

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

6:00 P.M., Thursday
March 31, 2022

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

MEMBERS PRESENT

Mary Anne McCarthy, Vice Chairman
Marian Shiflet
Ron Medllin
Clayton Rivenbark
James Goodman, Alternate

MEMBERS ABSENT

Robert Williamson

STAFF PRESENT

Helen Bunch, Zoning Administrator
Bryan Batton, Assistant County Attorney
Hugo Bryant Junior, Zoning Tech

OTHERS PRESENT

I. CALL TO ORDER.

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

II. ROLL CALL.

Mr. James Goodman served as Alternate.

III. FUNCTIONS OF THE BOARD OF ADJUSTMENTS.

Mr. Rivenbark 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.

Mr. Rivenbark said that the public hearing is not to solicit Board 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.

Mr. Rivenbark 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 hearing session will be over, and the Board will discuss the matter amongst themselves and vote to grant or deny the Special Use Permit and/or Variance.

Mr. Rivenbark informed the audience that if anyone was not satisfied with the outcome of the Board's decision, they may file an appeal to Superior Court.

IV. AGENDA AMENDMENTS.

There were none.

V. SWEARING IN OF APPLICANT, WITNESS, AND OTHER INTERESTED PARTIES.

The Vice Chairman swore in and/or affirmed Helen Bunch, Emile Chagnon, Ronald Kenneth Levesque Jr., Carol Ramey, Michael Ramey, and Donna Healy-Dean as to their testimony being truthful and relevant to the respective case.

VI. NEW BUSINESS.

A. 21-04S Special Use Permit Amendment
Applicant: Emile Chagnon
Location: 5970 Ocean Highway East, Winnabow, NC 28479
Tax Parcel 09800062
Applicant has filed an Amendment to Board of Adjustment
Application 21-04S to allow an additional Special Use "Vehicle

and Heavy Equipment Sales and Rentals” with respect to the property located at 5970 Ocean Highway East, consistent with Section 5.2.3. and Section 5.3.5.S. of the Brunswick County Unified Development Ordinance (UDO). The proposed additional use is a “Vehicle and Heavy Equipment” display area.

Ms. Bunch addressed the Board. Ms. Bunch read the Staff Report (see attached).

Mr. Chagnon provided an opening statement, stating that they would like to diversify the property. Mr. Chagnon explained that some work has been completed in preparation for the business of wood carving.

Board of Adjustment Vice Chairman McCarthy asked if at any given time they will have more than four (4) vehicles on display for sale. Mr. Chagnon offered that there will not be more than four vehicles on display at any time. Ms. McCarthy asked Mr. Chagnon to reaffirm that he had applied to NCDOT for their driveway permit in order to ingress and egress the property.

Mr. Chagnon affirmed that they in fact had applied to NCDOT. He continued that they will have to contact NCDOT again for the used car sales area.

Mr. Rivenbark asked of Ms. Bunch if this project can begin sales prior to all requirements being met. Ms. Bunch offered that no sales are to begin until all conditions of the original and amended applications have been met and the Planning Department has completed its inspection of such.

Board of Adjustment Vice Chairman McCarthy asked Mr. Chagnon if they were aware and understanding of all the additional criteria and conditions read by Ms. Bunch. Mr. Chagnon and Mr. Levesque agreed that they understood the additional criteria and conditions.

Vice Chairman McCarthy asked if anyone wished to speak. There was no interest.

FINDINGS: Board of Adjustment Vice Chairman McCarthy summarized the case and asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its regular meeting, determined that the application is complete, and subject to the conditions imposed below, **the following findings are made.**

1. A written application was submitted and complete in all respects.

2. The use, “Vehicle & Heavy Equipment Sales and Rentals,” for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. The Staff Report states that this is a rural area, with the surrounding property zoned Rural Residential and vacant. As such, the proposed use is in harmony with the area.
 - b. No expert testimony was provided, or report submitted by an appraiser regarding the value of properties.
3. The use, “Vehicle & Heavy Equipment Sales and Rentals”, for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. Section 5.2.3.K. of the Brunswick County Unified Development Ordinance lists “Outdoor Sales or Display Areas Other Than Mobile and Modular Home Sales Lots, and Vehicle & Heavy Equipment Sales and Rentals as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process. This use was previously approved by the board.
 - b. Section 5.3.5.S. of the UDO outlines the additional criteria for “Vehicle and Heavy Equipment Sales, Leasing, and Rentals” if approved by the Board of Adjustment through the Special Use Permit process.
 - c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all of the conditions outlined in the Staff Report are met.
4. The use, “Vehicle and Heavy Equipment Sales and Rentals”, for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. No testimony was provided to the contrary.
 - b. The North Carolina Department of Transportation (NCDOT) will inspect the driveway to ensure its safety.
5. The use, “Vehicle & Heavy Equipment Sales and Rentals” if developed as proposed, will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:
 1. **Circulation:** All access to the site will occur from Ocean Highway East (US 17). As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from

- NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
2. **Parking and Loading:** Per Section 6.12.6.A.3. of the Brunswick County Unified Development Ordinance, one (1) parking space per two hundred (200) square feet of floor area is required for the first 50,000 square feet of gross leasable area.
 3. **Service Entrances and Areas:** All service vehicles will access the subject property from Ocean Highway East (US 17), which is a state-maintained road.
 4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. “Outdoor Lighting” of the UDO prior to installation.
 5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
 6. **Utilities:** Public water from Brunswick County is available on the opposite side of Ocean Highway. Sewer is available via a high-pressure force main and can only be utilized if the parcel will not perk.
 7. **Open Space:** There are no separate open space requirements for this use.
 8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
 9. **Screening, Buffering and Landscaping:** Non-residential uses next to vacant property require a buffer of 0.2 opacity, which equates to 10’ of buffer depth and either 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet or 1 canopy tree, 2 understory trees and 3 shrubs per 100 linear feet. The street buffer must be a minimum of 20’ in depth. Plantings are 1 canopy tree per 100 linear feet or 2 understory trees per 100 linear feet. Approved Landscape Species can be found in Appendix A of the Brunswick County Unified Development Ordinance (UDO). Note that existing vegetation may be used to meet the buffer requirements on site, provided the opacity requirements can be met.
 10. **Effect on Adjoining Property:** The effect on adjoining property is minimal as all adjacent property is vacant.
 11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
 12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. Planning Staff will conduct a final inspection of the property prior to the issuance of a Certificate of Occupancy to ensure that all requirements have been appropriately met on the site as outlined in the staff report and at the meeting.
 - c. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.5.S. Vehicle & Heavy Equipment Sales and Rentals in the Unified Development Ordinance, specifically:
 1. The outdoor display area shall be located on the same property as the primary sales or rental area and shall be shown on an approved site plan. **Compliant.**
 2. A transition area shall be established along any site of the property where a permanent outdoor sales or display area abuts or is across the street from a residential use or residential zoning district in a manner that is consistent with one of the alternatives in the table below. **Properties across the street are**

zoned Commercial Low Density and are not used for residential purposes.

3. The merchandise shall not be located in any buffer area. **Addressed on the proposed site plan.**
4. Permanent sales or display areas shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic. **Addressed on the proposed site plan.**
5. Permanent outdoor sales or display areas may not be located in any required parking space. **Addressed on the proposed site plan.**
6. Adequate public restrooms and/or toilet facilities in accordance with the requirements of North Carolina Building Codes apply. **To be provided within the office denoted on the site plan.**

VII. **DECISION**

1. MOTION TO GRANT PERMIT

“Ms. Shiflet made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below as the project:

- a. **will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,**
- b. **will be in conformance with all special requirements applicable to the use,**
- c. **will not adversely affect the health and safety of the public, and**
- d. **will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.”**

CONDITIONS

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use application and kept on file by the Brunswick County Planning Department.
3. Provide a revised site plan that addresses the following: distance from the proposed structure to the property lines; Ocean Highway East right-of-way width; existing driveways adjacent to the parcel; proposed driveway location, width and the proposed material to be used for the driveway; sight distance triangle for driveway; parking lot design, including the drive aisle width, parking space layout and numbers of spaces to be provided; indicate the square footage of the display area, understanding that one (1) parking space will be required for every 300 square feet of display area; address trash facilities; and indicate the location of the closest fire hydrant.

4. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
5. Provide an Outdoor Lighting Plan consistent with Section 6.9. of the UDO.
6. Provide the building elevation of the proposed structure consistent with the requirements of Section 6.8. of the UDO.
7. Provide a Landscape Plan that includes a list of the type of plants that will make up the project boundary and street buffers. Note that because a commercial use has been proposed in a mixed-use zoning district, the entire perimeter of the property must have a project boundary buffer of a minimum of 10' at 0.2 opacity. Acceptable plant types are listed in Appendix A of the UDO.
8. Meet with the Stormwater Engineer and develop a Stormwater Plan, if required.
9. The facility must obtain all proper permits and meet all Federal, State and Local Government requirements prior to the issuance of a Certificate of Occupancy.
10. The applicant must request a visual inspection of the site prior to the issuance of a Certificate of Occupancy to ensure all requirements have been met.
11. That the development of the parcel(s) shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance specifically Sections 5.3.5.K. and 5.3.5.S of the ordinance.
12. That 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 Mr. Rivenbark and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and shown on the approved site plan. Vested rights are hereby established pursuant to Section 9.5 of the Brunswick County Unified Development Ordinance.

- B. 22-01S: Special Use Permit
Applicant: River Dell Excursions, LLC
Location: 370 Southport-Supply Road SE, Bolivia, NC 28422
Applicant requests a Special Use Permit for “Commercial Recreation” consistent with Section 5.2.3. and Section 5.3.5.D. of The Brunswick County Unified Development Ordinance (UDO).
The proposed use is a Kayak Rental and Excursion Business.

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. and Mrs. Ramey addressed the Board. Mrs. Ramey stated that she and her husband would like to start a kayak rental and excursion business next to the Lockwood Folly River.

Ms. Shiftlet asked would there be tours provided. Mrs. Ramey responded that they would like to provide tours as they have seven (7) children ranging from 17 down to 4. Mrs. Ramey included that they would like to make this a family venture in which all the kids could be involved. She added that she would hope they could learn the Lockwood Folly River and give educational tours of the river area and vegetation, in basically the part of the river that is not explored by most people. She went on to state the river is about 8.2 miles upriver from the Intercoastal Waterway at the point it intersects with Southport-Supply Road (NC 211). Currently, not a lot of people get out there or have access to the river at that point.

Ms. Shiftlet asked if the patrons would come and use their dock to launch from on their own? Mrs. Ramey responded that they would be able to come in to rent kayaks. There would not be a place in which they could launch their own kayaks. Mrs. Ramey stated this would not be a public launch; this would be a place to rent kayaks and launch the kayaks there on-site. Mrs. Ramey offered that she believed there is a public launch on the other side of the bridge.

Ms. Shiftlet asked they were anticipating food sales. Mrs. Ramey responded not at this time. They may have water bottles for their patrons and packaged snacks, but not actual cooked food. Mrs. Ramey added they hope to expand in the future but right now they are starting with the basics.

Vice Chairman McCarthy asked, so people would come to you and rent kayaks for group tours or would they just come to go on their own. Mrs. Ramey responded that they would rent the kayaks for self-guided tours. The rentals would be for set time limits. When the time is up they would return the kayaks back to the initial launch site.

Vice Chairman McCarthy asked the expected hours of operation. Mrs. Ramey responded that the hours would be daylight hours. She added the hours would most likely be 9:00 a.m. – 5:00 p.m. or 9:00 a.m. – 6:00 p.m. She added that it would be a trial basis; that if customers didn't come until later that it would be possible to adjust the hours to reflect this.

The Vice Chairman asked if there would be restrooms. Mrs. Ramey responded there are no plans for restrooms. Hopefully in the future that that could be something to provide. Ms. Bunch added that that could be a potential problem. Ms. Bunch added that given it is a business that there would have to be restrooms. Mrs. Ramey responded saying that there was supposed to be talks about that situation. That given it is an outdoor business that it would not require bathrooms. Ms. Bunch stated that that is something that would have to be confirmed. Mr. Rivenbark added that that is a concern of his as well. As patrons get off of the water for hours and they have nowhere to go to the facilities that could be an issue. Ms. Bunch stated she would follow-up with Environmental Health and Code Administration.

Mrs. Ramey responded that it would not be much different from that of the beach. She continued, there are no public bathrooms at the beach and once you get to the public access of the beach you don't have a bathroom there.

Ms. Shiftlet responded saying that the property is in fact private land so there would have to be different rules in this matter. Because of this it would have to have a public facility. Ms. Shiftlet added that there are a lot of conditions to be addressed to the revised plan before this is allowed and are they aware of the additional criteria. Ms. Bunch responded that the list is very doable, it is very detailed. Mrs. Ramey added that if there is anymore information needed they are more than willing to provide it.

Ms. Shiftlet asked of Ms. Bunch if 20 parking spaces were adequate for this type of operation. Ms. Bunch responded that it should be. She added that it would depend upon the amount of property used for the actual Kayaking part of the business. She added that her experience of outdoor recreation is that every place so far that has had the same requirement doesn't use all the parking, however, we feel comfortable with the criteria in the ordinance.

Ms. Shiftlet asked of Ms. Bunch about the screening and the landscaping. Does that have to be around all 25 acres or just this particular portion they will have the building. Ms. Bunch responded it's all part of the parcel so they would have to show how it would be separated if the owners wished to do so. She added that depending on the vegetation that is there that it wouldn't be that difficult if they

left the natural vegetation and added to it to reach the opacity requirements necessary. Mrs. Ramey responded that they would definitely use the trees that are naturally on the property. There is no intention of cutting the trees that are there.

Ms. Shiftlet stated that the parking situation should be more than adequate for the proposed use. Mrs. Ramey pointed out that the way the parking was planned in the package that there is a chance for more parking in the future if needed. If need be there is a chance to utilize the area near the road. She added that they will address that later on as they drew in twenty (20) spaces and felt that would be adequate. She stated that they will have about twenty (20) to thirty (30) kayaks. So twenty (20) parking spaces should work as most people would be coming in groups together by vehicle. Mrs. Ramey also stated that they are expecting eight (8) to twelve (12) cars at the peak of operation.

Vice Chairman McCarthy asked Ms. Bunch how should the restroom issue be handled. Mr. Batton responded that that should be handled with environmental services. They will handle the issue on their end as to what is needed or expected. The Vice Chairman asked if the verbiage is correct and the conditions for this case as it stands. Mr. Batton responded yes.

With no further comments, the Chairman asked if there were any persons that would like to speak in opposition to the Special Use Permit.

Ms. Donna Healy-Dean, Vice-President of the River Sea Property Owner's Association spoke on behalf of the Board. She stated they are a residential community located .3 miles from the property that is being discussed. She offered that they have numerous homes on the Lockwood Folly River. There are areas that could be quite narrow in the river, and most of these homes have boats. As such, there are concerns of something happening in the water. She also stated their biggest concern is the traffic of the portion of NC Highway 211 (Southport-Supply Road). Ms. Healy-Dean stated that a portion of Southport-Supply Road is residential. She stated that there is a sizable residential community that is being built directly across from their current community. The traffic on NC 211 is outrageous. There were talks about putting in turnarounds in but there is no communication of when this work will be done. The River Sea Community can wait up to fifteen minutes to exit the development at times.

Mr. Rivenbark asked if the strip of property in front of the River Sea Plantation was in fact commercial property. Ms. Healy-Dean responded that it is in fact commercial property, but there are many limitations to that property. Mr. Rivenbark added that it is still considered commercial property.

Mr. Rivenbark then asked if the waterway was considered public waterway or is it private. Ms. Healy-Dean responded that it is in fact public. Mr. Rivenbark stated so then the NC Wildlife Commission would be in charge of any boating activities on the waterway. Ms. Healy-Dean stated that she understood that she just wanted to address their concerns.

Ms. Shiftlet asked if the owners have any restrictions regarding putting their boats in the river. Ms. Healy-Dean responded that there are no restrictions, and few do so, because of the alligators that are out there.

Mr. Rivenbark asked if there was a boat launch in the community within River Sea. Ms. Healy-Dean stated yes there is; it is private. Mr. Rivenbark asked if it accesses the same waters. Mrs. Healy-Dean responded yes it does.

The Vice Chairman asked that their primary concern is the traffic. Mrs. Healy-Dean responded yes.

Mrs. Ramey responded that her concerns were adequately addressed. She added that the twenty (20) cars that are projected of the parking spaces will affect the traffic. She added that she does agree the traffic on NC 211 (Southport-Supply Road) is in fact heavy but their business will not adversely affect the traffic.

Mrs. Ramey stated that the waterway is a public waterway. Mr. Ramey added that their kayak launch as the river flows is at least a mile from the first dock in the River Sea Community. Mrs. Ramey added that there are no docks across the river from them and there are no docks for at least a mile. The Vice Chairman stated that a mile in a kayak is a long way. Mrs. Ramey stated that it takes thirty (30) minutes to one (1) hour to travel that mile from the Riversea Community Docks to their property.

The Vice Chairman asked that there were conditions regarding contacting NCDOT regarding ingress and egress of the property. Mrs. Ramey replied yes they are just waiting for the this meeting to proceed.

Mrs. Ramey included that they are big proponents of the environment. The hope is to have tours that will clean up the waterway. Such as bring a bag of trash back and enhancing the beauty of the waterway. Mrs. Reiny added that kayaks will not be adding any harmful gases or fuel into the water that would affect the quality of the water. She also added that they have been kayaking in the water many times and never saw an alligator in those waters, not saying they aren't there they just haven't seen any.

Mr. Rivenbark commented to Ms. Healy-Dean that they would contact with the NCDOT who would be looking into the traffic situation as well.

The Vice Chairman asked if there were any more comments in speaking for or against the case. There were none. The Vice Chairman then closed the public hearing and proceeded to provide a summation of the case. The Board discussed the worksheet and determined the following.

FINDINGS: Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on March 31, 2022, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

1. A written application was submitted in all respects.
2. The use, “Commercial Recreation,” for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. There was no evidence provided regarding NC Wildlife concerns with the Lockwood Folly River, NCDOT traffic concerns for Southport-Supply Road or adjacent properties.
3. The use, a “Commercial Recreation,” for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. No sworn testimony was provided to substantiate that the area would be different was provided.
 - b. Staff outlined conditions in the approval criteria.
4. The use, “Commercially Recreation,” if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. Concerns regarding safety were raised, however, the site plan shows that a nicer environment will be created by the project.
5. The use, a “Commercial Recreation,” if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance (UDO). This is based on sworn testimony and evidence submitted during the hearing which shows the following:
 - a. The proposed use will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development (UDO).
 1. **Circulation:** All access to the site will occur from Ocean Highway East (US 17). As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and

provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.

2. **Parking and Loading:** Per Section 6.12.6.A.3. of the Brunswick County Unified Development Ordinance, one (1) parking space per two hundred (200) square feet of floor area is required for the first 50,000 square feet of gross leasable area.
 3. **Service Entrances and Areas:** All service vehicles will access the subject property from Ocean Highway East (US 17), which is a state-maintained road.
 4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
 5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
 6. **Utilities:** Public water from Brunswick County is available on the opposite side of Ocean Highway. Sewer is available via a high-pressure force main and can only be utilized if the parcel will not perk.
 7. **Open Space:** There are no separate open space requirements for this use.
 8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
 9. **Screening, Buffering and Landscaping:** Non-residential uses next to vacant property require a buffer of 0.2 opacity, which equates to 10' of buffer depth and either 1 canopy tree, 1 understory tree and 7 shrubs per 100 linear feet or 1 canopy tree, 2 understory trees and 3 shrubs per 100 linear feet. The street buffer must be a minimum of 20' in depth. Plantings are 1 canopy tree per 100 linear feet or 2 understory trees per 100 linear feet. Approved Landscape Species can be found in Appendix A of the Brunswick County Unified Development Ordinance (UDO). Note that existing vegetation may be used to meet the buffer requirements on site, provided the opacity requirements can be met.
 10. **Effect on Adjoining Property:** The effect on adjoining property is minimal as all adjacent property is vacant.
 11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
 12. **Impacts on Military Installations:** The proposed Special Use is not within five (5) miles of a military installation.
- b. The Board concurs with the staff report which outlines the additional review factors as stated in Section 5.3.5.D. Commercial Recreational Facilities and Uses, specifically:
1. In the CLD and NC Zoning Districts, minimum lot width is 75 feet.
 2. All food sales shall be for customers of the recreational facility. Off-site sale of food shall not be permitted.
 3. When located in the CP District, only one enclosed facility is allowed, not to exceed 5,000 square feet in area. Retail sales shall be limited to those directly

related to the recreational activity (e.g. public or private kayak launch, sales, and rental facility).

VIII. DECISION

1. MOTION TO GRANT PERMIT

“Mr. Rivenbark made a motion to grant the Special Use Permit if developed as proposed and subject to the conditions imposed below as the project:

- a. **will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,**
- b. **will be in conformance with all special requirements applicable to the use,**
- c. **will not adversely affect the health and safety of the public, and**
- d. **will adequately address the twelve (12) review factors identified in Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.”**

CONDITIONS

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use application and kept on file by the Brunswick County Planning Department.
3. Provide a revised site plan that addresses the following: distance from the proposed structure to the property lines; Ocean Highway East right-of-way width; existing driveways adjacent to the parcel; proposed driveway location, width and the proposed material to be used for the driveway; sight distance triangle for driveway; parking lot design, including the drive aisle width, parking space layout and numbers of spaces to be provided; indicate the square footage of the display area, understanding that one (1) parking space will be required for every 300 square feet of display area; address trash facilities; and indicate the location of the closest fire hydrant.
4. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
5. Provide an Outdoor Lighting Plan consistent with Section 6.9. of the UDO.

6. Provide the building elevation of the proposed structure consistent with the requirements of Section 6.8. of the UDO.
7. Provide a Landscape Plan that includes a list of the type of plants that will make up the project boundary and street buffers. Note that because a commercial use has been proposed in a mixed-use zoning district, the entire perimeter of the property must have a project boundary buffer of a minimum of 10' at 0.2 opacity. Acceptable plant types are listed in Appendix A of the UDO.
8. Develop a Stormwater Plan, if required by the Stormwater Engineer.
9. The facility must obtain all proper permits and meet all Federal, State and Local Government requirements prior to the issuance of a Certificate of Occupancy.
10. The applicant must request a visual inspection of the site prior to the issuance of a Certificate of Occupancy to ensure all requirements have been met.
11. That 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. Shiftlet and unanimously carried. Approval of this permit confers upon the right to develop with the type and intensity of use herein described and as shown on the approval site plan. Vested rights are hereby established pursuant to Section 3.3.9.B. of the Brunswick County Unified Development Ordinance.

IX. ADJOURNMENT.

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