
- A model home may be used under the following conditions and still retain its residential character.
 - No parking lots or additional driveways are permitted.
 - No vehicle turnaround space contiguous to the existing driveway may be installed.
 - An employee presence is typical at a model home. To that end, Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 a.m. to 5:00 p.m.) Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients/prospective clients.
 - There shall be no events or gatherings held in the model home other than open houses.
 - Only customary model home signage of a temporary nature indicating an open house or an agent on duty shall be allowed. No additional sales signage in any form will be permitted.
 - There will be no more than two workstations in the model home.

THEREFORE, IT IS ORDERED that the decision of the Zoning Administrator is modified as motioned by Ms. Shiflet, seconded by Ms. McCarthy and unanimously carried.

The Chairman reiterated that due to the fact of there not being a definition of a “model home” in the ordinance, staff made the decision that model homes are allowed under certain conditions.

The Chairman stated that Option B of Question 2 on the worksheet states that the Board will go with the interpretation of the ordinance language without regards to the particular facts of this case. He asked if any board member would like to provide comments on the letter to be provided to the Planning Board regarding the development of a definition in the UDO for a “model home.”

Ms. McCarthy stated that the June 25th, 2019 correspondence letter clearly outlined the differences between a model home and a sales office. She continued that the language is not currently in the Unified Development Ordinance and should be a part of the ordinance.

The Chairman recommended going through each condition within the June 25th letter to Caw Caw Land Corporation to determine if it should be left as is, be modified, or be removed. Following much discussion among Board members, it was recommended that correspondence be sent to the Brunswick County Planning Board to request the term “model home” be included in the definition section of the UDO and that consideration be given to the following definition and limitations:

A **model home** (AKA show home) is a term for a “display” version of a home within a new development or new section of development that is furnished and decorated to show to prospective buyers the living space and features of homes that are available. An office may be provided within the home or within the garage for staff hosting the model. Model homes are available for purchase and are typically at a location for the time during which the section is being developed.

Recommended conditions/limitations for the use include the following:

1. The model home is considered a residential use and must maintain the residential character of the community.
2. A separate parking lot is not allowed for a model home. Parking is to take place within the existing driveway, with no vehicle turnaround space contiguous to the driveway.
3. An employee presence is typical at a model home. Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 a.m. to 5:00 p.m.). Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients.
4. There shall be no events or gatherings held in the model home other than open houses.
5. Customary model home signage for a temporary nature indicating an open house or an agent on duty shall be allowed, such as what is commonly called a “sandwich board”. No permanent sales signage in any form is permitted.
6. There shall be no more than two (2) workstations in the model home.

The Chairman asked if there is any other further action that needs to be taken. Ms. Shiflet stated that she would like to know the timeframe for which the decision can be appealed, and if so, what is the next process. Mr. Batton stated that the decision may be appealed to Superior Court within thirty days from the date of the decision. Ms. McCarthy asked if the thirty days would start from ‘tomorrow’s date.’ Mr. Batton responded that is correct, it would start from ‘tomorrow’s date’. The Chairman asked if another revised letter would

be issued to the developer. Mr. Batton stated that the Chairman would sign a letter based upon the Board's decision and that the date would become effective on the date the letter is delivered. The Chairman asked if someone could appeal the decision. Mr. Batton stated that any appeal will be made to Superior Court.

Mr. Batton asked for a motion to affirm model homes in a residential area and to modify the conditions as stated. Ms. Ward motioned to send the proposed model home definition and recommended conditions to the Planning Board for consideration, Ms. Shiflet seconded the motion which was unanimously carried.

Mr. Batton stated that correspondence will be sent to the property owner (Mason Anderson/Caw Caw Land Corporation) and to the appellant, which was the Brunswick Plantation Property Owners Association.

VI. STAFF REPORT.

Ms. Bunch stated that the next meeting will be held November 14th. As of today, there are two cases and possibly a third case.

VII. ADJOURNMENT.

With no further business, Ms. Shiflet made a motion to adjourn. The motion was seconded by Ms. McCarthy and unanimously carried.

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

6:00 P.M., Thursday
September 12, 2019

Commissioners Chambers
David R. Sandifer Administration Building
Brunswick County Government Center
Old Ocean Highway East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Mary Ann McCarthy
Marian Shiflet
Virginia Ward
Alan Lewis

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Justin Brantley, Project Planner

OTHERS PRESENT

Grey Vick
Patrick Newton
Sylvain Goulet
Jon Trainor
William Gerber
Marian Cionek
Inga Alston
Gary Brown
Matt A. Nichols, Attorney
Mason Anderson
Bryan McLaughlin
Joan Tomasello
Jimmy McLamb

I. CALL TO ORDER.

The Chairman called the meeting to order at 6:01 p.m.

II. ROLL CALL.

There were no members absent.

10. The applicant must request a visual inspection of the site prior to the commencement of "Vehicle and Heavy Equipment Sales and Rentals" activities to ensure all requirements have been met.
11. If the specified conditions addressed in this special use permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Board of Adjustment for another special use permit and receiving their approval can the use be again permitted.

The motion was seconded by Ms. Shiflet and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5. of the Brunswick County Unified Development Ordinance.

VIII. NEW BUSINESS.

- A) 19-12A: Appeal of Decision
 Applicant: James R. Todd/Brunswick Plantation Property Owners Association
 Location: 252 S. Middleton Drive, Calabash, NC 28467
 Tax Parcel 210IA058
 Applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

Ms. Bunch addressed the Board. Ms. Bunch read the Staff Report (attached). Ms. Bunch identified the subject property and surrounding properties on a visual map.

Mr. Jon Trainor, representing James A. Todd, addressed the board. Mr. Trainor stated that he is the President of the Board of Directors for the Brunswick Plantation Property Owners Association as well as a resident of the community for 6 years. Mr. Trainor stated that he is seeking clarification on the definition of a model home. Mr. Trainor continued that he has experience with real estate as his wife has been a real estate agent for twenty-two years. Mr. Trainor stated that a model home is supposed to be a show place that is well equipped. Mr. Trainor stated that a model home is not sales office for conducting the sale of other properties.

Mr. Trainor read the first paragraph from the June 25, 2019 letter from Brunswick County Zoning Administrator Helen Bunch to Caw Caw Land Corporation. Mr. Trainor then stated that the existing structure is not a model home, but is a custom-built home that was built approximately four and a half

(4.5) years ago by an outside builder. Mr. Trainor continued that the home has had two (2) previous owners. Mr. Trainor added that the Caw Caw Land Corporation does not have a building company of its own. Mr. Trainor continued that there are five (5) custom home companies approved for Brunswick Plantation and they do not include Caw Caw Land Corporation.

Mr. Trainor stated that the location is being used to sell vacant lots owned by Caw Caw Land Corporation. Mr. Trainor stated that early on the rooms of the home were converted into offices including desks and computers. Mr. Trainor stated that if it was a model home this would not have occurred. Mr. Trainor added that the garage has been converted into a conference room. Mr. Trainor stated that kitchen is the only part of the home that has been untouched. Mr. Trainor continued that the space is being used as the corporate office for Caw Caw Land Corporation.

Mr. Trainor stated that traffic was beginning to be an issue as cars have been parking on private lots as well as multiple cars being parked in the driveway. Mr. Trainor added that photographs of these conditions have been provided to the Brunswick County Planning Department.

Mr. Trainor stated that two members of the Board of Directors for Brunswick Plantation Property Owners Association met with the Brunswick County Planning Department to outline their concerns with the letter from the County addressed to Caw Caw Land Corporation on June 25th, 2019. Mr. Trainor stated that he was told by the Brunswick County Planning Department that there is not currently a definition of a model home in the Unified Development Ordinance (UDO). Mr. Trainor added that there is a definition for sales and commercial use.

Mr. Trainor stated that the approval of eight (8) parking spaces in the rear of the building did not constitute what is normally a feature of a residential home. Mr. Trainor continued that this would add an additional driveway on South Middleton Road, which is the busiest road within the community. Mr. Trainor added that a nearly six-foot by six-foot sign was erected in the front of the building that says "Sales Model". Mr. Trainor continued that it is not a model home because the model is not available.

Mr. Trainor said that the letter also stated that the model home could have two full-time employees. Mr. Trainor continued that the employees would require two vehicles. Mr. Trainor stated that they could use the garage for parking and make ample parking for visitors and clients available in the driveway.

Mr. Trainor stated that Brunswick Plantation's architectural standards do not permit six-foot fencing anywhere within the community. Mr. Trainor stated that the County's letter required six-foot fencing. Mr. Trainor stated that the letter also required an impervious service for the parking lot. Mr. Trainor

continued that he was told by Caw Caw Land Corporation that they would be building a gravel lot rather than concrete. Mr. Trainor stated that gravel is not permitted within the community.

Mr. Trainor summarized that Caw Caw Land Corporation does not build homes and did not build this home. Mr. Trainor continued that Brunswick Plantation's Architectural Standards Committee does not agree with several of the Planning Department's conditions. Mr. Trainor stated that Caw Caw Land Corporation had over one year since they were notified to vacate the "Plantation House" to move to a different location. Mr. Trainor continued that the home at 252 South Middleton Drive was chosen for the new location. Mr. Trainor added that there were several options within Caw Caw Land Corporation's ownership that are considered commercial properties. However, Caw Caw Land Corporation decided to occupy space within the residential portion of the community. Mr. Trainor continued that residents occupying neighboring homes are concerned with negative impacts on traffic and property values associated with the use of a sales office at the site. Mr. Trainor restated that the site is currently being used by Caw Caw Land Corporation as their corporate office. Mr. Trainor stated that he is requesting a reversal of the letter establishing a conditional use issued by the Planning Department as well as an order for Caw Caw Land Corporation to cease and desist. Mr. Trainor continued that several attempts have been made on behalf of the community to mitigate some of the issues identified in the June 25th, 2019 letter. Mr. Trainor added that changes were submitted to the Planning Department to amend the letter but was denied because the letter has been issued. Mr. Trainor stated that he was informed the issue would have to be brought to the Board of Adjustment.

Ms. Shiflet asked what compromises were offered to Caw Caw Land Corporation. Mr. Trainor stated that the County offered to let them use the facility as a quasi-model home. Mr. Trainor continued that the POA tried to get the parking in the rear reduced to 5 parking spaces. Mr. Trainor that several neighbors and Board members were not in agreement with the compromise. Mr. Trainor continued that an additional compromise was requested for Caw Caw Land Corporation to use a smaller temporary sign when staff is on duty or during operating hours. Mr Trainor stated that Caw Caw Land Corporation said they would reduce the sign by twenty percent, but an agreement was not reached. Mr. Trainor added that the home is located at the busiest corner of the community in terms of traffic. Mr. Trainor continued that he acknowledges that Caw Caw Land Corporation needs a sales office, but the community does not want it at that location. Mr. Trainor added that Caw Caw Land Corporation did not bring plans for the site to the Board of Directors of Brunswick Plantation.

Ms. Shiflet asked if as a property owner Caw Caw Land Corporation is a member of the neighborhood association. Mr. Trainor responded yes. Mr.

Trainor continued that Caw Caw Land Corporation has done a wonderful job developing the community. However, the issue is that the use of the site as a sales office is negatively impacting the neighboring properties. Mr. Trainor continued that he is not disputing the right of Caw Caw Land Corporation to have a sales office within the community. Mr. Trainor stated that there is a need for a sales office within the community. Mr. Trainor added that there are nearly 3,000 residents within the community.

Ms. McCarthy asked if the developer is still in control of the Homeowners Association. Mr. Trainor stated that the HOA and POA maintain the properties within the community. Ms. McCarthy asked if everyone in the community has a vote. Mr. Trainor responded yes.

Ms. Ward asked if Brunswick Plantation has a clubhouse that could be used for the sales office. Mr. Trainor responded that the clubhouse was previously used on a temporary basis for Caw Caw Land Corporation's sales office, however in April of 2017 the clubhouse was sold to a private company and they were notified to vacate the property within one year.

Ms. McCarthy asked if Brunswick Plantation Property Owners Association is appealing the Planning Department's determination to allow the use of a model home at the site but have attempted to reach a compromise with Caw Caw Land Corporation. Mr. Trainor stated that, yes, that is what the Brunswick Plantain POA is appealing and that they attempted to mitigate the concerns with conditions related to the maintaining the residential character of the site. Ms. McCarthy asked is Mr. Trainor is maintaining that the site is being used as a sales office. Mr. Trainor responded that the site is being used as a sales office.

Mr. Williamson asked which part of the Planning Department's decision is being disagreed with. Mr. Trainor responded that the Property Owners Association is in disagreement with the permission given to Caw Caw Land Corporation to operate a model home within the community. Mr. Trainor continued that the site is being used as a sales office and not a model home. Mr. Trainor added that based on the June 25th, 2019 letter the site would be commercial. Mr. Trainor continued that he would like Brunswick County Planning to alter the letter to remove the additional parking as well as remove the permanent signage in the front of the building.

Mr. Williamson asked why the parking lot should not be allowed. Mr. Trainor responded that the current driveway can accommodate over 4 vehicles. Mr. Trainor added that the garage was converted to a conference room and has reduced parking availability. Mr. Trainor continued that the Brunswick County Planning Department provided that a sales office is considered a commercial business and would not be approved in a residential community.

Ms. Shiflet asked if the Property Owners Association would accept the use of a model home at that site. Mr. Trainor responded that it would be acceptable if the site were used as a model home. Mr. Trainor continued that one of the concerns is the additional parking lot on the site.

Mr. Williamson asked for clarification as to what part of the June 25th, 2019 letter is being disagreed with. Mr. Trainor responded that the second parking lot is not necessary for a model home. Mr. Williamson asked Mr. Trainor if he thinks the parking lot is allowed by the Brunswick County Unified Development Ordinance. Mr. Trainor responded that the letter indicated that it was allowed at the site and that he is unclear what the UDO allows at the site.

Mr. Williamson asked what are the other disagreements. Mr. Trainor added that the permanent 6 foot by 6 foot sign in the front of the property is unappealing and does not maintain the residential character of the neighborhood. Mr. Trainor added that the site is not being used as a model home. Mr. Williamson stated that he has visited the site and the home was being used as a sales office.

Mr. Batton stated that the appeal is not regarding how the site was being used previously or how the site is being used currently. Mr. Batton continued that the appeal is concerning the conditions established by Brunswick County Planning staff associated with the use of a model home at the site. Mr. Batton clarified that staff has not allowed a sales office at the site.

Mr. Trainor stated that the site is not being used as a model home. Mr. Williamson stated that the Board of Adjustment is here to decide why the site shouldn't be used as a model home. Mr. Trainor reiterated that the site is not being used as a model home. Mr. Trainor that the site is being used as a commercial business to sell properties.

Ms. Ward asked if the POA guidelines establish that permanent signs are not allowed. Mr. Trainor stated that is correct, but Brunswick County Planning Department has said they can have one on the site. Mr. Trainor continued that they have requested that a temporary sign be used on the site during business hours. Mr. Trainor stated that he hopes that the architectural standards of the community supersede the County's requirements.

Mr. Batton stated that the Brunswick County Unified Development Ordinance does not acknowledge restrictive covenants. Mr. Batton added that restrictive covenants are a private and civil matter between property owners. Mr. Batton continued that restrictive covenants are not to be taken into consideration.

Mr. Williamson asked if the case goes to court, would it be likely that the court would uphold the deed restrictions. Mr. Batton stated that he cannot say but the court would rely on the restrictive covenants. Mr. Batton added that

just because the UDO allows something does not mean that the restrictive covenants also have to allow it. Mr. Batton reiterated that Brunswick County does not get involved with matters related to restrictive covenants.

Mr. Trainor asked who would monitor the use of the building if the letter of June 25th, 2019 is approved. Mr. Trainor added that he does not need an answer to the question.

Mr. William Gerber addressed the Board. Mr. Gerber read definitions of the term model home from various sources. Mr. Gerber stated that he has experience building condominiums in New Jersey. Mr. Gerber continued that when he would build condominiums, he would have a model unit fully furnished for display purposes. Mr. Gerber added that typically, a builder builds the model home. Mr. Gerber continued that Caw Caw Land Corporation is not building homes. Mr. Gerber stated that the site would not be able to be used for a tour because the site is being used as a sales office.

Ms. Marian Cionek addressed the Board. Ms. Cionek asked for clarification regarding the role of the Board of Adjustment. Ms. Cionek asked if it is the responsibility of the Board of Adjustment to determine if a model home or commercial sales office can be allowed in a residential area. Mr. Williamson responded that those determinations are made by the Brunswick County Unified Development Ordinance. Mr. Williamson added that it is a matter of interpretation of the Ordinance. Mr. Williamson continued that the Brunswick County Planning staff's determination that a model home as defined in the Letter to Caw Caw Land Corporation would be allowed was a result of the interpretation of the Ordinance.

Ms. Cionek stated that the biggest concern of the community is that the site is being used as a sales office. Ms. Cionek continued that traffic generated with the site as well the large signage on the site are associated concerns.

Inga Alston addressed the board. Ms. Alston stated that she is in opposition of the June 25th, 2019 letter issued by the Brunswick County Planning Department. Ms. Alston continued that site appears to be a sales office rather than a model home. Ms. Alston asked if the meeting was previously cancelled. Ms. Shiflet responded that the case was continued. Ms. Alston stated that she is concerned that misinformation may have been provided about the date of the meeting. Ms. Alston added that she saw that the notice posted on the site was removed and put back multiple times. Ms. Alston continued that an additional concern is that the permittance of a sales office could mean that other businesses may be allowed within the community. Ms. Alston asked what would prevent businesses from being established within homes. Mr. Williamson responded that the deed restrictions would prevent this. Ms. McCarthy added that zoning would prevent this as well. Mr. Williamson stated that a sales office is not allowed at the site. Ms. Alston asked if the

letter is saying that a sales office is allowed as long as they refer to the use as a model home. Mr. Williamson responded that is not the case. Mr. Williamson continued that the determination made by staff provided that the use of a model home is similar enough to a home to be allowed at the site, whereas the sales office is not allowed. Ms. Alston reiterated that the site appears to be currently used as a sales office.

Mr. Williamson stated that Board is here to decide the appeal of the June 25th, 2019 letter stating that a model home subject to conditions outlined. Ms. McCarthy added that the Board is not here to decide what the site is currently being used for. Ms. Shiflet stated that it is up to Caw Caw Land Corporation to decide whether to abide by the conditions of the letter. Mr. Williamson clarified that the appeal is intended to reverse the determination that a model home is allowed on the site with the outlined conditions.

Zoning Administrator Helen Bunch provided clarification about the meeting cancellation and sign being placed on the site and removed. Ms. Bunch stated that the meeting was not cancelled. Ms. Bunch clarified that a withdrawal by the applicant was not indicated. Mr. Batton asked if there was a case regarding this property that was previously withdrawn. Ms. Bunch responded that Caw Caw Land Corporation appealed the letter initially, in a separate case, and then withdrew the appeal. Then the Brunswick Plantation Property Owners Association filed an appeal. Ms. Bunch continued and stated that the sign was removed from the site prior to the arrival of Hurricane Dorian and was placed back on the site the first workday following Hurricane Dorian.

Mr. Gary Brown addressed the Board. Mr. Brown asked if the appeal is to decide whether to allow the use of a model home based on the conditions provided in the June 25th, 2019 letter. Mr. Williamson responded yes.

Mr. Brown asked if another use such as a sales office would be allowed at the site. Mr. Williamson responded that a sales office is not allowed at the site. Mr. Brown stated that Caw Caw Land Corporation Website refers to the site as the location of their sales office. Mr. Brown submitted evidence to the Board showing the website's language.

Mr. Brown stated that if the site was being used as a model home it would likely be accepted by the community. Mr. Brown continued that the site is being used as a sales office. Mr. Brown referred to the Brunswick County Unified Development Ordinance and provided that the use of a sales office at this site is prohibited.

Mr. Williamson asked Ms. Bunch what would happen if the Brunswick County Planning Department found out that the site was being used a sales office after the issuance of the June 25th, 2019 letter. Ms. Bunch deferred to Mr. Batton, Assistant County Attorney. Mr. Batton stated that the Planning

Department may file a lawsuit seeking an injunction to prevent it from being used as a sales office. Bryan continued that as long as they are operating under the conditions of the letter it would be considered a model home. Mr. Batton continued that with the filing of the appeal the letter no longer the final determination. Mr. Batton added that at this point in time there is nothing for the County to enforce.

Ms. Shiflet asked if Caw Caw Land Corporation was given a time period to comply with the letter and transition into a model home. Ms. Batton stated that Caw Caw Land Corporation was given thirty (30) days from July 24th. Mr. Batton added that the letter was appealed by the Brunswick Plantation POA on July 25th.

Mr. Brown asked if Caw Caw Land Corporation says it is a model home and meets the conditions of the letter, would they be able to continue using the property as a sales office. Mr. Williamson responded that someone would have to file a complaint with the Planning Department.

Mr. Brown stated that the Unified Development Ordinance does not allow commercial uses in residential areas. Mr. Williamson asked Ms. Bunch for clarification. Ms. Bunch clarified that it depends on the zoning district. Ms. Bunch continued that in this particular case the district does not generally allow commercial uses. Mr. Brown stated that home occupations are allowed, and that Mr. Mason could operate a sales office out of his home and still operate the model home.

Mr. Batton stated that the primary purpose of the Board is to receive testimony and issue a decision. Mr. Batton continued that the Board should direct questions to the staff. Mr. Batton stated that staff is able to offer testimony.

Jon Trainor requested that the Board revoke the June 25th letter and start the process over. Mr. Williamson asked what the issue with the June 25th letter is. Mr. Trainor responded that the letter is voided because it's a commercial property. Mr. Trainor stated that there should have been a public hearing for the change of use for the property. Ms. Shiflet asked if that would call for a public hearing. Mr. Batton responded that a public hearing would not be required.

Mr. Lewis referred to Appendix A located within the meeting packet. Mr. Lewis stated that the issue is the use of a sales office and not the use of a model home. Mr. Lewis continued that the Brunswick Plantation Property Owners Association disagrees with some of the conditions of the letter provided by staff. Mr. Lewis continued that Appendix A should be voided because the argument is not against whether it is a model home but whether it is a sales office.

Matthew Nichols, Attorney representing Caw Caw Land Corporation, addressed the Board. Mr. Nichols stated that nothing has been said to form the basis for the appeal of the June 25th letter. Mr. Nichols submitted a copy of the Master Declaration and Development Plan for Brunswick Plantation to the Board, dated 2015, as evidence. Mr. Nichols stated that to his understanding this document is current and provides the regulations for development within the community. He further explained that this document has been agreed upon by the parties of the Caw Caw Land Corporation and the Property Owners Association. Mr. Nichols pointed out Section 12 on page 35 and stated that the agreement indicates that Caw Caw Land Corporation as the declarant has the right to use dwelling units within the development as a sales office. Mr. Nichols clarified that this document is not an ordinance and is not binding on the County. Mr. Nichols continued that the Property Owners Association has agreed that Caw Caw Land Corporation can do what is stated in Section 12 of the Master Declaration and Development Plan For Brunswick Plantation. Mr. Nichols stated that the appellant does not have standing because they have agreed to Section 12 which allows a sales office within the community.

Mason Anderson addressed the Board. Mr. Anderson stated that the development began in 1989. He continued that he has developed the community as it was originally designed. Mr. Anderson stated that his Attorney has provided a copy of the Master Declaration. Mr. Anderson added that he prepared the original document in 1990 and he included the language within Section 12 to allow the operation of sales offices or model homes within the community. Mr. Anderson continued that this agreement predated zoning regulations within Brunswick County in 1994.

Mr. Anderson stated that he ran the community for nearly 20 years and has not had an issue previously. Mr. Anderson continued that he turned the development over to the Property Owners Association. Mr. Anderson stated that the locations of sales offices, construction offices, and model homes within the community have changed many times over the years. Mr. Anderson continued that when he purchased the property at 252 South Middleton, he was not under the understanding that he needed to gain permission from the County to operate a model home. Mr. Anderson further stated that he was within his rights to use the site as a model home.

Mr. Nichols submitted an image of the sign on the site to the Board. Mr. Nichols stated that Mr. Trainor indicated that the sign was 6 by 6 feet in size. Mr. Nichols stated that the sign is not that large.

Mr. Nichols stated that Mr. Anderson and Mr. Trainor have discussed reaching a compromise. Mr. Nichols continued that Caw Caw Land Corporation is willing to reduce the size of the sign as well as provide opaque landscaping rather than a fence. Mr. Nichols added that Caw Caw Land

Corporation is willing to reduce the parking in the rear of the site to six (6) spaces rather than eight (8). Mr. Nichols stated that the decision determined by the Planning Department is fair and he reiterated that evidence has not been provided to support the appeal of the June 25th letter.

Ms. Shiflet asked if there was any effort after the June 25th letter to comply with the conditions. Mr. Nichols responded that he understands that efforts to reach compliance were on hold once the letter was appealed. Mr. Nichols said that no improvements have been made and that Caw Caw Land Corporation is willing to come into compliance with the June 25th letter.

Mr. Anderson stated that he made attempts to address the concerns of the Property Owners Association. Mr. Anderson stated he agreed to reduce the sign by twenty (20) percent. Mr. Anderson added that an agreement has not been reached.

Mr. Trainor referred to Page 35, Article 15, of the Master Declaration and Development Plan for Brunswick Plantation.

Ms. Alston stated that Mr. Nichols pointed Section 12 of the Master Declaration and Development Plan for Brunswick Plantation. Ms. Alston continued that a misinterpretation of this document was made by staff, based on the June 25th letter. Mr. Williamson stated that the June 25th letter was not based on the interpretation of the Master Declaration and Development Plan for Brunswick Plantation. Mr. Williamson stated that the staff is only allowed to consider the Unified Development Ordinance. Mr. Batton clarified that the Master Declaration shall not be considered in the decision.

Mr. Bunch stated that this situation began as a result of complaints that a commercial activity was taking place in a residential area. Ms. Bunch continued that the investigation included the establishment of a definition of a model home by Planning staff. Ms. Alston reiterated that the letter should be appealed.

Mr. Lewis read an excerpt from the June 25th letter. The excerpt illustrated that Brunswick County does not allow a sales office as a commercial use but does allow a model home as a residential use. Mr. Lewis further clarified that Brunswick County has determined that a sales office is not allowed in that area and that a model home is allowed as a residential use. Mr. Lewis added that the Property Owners Association's Attorney identified that the complaint was against a model home and not a sales office.

Ms. Ward stated that the letter from the Property Owners Association also identifies traffic complaints and safety as an issue.

Mr. Trainor reiterated that the June 25th letter should be voided and that Brunswick Plantation should be able to control the development. Mr. Trainor stated that the community needs closure on the issue.

Ms. Shiflet stated that complaints were received by Brunswick County regarding the use of the site.

Ms. McCarthy asked if the applicant is allowed to withdraw the appeal. Mr. Batton responded that if the applicant withdraws the appeal, then the June 25th letter will stand. Mr. Batton asked Ms. Bunch if the intention of the June 25th letter was to allow what was currently in place to remain. Ms. Bunch responded no.

Mr. Lewis stated that the staff's decision determined that if the facility was operating a sales office it would be in violation of the Brunswick County Unified Development Ordinance and that if it was operating as a model home under the conditions of the June 25th letter it would be in compliance.

Mr. Lewis asked who with Brunswick County would determine what the use is at the site. Mr. Batton stated that it would ultimately up to the Zoning Administrator. Mr. Batton restated information provided in the packet. Mr. Batton provided that Brunswick County does not define the term model home. Mr. Batton continued that a definition for model home is provided in the June 25th letter and this definition is accompanied by conditions that must be met to operate a model home at the site. Mr. Batton added that since the letter was appealed, the County does not have a mechanism with which to enforce the letter to make sure the property owner has begun to operate as a model home.

Ms. McCarthy stated that the letter clearly states that a sales office is not allowed at the site. Ms. Ward reiterated that the letter makes this clear.

Mr. Batton asked Ms. Bunch if changes to the property were required to come into compliance with the letter. Ms. Bunch responded yes. Mr. Lewis asked if these requirements were established to maintain the residential character of the property according to the letter. Ms. Bunch responded yes.

Ms. Ward stated that it is her understanding that Caw Caw Land Corporation was given thirty days to comply with the June 25th letter. Ms. Ward continued that the letter was appealed and the thirty-day period was put on hold.

Mr. Batton reiterated the timeline within the Staff Report regarding the July 2019 section of timeline.

Mr. Brown asked if the conditions were a result of conversation with staff or with negotiations with the property owner. Ms. Bunch responded that the conditions were a result of conversations with staff. Mr. Batton asked Ms.

Bunch if she received input from the property owner regarding what should be allowed at the property. Ms. Bunch responded that the property owner communicated what they thought should be allowed at the property.

Mr. Williamson asked if there were negotiations between property owners and staff. Mr. Lewis responded that the Staff Report indicates that a "settlement" was proposed by Attorney Nichols. Mr. Lewis asked for clarification on the nature of the proposed settlement.

Mr. Nichols responded that he does not recall the specific terms. Mr. Nichols added that there were a lot of discussions about the appeal that was filed initially and later withdrawn. Mr. Nichols stated that there wasn't a settlement and that the County issued the June 25th letter which his client appealed and later withdrew the appeal. Mr. Nichols continued that his client decided to come into compliance with the June 25th letter which was later appealed by the Brunswick Plantation Property Owners Association.

Mr. Nichols reiterated that his client is willing to comply with Determination and associated conditions provided by the Zoning Administrator. Mr. Nichols continued that his client is willing to add or modify conditions of the letter which may include additional landscaping instead of the fence, reducing the size of the sign by twenty (20) percent, and reducing the size of the parking lot by two (2) parking spaces.

Mr. Lewis reiterated that the June 25th letter was intended to maintain the residential character of the property.

Mr. Williamson reiterated that the decision of the June 25th letter was made by staff. Mr. Williamson continued that his understanding is that there was a lot of communication during this process with the parties involved but no appeasement.

Mr. Brown stated that he heard that there were conversations between the attorneys. Mr. Williamson asked Mr. Batton if there were discussions between attorneys. Mr. Batton referred to the Staff Report which reflects that he was involved in conversations.

Mr. Brown asked for clarification on the nature of the appeal. Mr. Batton responded that the appeal is twofold. Mr. Batton stated the first is the question or whether a model home is allowed in a residential area. Mr. Batton continued that the second question is does the board believe or wish to change the conditions set by Ms. Bunch under which someone may operate a model home.

Mr. Brown stated that he agrees that a model home is allowed in a residential area. Mr. Brown asked if the conditions attached to the June 25th letter are

relevant to a model home in a residential area or are the conditions more like what is found associated with a typical real estate sales office. Mr. Batton responded that the appeal was filed to convince the Board that the conditions were not appropriate for a model home.

Mr. Brown asked how many conditions were included in the June 25th letter. Mr. Lewis responded that there are eleven (11) conditions.

Mr. Brian McLaughlin addressed the Board. Mr. McLaughlin stated that there appears to be a lack of communication. Mr. McLaughlin added that he wants Brunswick County, the Board and the Community to have a forward-looking approach to resolve the conflict. Mr. Williamson stated that the Board can consider modifying the conditions in the Planning Department's decision.

Mr. Lewis asked Mr. Trainor if he read the June 25th letter. Mr. Trainor responded yes and added that he met with Ms. Bunch and the Assistant County Attorney. Mr. Trainor continued that he was told that his best option was to appeal the June 25th letter. Mr. Trainor stated that he identified the areas of the June 25th letter that were clearly in violation of Brunswick Plantation's architectural standards. Mr. Trainor continued that he is angry that staff may determine what a model home is without legal standing. Mr. Trainor added that he has seen communities that have model homes that are clearly model homes.

Mr. Lewis stated that the Planning Board is responsible for establishing definitions within the Unified Development Ordinance. Mr. Lewis continued that after this meeting it will be likely that the Planning Board will attempt to define the term.

Mr. Trainor reiterated the three areas of the June 25th letter that are the most egregious to the community include the signage on the property, the parking lot, and the fence. Mr. Trainor continued that he met with Caw Caw Land Corporation but did not reach an agreement.

Ms. Joan Tomasello addressed the Board. Ms. Tomasello asked how parking will be accommodated in the rear of the property. Mr. Williamson asked Ms. Bunch if there enough room on the lot for the prescribed parking lot. Ms. Bunch responded that she has not received a final drawing of the site plan, but the preliminary drawing indicates that is adequate space. Ms. Bunch continued that the applicant is aware they must meet the requirements of the ordinance regarding how the development of a parking lot at the site shall occur.

Ms. Bunch stated that Caw Caw Land Corporation received guidelines for how the parking lot must be developed at the site in terms of the requirements of the Ordinance.

Ms. Tomasello asked if there is adequate room to access the site at the rear of the site. Ms. Bunch responded that Caw Caw Land Corporation was given the required dimensions for the parking lot, but a final site plan has not been approved. Ms. Tomasello asked if there was a problem with seeing if they are complying with the conditions of the June 25th letter. Ms. Bunch responded that Caw Caw Land Corporation has not reached that point.

Ms. Tomasello asked if impervious restrictions were considered. Ms. Bunch responded that they have not reached that point. Ms. Bunch reiterated that no site plan for the property has been approved and added that the required conditions and improvements were provided to Caw Caw Land Corporation for the use of a model home at the site.

Ms. Tomasello asked if Caw Caw Land Corporation has agreed to use the site as a model home and to no longer use the site as a sales office. Ms. Bunch responded that the use must be a model home.

Mr. Nichols stated that his client is willing to comply with the terms of the June 25th letter. Mr. Nichols added that his client is willing to agree to a more acceptable condition related to the existing signage. Mr. Nichols continued that his client is willing to remove the permanent sign and use a single portable sign for regular business hours only. Mr. Nichols stated that they have addressed the initial concern of on-street parking by agreeing to parking in the rear of the property as well as limit the parking to six (6) spaces. Mr. Nichols continued that the additional concern of the fence can be addressed by his client agreeing to provide opaque landscaping if allowed.

Mr. Nichols stated that there has been discussion about having a turn around in the front driveway so that cars are not required to reverse out of the driveway onto North Middleton Drive. Mr. Nichols added that this would address safety concerns at the site in terms of parking and traffic. Mr. Nichols stated that he understands that this option is not allowed but his client would like to request that the Board allow the current driveway to be widened to allow cars to enter and exit in a forward manner.

Ms. Tomasello stated that it seems that Caw Caw Land Corporation has not agreed that it will no longer be a sales office but rather they are agreeing to meet the conditions of the letter and continue the use of a sales office.

Mr. Williamson asked if it would help to accept a sales model on the site if the parking lot was reduced in size. Ms. Tomasello stated that there are children who live at the adjacent property in the rear and added that there is a safety concern with the parking lot.

Mr. Brown asked the Board to consider if they have been to a model home that has a six (6) foot privacy fence. Mr. Brown continued and asked why

there would be parking for eight (8) vehicles for a model home. Mr. Brown continued and asked if anyone has asked Caw Caw Land Corporation where their sales staff will be located.

Mr. Williamson clarified that the role of the Board of Adjustment is to interpret the Ordinance and not to enforce the Ordinance. Mr. Brown asked where the sales staff will be located. Mr. Williamson responded that information is irrelevant.

Mr. Lewis stated that if Caw Caw Land Corporation was to locate staff at another site it would not be up to the Board to determine where that location would be. Mr. Lewis continued that if they're located within an area that was not allowed then complaints can lead to an investigation by staff.

Mr. Lewis asked if six (6) foot fences are not allowed in Brunswick Plantation based on the restrictive covenants. Mr. Trainor confirmed that is correct. Mr. Lewis asked what size of fence is allowed. Mr. Trainor responded that four (4) foot fences are allowed. Mr. Lewis asked if it would be possible to allow a four (4) foot fence with landscaping to maintain the residential character. Mr. Trainor stated that six (6) foot fences are not allowed within the community.

Mr. Lewis stated that it was mentioned that children live next door to the property. Mr. Lewis continued that children can get through shrubbery but will have difficulty getting around a six (6) foot fence.

Mr. Anderson explained that the site will be used for a model home. Mr. Anderson continued that the purpose of a model home is to show the contract and use the space to write the contract. Mr. Anderson continued his company has many properties for sale within the community and that the purpose of the model home is to help sell the properties. Mr. Anderson stated that he agreed to the portable sign and has seen signs similar to the current sign in similar communities within the area. Mr. Nichols submitted a photograph that showed a site with a large sign advertising a sales office in a residential area.

Mr. Anderson stated that he has worked to resolve this matter. Mr. Anderson stated that he has agreed to comply with the conditions of the June 25th letter with the exception of the items that they are asking the Board to consider. Mr. Anderson continued that he intends to use the site as a model home. Mr. Anderson continued that it is very common in similar communities to have model homes with sales agents on staff.

Mr. Gerber asked Ms. Bunch if staff told her the site was used as a sales office would she have written a different letter. Mr. Williamson asked if the site was inspected after the complaint was made. Ms. Bunch responded that they were made aware of the complaint and did not go inside of the site. Mr. Williamson asked Ms. Bunch if when she wrote the letter was it her opinion that the site

was being used as a sales office or a model home. Ms. Bunch responded that she did not know at that point in time. Ms. Bunch clarified that the strategy was define a “model home” because that is what would be allowed.

Mr. Batton asked Ms. Bunch based on the use she was informed of, is the current and previous use of the site in compliance with the definition of a “model home”. Ms. Bunch responded no. Mr. Batton asked what question the letter is answering. Ms. Bunch responded that the letter is answering the question of what a “model home” is. Ms. Bunch clarified that staff defined the term “model home”.

Mr. Gerber asked if the letter defines the term model home or what a model home should do to protect the neighborhood. Ms. Bunch responded that the letter defined what the staff’s interpretation of a what is considered a model home. Mr. Williamson referred to the staff Report and stated that correspondence was sent to Mr. Anderson on March 15th, 2019 that it is the staff’s interpretation that this location use is a sales office as opposed to a model home.

Mr. Gerber reiterated that the site is being used a sales office. Ms. McCarthy stated that the Board is here to decide the appeal of the June 25th, 2019 letter. Ms. McCarthy clarified that the hearing is not intended to decide how to site is currently being used.

Mr. Gerber stated that the current driveway at the site accommodates six to seven cars on a regular basis. Mr. Gerber continued that the June 25th letter allows two (2) full time staff members on site. Mr. Gerber stated that Mr. Anderson is at the site everyday and that would mean one additional staff member would be allowed. Mr. Gerber asked who will monitor the use at the site. Mr. Lewis stated that Brunswick County does not have the staff or funds to make sure people are constantly complying with the ordinance in the unincorporated areas of Brunswick County. Mr. Lewis stated that the Board of Directors for Brunswick Plantation made the appeal and they should be communicated with regarding the case. Mr. Lewis continued that if the community forces a decision tonight then it is unclear what decision would be made.

Mr. Lewis stated that he would personally like to see a site plan that shows how the residential character will be maintained. Mr. Lewis continued that Ms. Bunch indicated that two (2) full time employees will be able to be on site during business hours with additional employees being on site intermittently. Mr. Lewis continued that the Board wants to look after the interests of the community as well as the interest of the developer.

Mr. Trainor stated that he hopes that the Board does not make a decision tonight. Mr. Trainor continued that the Board should take time to think about

the decision. Mr. Trainor asked the community members to refrain from providing additional comments.

Mr. Nichols stated that they are able to answer any questions that the Board has. Mr. Nichols continued that his client is willing to comply with the letter as well as extra conditions. Mr. Nichols stated that his client has done a nice job developing the community and does not want to do anything to hurt the community. Mr. Nichols reiterated that they are willing to comply. Mr. Nichols stated that he does not think that the comments provided tonight do not support the reversal or voidance of the June 25th, 2019 letter and that the board should affirm the determination made by the Zoning Administrator.

Ms. McCarthy made a motion to table the case until a special meeting date on October 17th at 6:00 P.M. The motion was seconded by Ms. Shiflet and unanimously carried.

Mr. Batton clarified that the special meeting date would be held for the deliberation and decision of the case. Mr. Batton added that the public hearing portion has been closed and may be reopened.

Mr. Batton stated to the Board that members may not be able to discuss the case with one another or anyone else and that if any member visits the site then that visit should be disclosed and discussed with the other members at the October 17th, 2019 meeting.

IX. STAFF REPORT.

There was none.

X. ADJOURNMENT.

With no further business, Ms. Shiflet made a motion to adjourn. The motion was seconded by Ms. McCarthy and unanimously carried.

MINUTES
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY, N.C.

6:00 P.M., Thursday
October 17, 2019

Commissioners Chambers
David R. Sandifer Administration Building
Brunswick County Government Center
Old Ocean Highway East, Bolivia

MEMBERS PRESENT

Robert Williamson, Chairman
Mary Ann McCarthy
Marian Shiflet
Virginia Ward
Alan Lewis

MEMBERS ABSENT

None

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Brandon Hackney, Project Planner

I. CALL TO ORDER.

Chairman Robert Williamson called the meeting to order at 6:00 p.m.

II. ROLL CALL.

The Chairman stated that all members were present.

III. CONSIDERATION OF MINUTES OF THE SEPTEMBER 12, 2019 MEETING.

Ms. Ward made a motion to accept the minutes of the September 19th, 2019 meeting as written. The motion was seconded by Ms. McCarthy and unanimously carried.

IV. AGENDA AMENDMENTS.

Chairman Williamson asked Ms. Bunch if there were any agenda amendments. Ms. Bunch stated that there were none.

V. OLD BUSINESS.

- A) 19-12A: Appeal of Decision
Applicant: James R. Todd/Brunswick Plantation Property Owners Association
Location: 252 S. Middleton Drive, Calabash, NC 28467
Tax Parcel 210IA058
Applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

The Chairman read the agenda description of case 19-12A, an appeal from James R. Todd/ Brunswick Plantation Property Owners Association. He stated that the applicant is appealing an interpretation of the Brunswick County Unified Development Ordinance (UDO) that Caw Caw Land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

The Chairman stated that the public hearing portion of the meeting has been concluded and due to the length of the meeting, the meeting was continued to this meeting. He stated that the purpose of this meeting is to make a decision based on the evidence heard at the September 12th, 2019 meeting.

Brunswick County Assistant Attorney Bryan Batton stated that he will give a timeline of what was heard in the last meeting. He continued that this case was an appeal of a zoning interpretation letter from Ms. Bunch. The appeal was filed by the property owners association, but the letter was directed to the developer. He stated that testimony was heard from the developer, property owners association, and citizens. Mr. Batton continued that the case was tabled until today's date for deliberation and a decision. He stated that the appeal itself, in his interpretation, is two-fold: (1) it challenged the ability to have a model home as a permitted use within a residential area; (2) and it appealed the staff decision letter directly and the conditions within the letter.

Mr. Batton stated that this Board in an appeal of a staff decision, has the power to reverse the decision, affirm the decision, or modify the decision based on evidence presented. He stated unlike variances or special use permits, the appeal of a staff decision requires a majority of three-fifths of the Board membership where the others are four-fifths.

The Chairman stated that the board members will work through the worksheet, then make a decision. He stated that the findings of facts will be listed based upon the evidence that was heard at the hearing. Following deliberation by the Board, the following decision was made by the Board.

DECISION:

Having held a hearing on September 12, 2019 and continuing until October 17, 2019, to consider Application Number 19-12A (Tax Parcel 210IA058) submitted by James R. Todd on behalf of the Brunswick Plantation Property Owners Association, Inc, an appeal of the adverse decision relating to:

Staff interpretation of the Brunswick County Unified Development Ordinance (UDO) that Caw Caw land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

Insofar as the Ordinance affects the use of a single-family dwelling presently located at 252 S. Middleton Drive, Calabash NC 28467, having heard all the evidence and arguments presented at the hearing, the Brunswick County Board of Adjustment makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. **There was substantial evidence in the record to show the following FACT(S):**
 - The subject parcel is used as a sales office at present and not as a model home.
 - The staff decision to define a model home was necessary, as it was not defined in the UDO.
 - The June 25, 2019 correspondence to the Caw Caw Land Corporation outlining the conditions was agreed to by the developer.
 - The Property Owners Association (POA) appealed the interpretation of staff stating what was allowed was not of a residential use.
 - The June 25, 2019 correspondence clearly stated that a sales office was not to be operated at this location.
 - The POA objected to the staff conditions, as what was described was not a “residential use”. A sales office is a commercial use.

2. **(b) The resolution of this case depends solely on an interpretation of the Ordinance language, without regard to the particular facts of this case. Therefore, it is the Board’s CONCLUSION that the following sections or provisions of the Ordinance shall in this case and hereafter be interpreted as follows:**
 - A sales office is a commercial use and will not be allowed in residential areas.
 - Brunswick County allows a model home as a residential use.

- As the Brunswick County Unified Development Ordinance does not define a model home, the Board is therefore modifying the June 25, 2019 letter to the property owner as stated herein.
- A model home may be used under the following conditions and still retain its residential character.
 - No parking lots or additional driveways are permitted.
 - No vehicle turnaround space contiguous to the existing driveway may be installed.
 - An employee presence is typical at a model home. To that end, Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 a.m. to 5:00 p.m.) Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients/prospective clients.
 - There shall be no events or gatherings held in the model home other than open houses.
 - Only customary model home signage of a temporary nature indicating an open house or an agent on duty shall be allowed. No additional sales signage in any form will be permitted.
 - There will be no more than two workstations in the model home.

THEREFORE, IT IS ORDERED that the decision of the Zoning Administrator is modified as motioned by Ms. Shiflet, seconded by Ms. McCarthy and unanimously carried.

The Chairman reiterated that due to the fact of there not being a definition of a “model home” in the ordinance, staff made the decision that model homes are allowed under certain conditions.

The Chairman stated that Option B of Question 2 on the worksheet states that the Board will go with the interpretation of the ordinance language without regards to the particular facts of this case. He asked if any board member would like to provide comments on the letter to be provided to the Planning Board regarding the development of a definition in the UDO for a “model home.”

Ms. McCarthy stated that the June 25th, 2019 correspondence letter clearly outlined the differences between a model home and a sales office. She continued that the language is not currently in the Unified Development Ordinance and should be a part of the ordinance.

The Chairman recommended going through each condition within the June 25th letter to Caw Caw Land Corporation to determine if it should be left as is, be modified, or be removed. Following much discussion among Board members, it was recommended that correspondence be sent to the Brunswick County Planning Board to request the term “model home” be included in the definition section of the UDO and that consideration be given to the following definition and limitations:

A **model home** (AKA show home) is a term for a “display” version of a home within a new development or new section of development that is furnished and decorated to show to prospective buyers the living space and features of homes that are available. An office may be provided within the home or within the garage for staff hosting the model. Model homes are available for purchase and are typically at a location for the time during which the section is being developed.

Recommended conditions/limitations for the use include the following:

1. The model home is considered a residential use and must maintain the residential character of the community.
2. A separate parking lot is not allowed for a model home. Parking is to take place within the existing driveway, with no vehicle turnaround space contiguous to the driveway.
3. An employee presence is typical at a model home. Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 a.m. to 5:00 p.m.). Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients.
4. There shall be no events or gatherings held in the model home other than open houses.
5. Customary model home signage for a temporary nature indicating an open house or an agent on duty shall be allowed, such as what is commonly called a “sandwich board”. No permanent sales signage in any form is permitted.
6. There shall be no more than two (2) workstations in the model home.

The Chairman asked if there is any other further action that needs to be taken. Ms. Shiflet stated that she would like to know the timeframe for which the decision can be appealed, and if so, what is the next process. Mr. Batton stated that the decision may be appealed to Superior Court within thirty days from the date of the decision. Ms. McCarthy asked if the thirty days would start from ‘tomorrow’s date.’ Mr. Batton responded that is correct, it would start from ‘tomorrow’s date’. The Chairman asked if another revised letter would

be issued to the developer. Mr. Batton stated that the Chairman would sign a letter based upon the Board's decision and that the date would become effective on the date the letter is delivered. The Chairman asked if someone could appeal the decision. Mr. Batton stated that any appeal will be made to Superior Court.

Mr. Batton asked for a motion to affirm model homes in a residential area and to modify the conditions as stated. Ms. Ward motioned to send the proposed model home definition and recommended conditions to the Planning Board for consideration, Ms. Shiflet seconded the motion which was unanimously carried.

Mr. Batton stated that correspondence will be sent to the property owner (Mason Anderson/Caw Caw Land Corporation) and to the appellant, which was the Brunswick Plantation Property Owners Association.

VI. STAFF REPORT.

Ms. Bunch stated that the next meeting will be held November 14th. As of today, there are two cases and possibly a third case.

VII. ADJOURNMENT.

With no further business, Ms. Shiflet made a motion to adjourn. The motion was seconded by Ms. McCarthy and unanimously carried.

**COUNTY OF BRUNSWICK
ORDER MODIFYING
DETERMINATION OF ZONING ADMINISTRATOR**

The Board of Adjustment for the County of Brunswick, having held a hearing on September 12, 2019 and continuing until October 17, 2019, to consider Application Number 19-12A (Tax Parcel 210IA058) submitted by James R. Todd on behalf of the Brunswick Plantation Property Owners Association, Inc, an appeal of the adverse decision relating to:

Staff interpretation of the Brunswick County Unified Development Ordinance (UDO) that Caw Caw land Corporation can operate a model home, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation.

Insofar as the Ordinance affects the use of a single-family dwelling presently located at 252 S. Middleton Drive, Calabash NC 28467, having heard all the evidence and arguments presented at the hearing, the Brunswick County Board of Adjustment makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

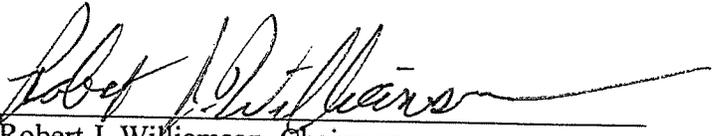
1. **There was substantial evidence in the record to show the following FACT(S):**
 - The subject parcel is used as a sales office at present and not as a model home.
 - The staff decision to define a model home was necessary, as it was not defined in the UDO.
 - The June 25, 2019 correspondence to the Caw Caw Land Corporation outlining the conditions was agreed to by the developer.
 - The Property Owner's Association (POA) appealed the interpretation of staff stating what was allowed was not of a residential use.
 - The June 25, 2019 correspondence clearly stated that a sales office was not to be operated at this location.
 - The POA objected to the staff conditions, as what was described was not a "residential use". A sales office is a commercial use.

2. **(b) The resolution of this case depends solely on an interpretation of the Ordinance language, without regard to the particular facts of this case. Therefore, it is the Board's CONCLUSION that the following sections or provisions of the Ordinance shall in this case and hereafter be interpreted as follows:**
 - A sales office is a commercial use and will not be allowed in residential areas.
 - Brunswick County allows a model home as a residential use.
 - As the Brunswick County Unified Development Ordinance does not define a model home, the Board is therefore modifying the June 25, 2019 letter to the property owner as stated herein.
 - A model home may be used under the following conditions and still retain its residential character.
 - No parking lots or additional driveways are permitted.

- No vehicle turnaround space contiguous to the existing driveway may be installed.
- An employee presence is typical at a model home. To that end, Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 a.m. to 5:00 p.m.) Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients/prospective clients.
- There shall be no events or gatherings held in the model home other than open houses.
- Only customary model home signage of a temporary nature indicating an open house or an agent on duty shall be allowed. No additional sales signage in any form will be permitted.
- There will be no more than two workstations in the model home.

THEREFORE, IT IS ORDERED that the decision of the Zoning Administrator is modified.

Ordered this the 18th day of October 2019.


Robert J. Williamson, Chairman

Secretary *Kleen Evans Bunch*, Zoning Administrator

Kirstie Dixon

From: Teresa Casey <teresacasey616@gmail.com>
Sent: Tuesday, June 30, 2020 5:57 PM
To: Kirstie Dixon
Cc: George McVeigh; Roger Stow; Steve Jarvis; Margaret Kidder
Subject: UDO Amendment Proposals

CAUTION: This email originated from outside of Brunswick County Government. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Dixon,

In regard to several proposed UDO text amendments related to residential show homes, model homes, and real estate sales offices, I am sharing feedback comments from the Winding River Plantation community Board of Directors.

UDO Proposals (Abbreviated text):

- Tripp Sloane & Mason Anderson changes designed to increase developer flexibility:
 - to allow model homes, real estate sales offices, management offices and attendant parking on any lot within a Planned Development
 - to allow signage advertising development and parking on any lot.

Winding River Response: We oppose these changes.

- Staff language to further clarify:
 - Definitions of Residential Show Home (located within a new subdivision that is under construction and considered temporary show homes), Model Home (also limits percent of office/showroom space to 30 percent or less otherwise is considered a real estate office), Real estate sales office (must meet limited use standards)
 - For model Homes a development permit shall be required. Additionally, model homes require a change of use permit to transition from the model home to household living.
 - Show/model homes may have **temporary use not requiring a permit**. While permanent signs are not permitted **two temporary signs** are allowed with a size of 16 square feet or less. Signs must be removed after the showing, tour, or open house.
 - No events or gatherings are allowed in show/model homes or real estate office,
 - Zoning rules change to allow show/model home in zoning districts: rural residential (RR); low density residential (LR-7500); medium density residential (R-6000); medium density site built residential (SBR-6000); multifamily residential (MR-3200); commercial low density (CLD); neighborhood commercial (NC); & commercial intensive (CI). Change zoning to allow real estate sales office in RR; CLD; NC; & CI zoned areas.
 - Hours of model home operation are limited to 8 am – 8 pm.

Winding River Response: We oppose these changes.

Our Winding River community, which consists of more than 1000 properties, has chosen to limit model/show homes/public realtor offices and realty signs to preserve the character and aesthetics of the community and limit the amount of traffic through the community on our privately managed roads. Residents do not want to find themselves living adjacent to a show/model home or realty office/parking lot, even temporarily. We oppose UDO changes that undermine the intent of our HOA rules.

Thank you for your consideration of our comments.

Best Regards,
Teresa Casey
Winding River ABCPOA

Brunswick County Unified Development Ordinance

CITIZEN PROPOSED TEXT AMENDMENT TO ALLOW FOR SPECIFIC USES INCLUDING MODEL HOMES, REAL ESTATE SALES OFFICES, & SIGNAGE WITHIN PLANNED DEVELOPMENTS

(JULY 2, 2020)

Below is a *Citizen Proposed Text Amendment* to allow for specific uses to be located anywhere in a Planned Development. Uses include model homes, real estate sales offices, management offices, signage advertising the Planned Development, and attendant parking facilities:

- **REQUESTED TEXT AMENDMENT AS SUBMITTED BY TRIPP SLOANE & MASON ANDERSON:**

Sales offices, Management offices, signs advertising the Planned Community, and Model Homes, together with attendant parking facilities may be located on any lot within the Planned Community. These facilities which are in a Residential Area in the Planning Community may not be occupied for these purposes once the Declarant/Developer is no longer offering any property in the Planned Community for sale or lease.

- **SHOULD THE BOARD WISH TO CONSIDER THIS TEXT AMENDMENT, PLANNING STAFF PROPOSES THE TEXT AMENDMENT TO BE MODIFIED TO FIT INTO THE OVERALL CONTEXT OF THE UDO:**

Add Section 4.3.1.D.7. to Section 4.3.1.D., Uses Permitted Within Planned Developments, as follows:

7. Model homes, real estate sales offices, management offices, Sales offices, Management offices, signs signage advertising the a Planned Development Planned Community, and Model Homes, together with and attendant parking facilities may be located on any lot within the a Planned Development Planned Community. These facilities which are in a Residential Area in the Planned Community may not be occupied for these purposes once the Declarant/Developer is no longer offering any property in the Planned Community for sale or lease.

Kirstie Dixon

From: Teresa Casey <teresacasey616@gmail.com>
Sent: Tuesday, June 30, 2020 5:57 PM
To: Kirstie Dixon
Cc: George McVeigh; Roger Stow; Steve Jarvis; Margaret Kidder
Subject: UDO Amendment Proposals

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 - to allow model homes, real estate sales offices, management offices and attendant parking on any lot within a Planned Development
 - to allow signage advertising development and parking on any lot.

Winding River Response: We oppose these changes.

- Staff language to further clarify:
 - Definitions of Residential Show Home (located within a new subdivision that is under construction and considered temporary show homes), Model Home (also limits percent of office/showroom space to 30 percent or less otherwise is considered a real estate office), Real estate sales office (must meet limited use standards)
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 - Show/model homes may have **temporary use not requiring a permit**. While permanent signs are not permitted **two temporary signs** are allowed with a size of 16 square feet or less. Signs must be removed after the showing, tour, or open house.
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 - Hours of model home operation are limited to 8 am – 8 pm.

Winding River Response: We oppose these changes.

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Thank you for your consideration of our comments.

Best Regards,
Teresa Casey
Winding River ABCPOA