



AGENDA BRUNSWICK COUNTY PLANNING BOARD

**6:00 P.M. Monday
October 14, 2019**

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

- 1) Call to Order.
- 2) Invocation.
- 3) Pledge of Allegiance.
- 4) Swearing in of Planning Board Member Brett Riggs
- 5) Roll Call.
- 6) Consideration of Minutes of the September 9, 2019 Meeting.
- 7) Agenda Amendments.
- 8) Public Comment.
- 9) Public Hearing.
 - A. Proposed Rezoning Z-785 – David Koon
Proposed rezoning of approximately 0.157 acres located at 3676 Sunset Harbor Rd (SR 1112) from CLD (Commercial Low Density) to R-6000 (High Density Residential) for Tax Parcel 234AB020.
 - B. Planned Development – PD-25
Name: Sunset Estates
Applicant: Jeff Malpass
Tax Parcel: A portion of 09700029
Location: Bell Swamp Rd NE (SR 1406) and Bell Swamp Connection (SR 1407)
Description: Sunset Estates is a proposed Planned Development consisting of 231 single family lots on a gross site of 79.69 acres creating an overall density of 2.90 dwelling units per acre.
 - C. Proposed Amendments to the Unified Development Ordinance
Various amendments to address the recently approved Session Law 2019-99 to allow the Planning Board to grant final approval on rezonings.

D. Proposed Amendments to the Unified Development Ordinance

Various amendments to the Flood Damage Prevention Ordinance and Updated Flood Insurance Study with Associated Flood Insurance Rate Maps.

10) Other Business.

- Planning Board Case Update.
- Planning Projects Update
- Our County Data Book

11) Adjournment.

MINUTES
PLANNING BOARD
BRUNSWICK COUNTY, NC

6:00 P.M. Monday
September 9, 2019

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

MEMBERS PRESENT

Joy Easley, Vice Chair
William Bittenbender
Ron Medlin
Alvin Nobles
Tom Simmons

MEMBERS ABSENT

Eric Dunham, Chair
Richard Leary

STAFF PRESENT

Kirstie Dixon, Director
Marc Pages, Senior Planner
Connie Marlowe, Admin. Asst. II
Bryan Batton, Asst. County Attorney

OTHERS PRESENT

Scott Stewart
Thomas Scheetz, Norris & Tunstall Consulting Eng.
John Hankins
Lewis Dozier

I. CALL TO ORDER.

Ms. Easley called the meeting to order at 6:05 p.m.

II. INVOCATION/PLEDGE OF ALLEGIANCE.

Ms. Easley said a prayer. She asked everyone to stand and face the U.S. Flag to say the Pledge of Allegiance.

III. ROLL CALL.

Mr. Eric Dunham and Mr. Richard Leary were absent.

IV. CONSIDERATION OF MINUTES OF THE 12-AUG-19 MEETING.

Mr. Bittenbender made a motion to approve the 12-Aug-19 minutes as presented and the motion was unanimously carried.

V. AGENDA AMENDMENTS.

There were none.

VI. PUBLIC COMMENT.

There were none.

VII. PUBLIC HEARINGS.

A. Rezoning Z-783 – Scott Stewart

Request rezoning of approximately 85.18 acres located off Maco Road NE (NC Hwy 87) across from Oakview Drive NE from RR (Rural Low Density Residential) to C-LD (Commercial Low Density) for Tax Parcels 05700065, 05700067 and 0460001007.

Land Use Plan Map Amendment LUM – 783:

Request to amend Tax Parcels 05700065, 05700067 and 0460001007 located off Maco Road NE (NC Hwy 87) across from Oakview Drive NE from LDR (Low Density Residential) to Commercial.

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 provided the Board with an email (attached) received from Ms. Teena Brown (owner of 7296 Leigh Court) opposing the zoning change.

Mr. Pages said staff recommends approval from RR (Rural Low Density Residential) to C-LD (Commercial Low Density) in conjunction with an amendment to the Official Brunswick County CAMA Land Plan Map to Commercial for Tax Parcels 05700065, 05700067 and 0460001007.

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

Mr. Kevin Barnett, owner of 7293 Leigh Court NE, addressed the Board. Mr. Barnett asked if road impacts would be minimal if the rezoning is approved? Mr. Pages said the North Carolina Department of Transportation (NCDOT) has not designated any road capacity deficiencies in this area. Mr. Barnett said traffic has increased in the area since 1993, when he moved to the area. He stated that he is not opposed to the proposed zoning change, but he was concerned with his

taxes being increased. Mr. Pages said this Board does not get involved in tax evaluations. He further stated that Mr. Barnett's property is not considered for rezoning. Mr. Barnett asked if ingress and egress has been determined for the subject properties? Mr. Pages said the applicant will have to consult with and receive a driveway permit from NCDOT prior to developing the property.

Mr. Scott Stewart addressed the Board. Mr. Stewart stated that the proposed development will generate more traffic, but he has met with NCDOT to ensure traffic concerns are addressed upfront. He further stated that he intends to develop the property, while preserving the natural environment to the fullest extent possible.

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

Mr. Bittenbender made a motion to recommend to the Board of Commissioners to approve Tax Parcels 05700065, 05700067 and 0460001007 to C-LD (Commercial Low Density) in conjunction with an amendment to the Official Brunswick County CAMA Land Use Plan Map to Commercial for Tax Parcels 05700065, 05700067 and 0460001007 and the motion was unanimously carried.

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

APPROVAL – The proposed zoning amendment is APPROVED

- 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 proposed zoning amendment is not consistent with the Comprehensive Plan (CAMA Land Use Plan) as it is currently classified as LDR (Low Density Residential). However, a CAMA Land Use Plan Map amendment has been requested for a change to Commercial.

- 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 proposed zoning amendment will be an enhancement to the community and Brunswick County strongly supports commercial nodes and commercial development at intersections of major roads as outlined in Policy 16 and Policy 17 of the CAMA Land Use Plan.

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

There was 1 person (Teena Brown) in opposition via an email (see attached), but no supporting reason was given for the opposition. Mr. Barnett expressed concerns with additional traffic that will generated by any potential development, but he was not in opposition to the zoning change.

B. Rezoning Z-784 – Brunswick County Planning Department

Request rezoning of approximately 0.3 acres located south of the intersection of Sunset Harbor Road SE (SR 1112) and Swain Street SE (SR 1230) from Undesignated, R-6000 (High Density Residential) and C-LD (Commercial Low Density) to C-LD (Commercial Low Density) for Tax Parcels 233EF00101 and 233EF003.

Mr. Pages addressed the Board. He read the Staff Report (attached). He stated that a withdrawal of street from dedication (attached) was recorded in January 2010, which abandoned the right-of-way and resulted in the undesignated zoning area. Mr. Pages further stated that staff contacted the current property owner (Philip Boling) and he has no objections to the property being zoned to C-LD (Commercial Low Density). Mr. Pages said Mr. Boling also asked that the adjacent split-zoned Tax Parcel 233EF003 be included in the zoning change to C-LD in its entirety. He identified the subject property and surrounding properties on a visual map.

Mr. Pages said staff recommends approval from Undesignated, R-6000 (High Density Residential) and C-LD (Commercial Low Density) to C-LD (Commercial Low Density) for Tax Parcels 233EF00101 and 233EF003.

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

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

Mr. Simmons made a motion to recommend to the Board of Commissioners to approve Tax Parcels 233EF00101 and 233EF003 to C-LD (Commercial Low Density) and the motion was unanimously carried.

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

APPROVAL – The proposed zoning amendment is APPROVED

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

The proposed zoning amendment is consistent with the Comprehensive Plan (CAMA Land Use Plan) and there is similar zoning nearby.

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

The proposed zoning amendment will zone an undesignated area and Brunswick County strongly supports commercial nodes as outlined in Policy 16 of the CAMA Land Use Plan.

C. Major Subdivision Expansion – SS-272

Name: Sachi Major Subdivision Expansion
Applicant: J. Phillip Norris
Tax Parcel: 2050003701
Location: Off Southport-Supply Road SE (NC 211) behind Abbington Oaks Apartments
Description: Sachi Major Subdivision was originally approved in February 2019 with 18 single family lots. This expansion proposes 47 additional lots for a total of 65 single family lots on a gross site of 13.95 acres creating an overall density of 4.66 units per acre.

Mr. Pages addressed the Board. He read the Staff Report (attached). Mr. Pages identified the proposed area 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 major subdivision application and kept on file by the Brunswick County Planning Department;
- That the development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance; and
- That a road maintenance agreement be recorded with the owners of Abbington Oaks Apartments.

Mr. Bittenbender asked Mr. Pages if NCDOT is requiring a Traffic Impact Analysis (TIA) be submitted for review and approval? Mr. Pages said NCDOT did not indicate that a TIA will be required, but NCDOT indicated that a right and left turn lane will be required as part of the driveway permit approval.

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

Mr. Thomas Scheetz, representative for Norris & Tunstall Consulting Engineers, addressed the Board on behalf of the applicant. Mr. Scheetz made himself available for questions. Ms. Easley asked Mr. Scheetz if they have designed the turn lanes for NCDOT's approval? Mr. Scheetz said they will hire someone else to design the turn lanes for NCDOT's review and approval.

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

Mr. Simmons asked if the Board can require that a turn lane(s) be installed? Mr. Pages said NCDOT will have to require any road improvements necessary for the area.

Mr. Medlin made a motion to approve Sachi Major Subdivision Expansion with the noted conditions and the motion was unanimously carried.

VIII. OTHER BUSINESS.

- Planning Board Cases Update

Ms. Dixon addressed the Board. She stated that the Brunswick County Agricultural Development Plan and the UDO Refinements were approved at the Board of Commissioners Monday 19-Aug-19 meeting.

- Planning Projects Update

Ms. Dixon addressed the Board. She provided the Board with an update of the Planning Department's key projects and initiatives (attached) for this fiscal year.

- Appointment of Planning Board Representative to the Holden Beach Causeway Study Committee

Ms. Dixon addressed the Board. She stated that a Board member is requested to serve on the Holden Beach Causeway Study Committee (Committee). Mr. Bittenbender nominated Mr. Dunham to serve on the Committee on behalf of the Board and the Board unanimously agreed.

IX. ADJOURNMENT.

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

REZONING STAFF REPORT



Prepared by Marc Pages, Senior Planner

Rezoning Case#: Z-785

October 14, 2019

APPLICATION SUMMARY

The property owner, David L. Koon, requests to rezone Tax Parcel 234AB020 from CLD (Commercial Low Density) to R-6000 (High Density Residential). This rezoning request is conventional therefore, no conditions are proposed. All owners and adjacent owners have been notified via first class mail.

Location

3676 Sunset Harbor Road (SR 1112),
Jason Street (SR 1898)

Tax Parcel(s)

234AB020

Current Zoning

CLD (Commercial Low Density)

Proposed Zoning

R-6000 (High Density Residential)

Surrounding Zoning

R-6000 and CLD

Current Use

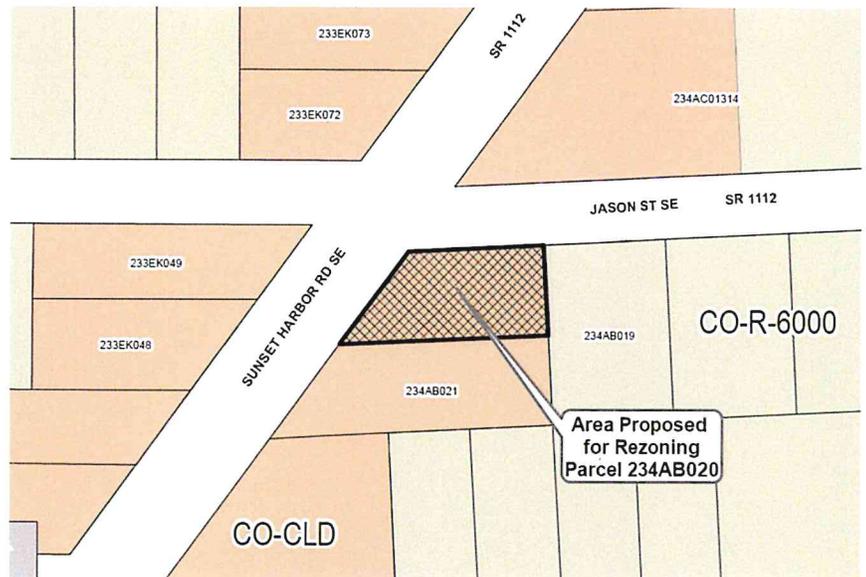
Non-Residential

Surrounding Land Uses

Residential, Commercial, Vacant
Lands

Size

0.157 acres



SITE CONSIDERATIONS

Zoning History: There are not any known zoning changes to the rezoning site since introduction of zoning in 1994.

Buffers: If rezoned to R-6000, project boundary buffers shall be a 0.2 (vacant) or 0.6 (developed) opacity buffer adjacent to CLD areas. A buffer is not required for residential uses adjacent to R-6000 areas. If non-residential uses are proposed adjacent to R-6000 areas, then a 0.4 opacity buffer will be required.

Traffic: There are no capacity deficiencies for this section of Sunset Harbor Road (SR 1112) or Jason Street (SR 1898). The developer shall be responsible for obtaining an NCDOT driveway permit prior to construction.

Utilities: Water is available from Brunswick County Utilities along Sunset Harbor Road. Sewer is not available in the area. Water connection will require developer responsibility to connect to the water and sewer system.

Schools: The Virginia Williamson Elementary School, Cedar Grove Middle School and South Brunswick High School have adequate capacity.

CIP Projects in Area: NC 211 R-5021 NCDOT Utility Relocation (FY 2020), Southport WWT Expansion (FY 2019), New Early College High School (FY 2022)

NCDOT Road Improvements in Area: Widen NC 211 from Midway Road (NC 906) to NC 87 (Project R-5021) – Pre-Construction Phase (Anticipated Construction 2019 - 2021). Convert US 17 & NC 211 intersection to interchange (Project U-5932) – Design Phase (Anticipated Construction 2024).

Environmental Impacts: Biodiversity & Wildlife Habitat Assessment Score: 0 out of 10. No portions of the rezoning site contain environmentally sensitive areas.

ANALYSIS

"The R-7500, R-6000, and SBR-6000 districts are established to provide for orderly suburban residential development. A limited number of commercial and civic uses are allowed, subject to the restrictions necessary to preserve and protect the residential character of the neighborhood. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities. Due to the higher intensity developments contained in this district, it is intended to be applied to properties served by public sewer and water systems."

CAMA Land Use Plan Classification: *Mixed Use*

- Proposed Zoning is consistent with CAMA Land Use Plan

Applicable CAMA Land Use Policies:

- P.15 states that Brunswick County supports greater residential densities in areas that are accessible to water and sewer service(s). Agricultural and low-density residential land uses should be located in areas that do not have central water or sewer service.
- 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 CLD FOR TAX PARCEL 234AB020 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-785



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.**

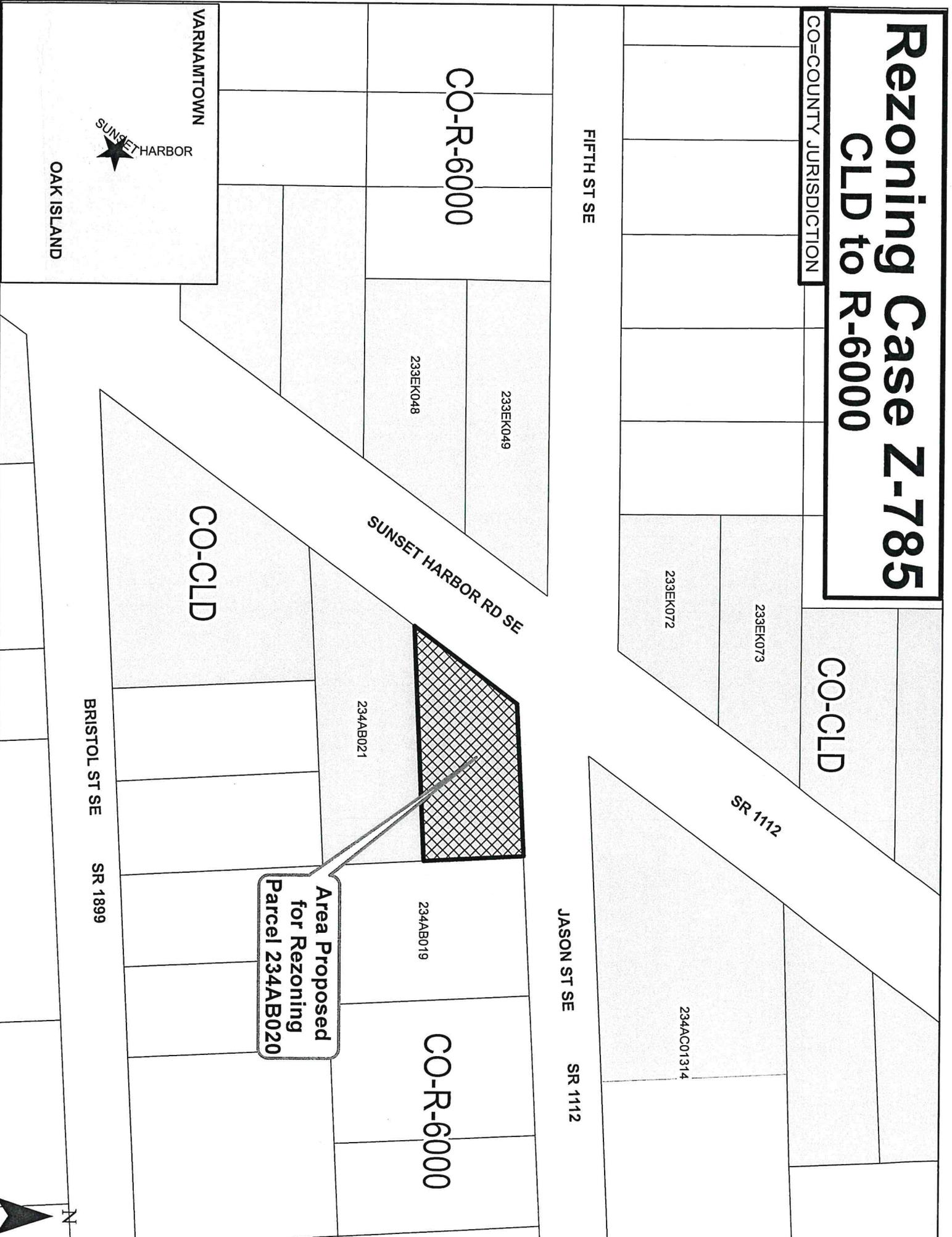
Excerpt from N.C.G.S. § 153A-341:

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-785

CLD to R-6000

CO=COUNTY JURISDICTION



Area Proposed
for Rezoning
Parcel 234AB020



Rezoning Case Z-785 CLD to R-6000

CO=COUNTY JURISDICTION

CO-CLD

CO-R-6000

CO-CLD

CO-R-6000

FIFTH ST SE

SUNSET HARBOR RD SE

SR 1112

JASON ST SE

BRISTOL ST SE

VARNAMTOWN



OAK ISLAND

233EK048

233EK049

233EK072

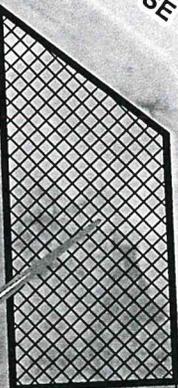
233EK073

234AB021

234AB019

234AC01314

Area Proposed
for Rezoning
Parcel 234AB020



Rezoning Case Z-785

CLD to R-6000

CO=COUNTY JURISDICTION

MIXED USE

SR 1112

MIXED USE

FIFTH ST SE

JASON ST SE

MIXED USE

SUNSET HARBOR RD SE

MIXED USE

Area Proposed
for Rezoning
Parcel 234AB020

VARNAMTOWN



OAK ISLAND

BRISTOL ST SE

N



REZONING APPLICATION

For Office Use Only

Planning Project #: _____
 Rezoning Case Z- 785

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): DAVID L KOON

Mailing Address: 1522 STERLING OAKS DR
 MONCK'S CORNER SC 29461

Phone: 843-697-1483 Email: KYNKA2@HOMESC.COM

PROPERTY OWNER INFORMATION (If different from above)

Owner Name(s): Same

Mailing Address:

Phone: Email:

PROPERTY INFORMATION

Property Address and/or Description of Location:
3676 SUNSET HARBOR RD SE

Parcel Tax ID #(s): 234AB020

Total Site Acreage:
~~1.0 ACRE~~
0.157 ac

Current Zoning District(s): BRUNSWICK COMMERCIAL CND

Proposed Zoning District(s): BRUNSWICK RESIDENTIAL R-6000

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.

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:

THIS PROPERTY HAS NOT BEEN ~~BEEN~~ COMMERCIAL SINCE 1995. THIS BUILDING IS NOW LIGHT PERSONAL STORAGE. ALL FUEL TANKS WERE REMOVED IN 1995. ALL SURROUNDING LOTS ARE RESIDENTIAL. THERE IS NO BUSINESS LICENSE FOR THIS PROPERTY. I DO NOT INTEND TO OPERATE A BUSINESS ON THIS PROPERTY AND I CONFORM TO THE USE OF ALL PROPERTIES SURROUNDING THIS LOT. REQUEST TO BE ASSESSED AT RESIDENTIAL TAX RATE AND ZONED FOR THIS USE

LAND USE COMPATIBILITY

Future Land Use Map Classification:

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:

LAND USE IS NOT COMMERCIAL THOUGH I AM ASSESSED AND TAXED AT THIS RATE.

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: [Signature]

Date: 8/26/19

Owner Signature: [Signature]

Date: 8/26/19

Owner Signature: Charles J. Koon

Date: 8/26/19

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

OFFICE USE ONLY

DATE RECEIVED: 8/30/19

RECEIPT #: _____

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> <5.00 acres (\$300 ^{\$350}) | <input type="checkbox"/> 5.00 to 49.99 acres (\$500) | <input type="checkbox"/> 50.00 to 99.99 acres (\$750) |
| <input type="checkbox"/> >100 acres (\$1,000) | <input type="checkbox"/> Land Use Plan Amendment | <input type="checkbox"/> Conditional Zoning |

CASE Z-785

ADJACENT PROPERTY OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
234AB019	BLANCHARD STEVEN K ETUX MAVIS B	8768 COATS ROAD	LINDEN	NC	28356
234AB021	KOON DAVID LYNN	1522 STERLING OAKS DRIVE	MONCKS CORNER	SC	29461
233EK073	BOLING AGNES & TONIA BURNETT TRUSTE	1800 ATLANTIC BLVD C336	KEY WEST	FL	33040
233EK048	RWJ INVESTMENTS INC	225 ELM ST	RALEIGH	NC	27601
233EK049	RWJ INVESTMENTS INC	225 ELM ST	RALEIGH	NC	27601
233EK072	RWJ INVESTMENTS INC	225 ELM ST	RALEIGH	NC	27601
234ACC01314	BOLING PHILIP ETUX	561 LOCKWOOD FOLLY ROAD	BOLIVIA	NC	28422

OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
234AB020	DAVID KOON	1522 STERLING OAKS DR	MONCKS CORNER	SC	29461

APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
234AB020	DAVID KOON	1522 STERLING OAKS DR	MONCKS CORNER	SC	29461

**BRUNSWICK COUNTY
STAFF REPORT AND RECOMMENDATION**

Application No. PD-25

Applicant: Sunset Developers of Delco, LLC

Project Name: Sunset Estates Planned Development

Property Location: Bell Swamp Rd NE (SR 1406) and Bell Swamp Connection NE (SR 1407)

Parcel Number(s): A Portion of 09700029

Zoning District: RR (Rural Low Density Residential)

Surrounding Zoning **North:** RR **South:** RR **East:** RR and CLD
West: RR

Proposed Use: Sunset Estates is a proposed Planned Development consisting of 231 single family lots on a gross site of 79.69 acres creating an overall density of 2.90 dwelling units per acre.

Approval Criteria

- The majority of the surrounding uses consists of single family residential, agricultural and vacant land. It should be noted that the property to the east (Tax Parcel 0970000701) is the Haw Hill Raceway and periodically has auto race events located there. The 2007 Future Land Use Map denotes this area as Low Density Residential.
- A 30-foot peripheral buffer with a 0.6 visual opacity is proposed for the project. Existing vegetation will serve as a visual buffer and will be supplemented by native landscaping where necessary. A 20-foot street buffer adjacent to Bell Swamp Road NE (SR 1406) and Bell Swamp Connection NE (SR 1407) is proposed for the project.
- The proposed project meets minimum vehicular access point requirements.
- **Open Space** is required at 15% or **11.95** acres of the total project area. The developer is proposing a total of **39.81** acres of open space. The developer is also proposing **1.89** acres of recreational open space of which **1.79** acres are required.
- The Exceptional Design elements to be included in the project are as follows:
 1. Sidewalks are proposed throughout the development on one side of the road.
 2. The developer is proposing 27.86 additional open space acres over what is required by the UDO.
 3. The developer is providing 110 parking spaces for the 55 townhome units where 96 spaces are required.

- Proposed infrastructure will include:
 1. **Water** and **Sewer** will be provided by Brunswick County.
 2. **Roads** will be private.
- Adjacent property owners were notified via US mail and a notification sign was posted on the subject property.
- **TRC** was held on September 10, 2019.
- According to NCDOT's Average Annual Daily Traffic Counts, there are no capacity deficiencies for Bell Swamp Road NE (SR 1406), Bell Swamp Connection NE (SR 1407) or the nearby section of Ocean Hwy East (US 17). NCDOT Driveway Permits shall be required prior to recording of the individual lots.

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. Indicate a 5-foot front setback for the typical townhouse lot details.



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

September 13, 2019

Jeff Malpass
Sunset Developers of Delco, LLC
2088 Neils Eddy Rd.
Riegelwood, NC 28456

**RE: Sunset Estates Planned Development
File # PD-25**

Dear Mr. Malpass,

The Technical Review Committee (TRC), at their September 12, 2019 meeting, reviewed the preliminary plans for the above referenced project.

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

- Provide road names for all roads within the development.
- Label that roads as private.
- Notate that the Homeowners Association will be responsible for the maintenance of all roads within the development.
- Label dimensions on hammerheads. See Section 6.11.5.F. of the UDO.
- Label setbacks for single family lots and townhome lots on lot details or in notes.
- Revise site plan to show 5' minimum setback for townhome lots.
- Ensure townhome parking spaces meet the requirements of Section 6.12.E. of the UDO.
- Drive aisle minimum width in townhome area is 25' wide per Section 6.12.E. of the UDO.
- Provide legend on sheet 2 of 4.
- Indicate location of maintenance access to wet pond #3.
- Consider providing pedestrian access to wet pond #3 and large upland area to the north of it.
- Show location of recreation spaces and indicate the uses for each.
- Indicate that trash areas and utility areas (pump station) will be screened per Sections 6.4 and 6.18 of the UDO.
- A Heritage Tree Survey will be required. See Section 6.1.3.A. of the UDO for standards.
- Lots 154 and 113, as well as others, appear to be unbuildable. Please indicate if wetlands will be filled.
- Add "supplemental vegetation will be added where needed" to Note #8.
- The Engineering Department provided the following comments:
 - There is a 30" watermain on Hwy 17 that project can connect to.

- Will need a 12" transmission watermain from Hwy 17 to subdivision.
- Will need to connect to or leave stub-out for Country Walk Subdivision.
- Will need a cross installed at the intersection of Bell Swamp Rd NE (SR 1406) and Bell Swamp Connection NE (SR1407) with 3-12" valves and a fire hydrant.
- Will need to stub-out 8" lines with fire hydrants and 8" plugs and valves at each subdivision entrance.
- 16" forcemain available for connection on Hwy 17.
- Begin discussions for the Driveway Permit and utility easement process from NCDOT. Please contact Angel Hammers with NCDOT for additional details 910-398-9100 or akhammers@ncdot.gov.
- NCDOT provided the following comments:
 - These comments are preliminary and are subject to further review upon receipt of driveway permit application. There may be additional comments and /or requirements for this site.
 - According to the submitted development of 176 single family homes and 55 multifamily homes, and the low AADT volume roadways, the analysis shows roadway improvements would be not be needed.
 - I have attached the driveway permit application package (including the current checklist) that should be followed for submittals to this office via the email: DIV3DIST3@NCDOT.GOV.
 - No curb and gutter within the NCDOT R/W.
 - Driveway stem required a minimum of 100 feet measured from the near edge of the R/W.
 - Need to show the access existing at 447 Bell Swamp Connection NE.
 - Please note, The applicant's engineer is required to fill out the driveway permit checklist and submit it with the respective plan to the NCDOT district office for review. The applicant's engineer should utilize the driveway permit checklist during the development of the related plans.
 - Encroachment agreement(s) will be required for any utility connections or installation within the NCDOT R/W using the electronic portal for submission.
 - If the developer anticipates adding or petitioning for addition of this subdivision to the state system, all roads/streets shall be designed and constructed in conformance with the current North Carolina Department of Transportation Subdivision Roads Minimum Construction Standards. Contact the District Engineers office with regards to submittals, telephone 910-398-9100. If the roads are to be private, please modify Note #13 to apply 'only to pavement depth and width'.
- The Fire Marshal has provided the following comments:
 - Need to complete a Brunswick County Fire Marshal's Office alternate material, design, or methods form for the proposed development for the 20' foot wide road per [F]503.2.1 of the 2018 NC fire prevention code through an alternate design utilizing the proposed mountable curbing.
 - Need to obtain letter from Fire Chief Travis Mercer (travis.mercer@winnabowfire.com) stating he would accept the 18' foot wide roads plus mountable curbing provided.
 - Revise site plan. Need to provide a mountable curbing detail specification capable of maintaining 75,000 lbs of imposed load. Or provide evaluation

letter from a 3rd party NC registered design professional and written narrative of curbing detail.

- Revise site plan. Need to provide fire hydrant flow test witnessed by Brunswick County Public Utilities Mickey Thompson 910-253-2404.
- Revise site plan. Add statement to the site plan that convents and restrictions need to include “on street parking as prohibited” and signage to be installed at each main entrance that “on street parking is prohibited.
- Revise utility plan. Relocate fire hydrant from lot 1 to lot 44 at intersection. This will help better cover the townhomes without blocking a main road with having to cross it with a fire hose lay.
- Brunswick County Fire Marshal – Andrew Thompson 910-252-2041
- 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 3 *folded* copies of the revised plans to the Brunswick County Planning Department by 5:00 p.m. on September 20, 2019. Please accompany the paper plans with a digital set. This may be in the form of a CD or via e-mail. Revisions will be reviewed and you will be asked for additional copies for Planning Board distribution.

If you have any questions, please feel free to contact Marc Pages at 910-253-2056 or me at 910-253-2038.

Sincerely,

Jennifer Dickinson



Planned Development (PD)

Application and Checklist

Fee: \$500

Brunswick County Planning and Community Development Dept.
910-253-2056

For Office Use Only	
File # <u>PD-25</u>	Receipt # <u>460096</u>
Date Submitted: <u>9/3/19</u>	

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 Brunswick County 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	<u>Sunset Developers of Delco, LLC</u>	Phone	<input type="text"/>
	Address	<u>2088 Neils Eddy Rd</u>	Fax	<input type="text"/>
	City, St, Zip	<u>Riegelwood, NC 28456</u>	Email	<input type="text"/>

Applicant or Representative	Name	<u>Sunset Developers of Delco, LLC</u>	Phone	<input type="text"/>
	Address	<u>2088 Neils Eddy Rd</u>	Fax	<input type="text"/>
	City, St, Zip	<u>Riegelwood, NC 28456</u>	Email	<input type="text"/>

Property Information	Address	<u>Bell Swamp Rd</u>
	Tax Parcel(s)	<u>09700029</u>
	Acreage	<u>80.08 (proposed boundary)</u>
	Current Zoning	<u>RR</u>
	Public Utilities Available?	Water <input checked="" type="checkbox"/> Sewer <input checked="" type="checkbox"/>

Project Information	Project Name	<u>Sunset Estates</u>
	Modification or Expansion Of Existing PD?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
	Single Family Acres	<u>80.08</u> Lots <u>231</u>
	Multi-Family Acres	<input type="text"/> Units <input type="text"/>
	Commercial Acres	<input type="text"/>

Authorization	Property Owner Signature <u>Jesse S. ...</u>	Date <u>9-2-19</u>
	Applicant/Representative Signature _____	Date _____

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

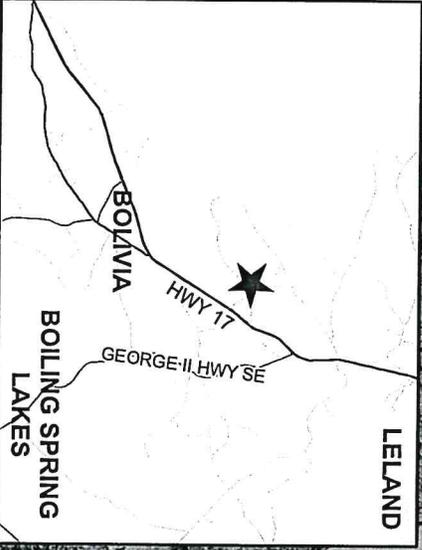
Brunswick County Planning Board Planned Development PD-25 Sunset Estates

CO=COUNTY JURISDICTION

DEERFIELD ESTATES

BOGWOODSTONE

Project Site
A Portion of
Parcel 09700029



GO-RR

GO-RR

GO-RR

GO-GLD

SR-1406

SR-1407

BELL SWAMP CONNECTION NE

BELL SWAMP RD NE



CASE PD-25

ADJACENT PROPERTY OWNER(S)

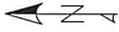
PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
970002617	BRYANT BRIAN K ETUX	109 SHIPYARD BLVD	WILMINGTON	NC	28412-6225
9700026	CLEMMONS DAVID ETUX	479 BELL SWAMP RD NE	WINNABOW	NC	28479-5451
970000313	ADAMS WILLIAM C ETUX	400 HILLSIDE DR N UNIT 201	N MYRTLE BCH	SC	29582-8960
970002603	STANLEY DAVID M III	4003 ROBERT RUARK DR SE	SOUTHPORT	NC	28461
970002613	DOBIAC JAMES ETUX	175 KINGS HOLW NE	WINNABOW	NC	28479-5597
970000704	ATLANTIC TELEPHONE MEMBERSHIP CORP	P O BOX 3198	SHALLOTTE	NC	28459
970002604	JAIMES JAIME RENDON AND	337 BELL SWAMP RD NE	WINNABOW	NC	28479-5700
970000701	POTTER IRA ALDEN JR	447 BELL SWAMP CONNECTION	WINNABOW	NC	28479
0971D014	MANYAK MICHAEL J ET PAULA	PO BOX 280	WINNABOW	NC	28479
970002612	KING DANNY R & HELEN A KING	155 KINGS HOLLOW	WINNABOW	NC	28479
970003802	TAYLOR JASPER BELL & VIOLA	P O BOX 25	WINNABOW	NC	28479
0971D015	COSTIN DONNIE J JR ET JUDITH F	PO BOX 1254	LELAND	NC	28451
097NA009	TURNER MICHAEL DEAN & JOSEPH CARL	472 BELL SWAMP RD NE	WINNABOW	NC	28479
970002605	MOREHOUSE DAVID	9195 HIGHLAND HILLS DR NE	LELAND	NC	28451-8325
970002901	HOLLIS JAMES WOODY JR ET CAROL	1153 LANVALE RD	LELAND	NC	28451
970002615	BRYANT BRIAN	109 SHIPYARD BLVD	WILMINGTON	NC	28412
970002606	DAVIS ANGELA	317 BELL SWAMP RD	WINNABOW	NC	28479
970000102	LOSSEN THOMAS GODWIN JR	529 AHOSKIE-COFIELD RD	AHOSKIE	NC	27910
9700007	IJP LLC	1316 HONOR LN	WILMINGTON	NC	28412-3645
970002602	HANNIS ROSE	359 BELL SWAMP RD NE	WINNABOW	NC	28479-5700

OWNER(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
9700029	SUNSET DEVELOPERS OF DELCO	2088 NEILS EDDY RD	REIGELWOOD	NC	28456

APPLICANT(S)

PARCEL ID	NAME	ADDRESS	CITY	STATE	ZIP
9700029	SUNSET DEVELOPERS OF DELCO	2088 NEILS EDDY RD	REIGELWOOD	NC	28456



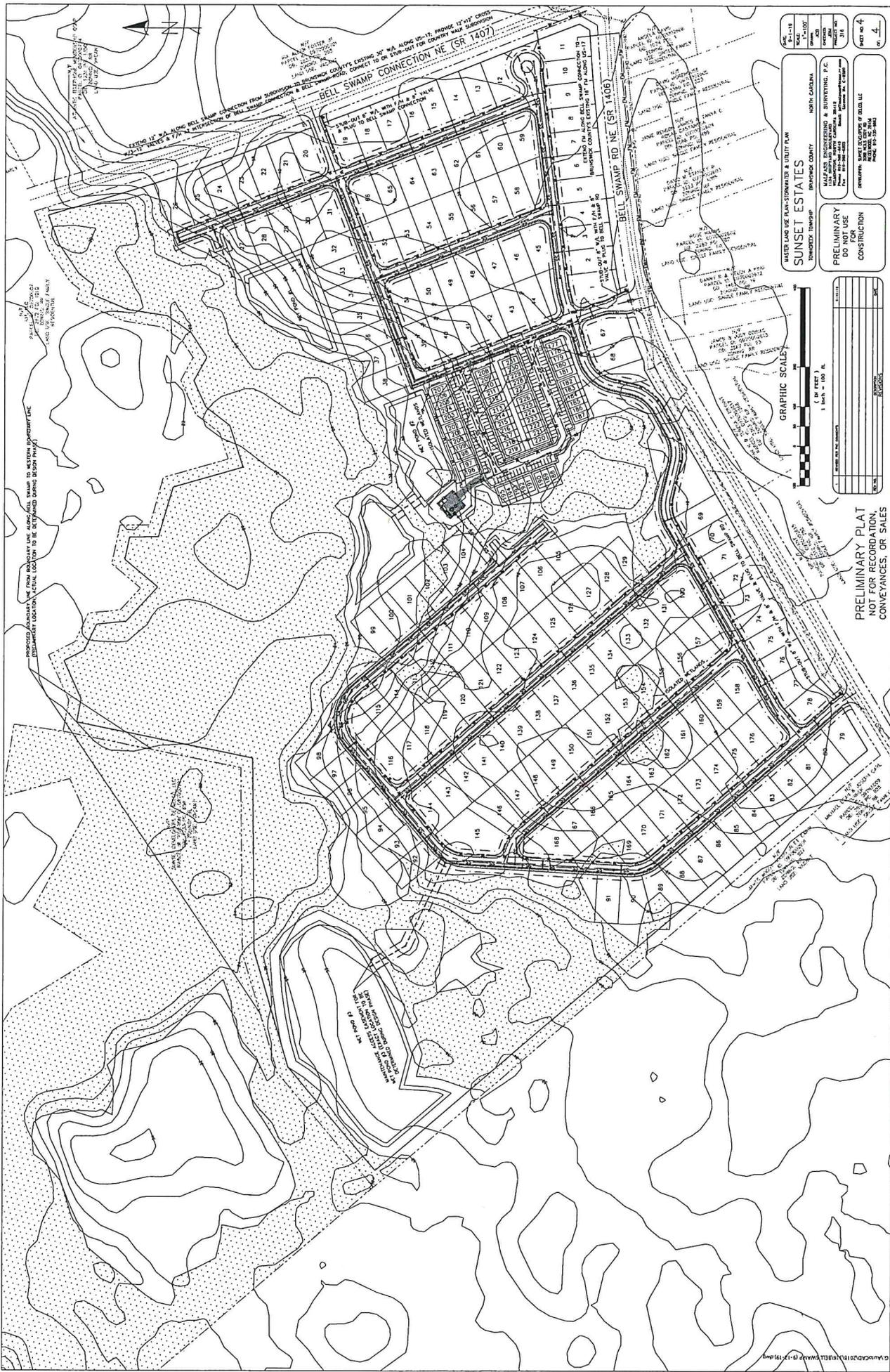
MASTER LAND USE PLAN-DIAGRAM SITE PLAN OF TOWNHOUSE PARKING
SUNSET ESTATES
 TOWNHOUSE DEVELOPMENT
 WILKINSON ENGINEERING & SURVEYING, P.C.
 1111 WILSON DRIVE, SUITE 100
 WILSON, NORTH CAROLINA 27157
 PHONE: 919-286-8888 FAX: 919-286-8889
 ENGINEER: WILKINSON ENGINEERING & SURVEYING, P.C.
 200 W. HARRIS STREET, SUITE 100
 WILSON, NORTH CAROLINA 27157
 PHONE: 919-251-9881

PRELIMINARY
 DO NOT USE
 FOR
 CONSTRUCTION

SHEET NO. 3
 OF 4

GRAPHIC SCALE
 1" = 20'

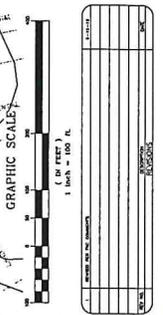
PRELIMINARY PLAT
 NOT FOR RECORDATION,
 CONVEYANCES, OR SALES



WATER LAD USE PLAN, STANDARD & DUTY PLAN
SUNSET ESTATES
 WALKER ENGINEERING & SURVEYING, P.C.
 1100 W. BROADWAY, SUITE 1000
 DENVER, CO 80202
 PHONE: 303.733.1111
 FAX: 303.733.1112
 WWW: WALKERENGINEERING.COM

PRELIMINARY
 DO NOT USE
 FOR
 CONSTRUCTION

SHEETS: 180 TOTAL SHEETS OF 180 SHEETS
 SHEET NO. 4
 OF 4



PRELIMINARY PLAT
 NOT FOR RECORDATION,
 CONVEYANCES, OR SALES

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BRUNSWICK COUNTY PLANNING

P.O. Box 249
75 Courthouse Drive N.E., Bldg I
Bolivia NC 28422

MEMORANDUM

DATE: October 14, 2019

TO: Planning Board Members

FROM: Marc Pages, Senior Planner

RE: **Proposed Brunswick County Unified Development Ordinance Amendments
Session Law 2019-99 (HB 237)
"AN ACT TO ALLOW FOR PLANNING BOARDS TO HOLD HEARINGS AND MAKE
FINAL DECISIONS FOR ZONING AMENDMENT REQUESTS IN BRUNSWICK
COUNTY."**

Attached is the proposed Brunswick County Unified Development Ordinance Amendments that will allow the Planning Board to consider and take final action on Rezoning (Zoning Map Amendment) and for the Board of County Commissioners hear and take final actions on appeal pursuant to House Bill 237 (Session Law 2019-99) and a copy of Session Law 2019-99 (House Bill 237).

Over past few years, the NC General Assembly has authorized several local governments to delegate final approval authority for rezonings to their Planning Boards, usually with parties having the right to appeal those decisions to the governing board. This was originally authorized in Greensboro, Gastonia, and Cabarrus County and its municipalities. It was extended in 2017 to Randolph County and its municipalities, and in 2018 it was extended to Davidson County.

This year Brunswick County requested that the NC General Assembly extend this authorization and it was subsequently approved through Session Law 2019-99 (House Bill 237). This authorizes the Brunswick County Board of Commissioners to delegate the authority to make final decisions for rezonings (i.e., map amendment) to the Brunswick County Planning Board. All final decisions must be made majority vote by Planning Board. An appeals of the Planning Board's final decision may be made in writing by any person with standing within 15 days. If an appeal is filed within 15 days of the Planning Board's decision, the Board of Commissioners will review the decision of the Planning Board and make a final decision on the rezoning request.

If you have any questions about the above legislation, feel free to contact me by email at marc.pages@brunswickcountync.gov or by phone at 910/253-2056.

BRUNSWICK COUNTY UNIFIED DEVELOPMENT ORDINANCE *Text Amendment*

Amendments to the Brunswick County Unified Development Ordinance to allow the Planning Board to consider and take final action on Rezoning (Zoning Map Amendment) and for the Board of County Commissioners hear and take final actions on appeal pursuant to House Bill 237 (Session Law 2019-99) as follows:

- Amend Article 2., Decision-Making and Administrative Bodies, to allow the Planning Board to consider and take final action on Rezoning (Zoning Map Amendments) and for the Board of County Commissioners hear and take final actions on appeal as follows:
 - Amend Section 2.2.2.B., Final Action
 - B. The Board of County Commissioners shall hear and take final action on the following development review procedures:
 1. Ordinance Text Amendments (Section 3.7); and
 2. Rezoning, if appealed from the Planning Board pursuant to (Section 3.8).
 - Amend Section 2.3.2., Power and Duties
 - 2.3.2. Powers and Duties
 - A. Review and Recommendation

The Planning Board shall review and make a recommendation on the following development review procedures:

 1. Ordinance Text Amendment (Section 3.7); and
 2. Rezoning (Section 3.8).
 - B. Final Action

The Planning Board shall hear and take final action on the following development review procedures:

 1. Variance from the Subdivision Requirements (Section 3.6);
 2. Major Subdivision- Preliminary Plat (Section 3.4.11);
 3. Major Site Plan (Section 3.2);
 4. Planned Development Review (Section 3.3.3) and
 5. Zoning Vested Rights determination (Section 9.5);
 6. Rezoning (Section 3.8).

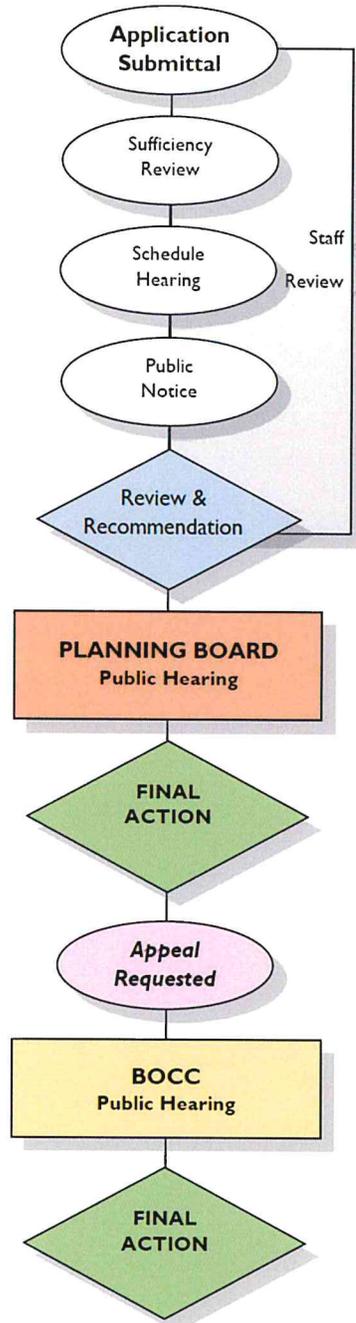
- o Update Section 2.14., Summary of Review Authority

2.14 Summary of Review Authority

The following table summarizes review and approval authority under this Ordinance. The following table summarizes review and approval authority under this Ordinance.

| | Technical Review Committee | Building Inspector | Zoning Administrator | Planning Director | Zoning Board of Adjustment | Planning Board | Board of County Commissioners | |
|---|----------------------------|--------------------|----------------------|-------------------|----------------------------|---------------------|-------------------------------|-------------------|
| | TRC | BI | ZA | PD | BOA | PB | BOCC | |
| "R" = Review and Recommendation authority; "D" = | | | | | | | | |
| Text Amendment | | | R | R | | <R> | <D> | Section 3.7 |
| Rezoning | | | R | R | | <R D ⁴ > | <D A ⁵ > | Section 3.8 |
| Variance | | | R | R | <D ² > | <D ² > | <D ² > | Section 3.6 |
| Subdivision- Minor Plat | R | | | D | | | | Section 3.4.10 |
| Subdivision- Preliminary Plat | R | | | R | | <D> | | Section 3.4.11 |
| Subdivision- Final Plat | R | | | D | | | | Section 3.4.12 |
| Site Plan | R | | | D ¹ /R | <D ¹ > | <D ¹ > | | Section 3.2 |
| Planned Development Review | R | | | R | | <D> | | Section 3.3.3 |
| Zoning Vested Right | | | | | <D ³ > | <D ³ > | | Section 9.5 |
| Special Use Permit | | | R | | <D> | | | Section 3.5 |
| Appeal of Administrative Decision | | | | | <D> | | | Section 9.8 |
| Administrative Adjustment | | | | D | | | | Section 9.6 |
| Traffic Impact Analysis | R | | | D | | | | Section 6.16 |
| Written Interpretation | | | | D | | | | Section 9.7 |
| Development Permit | | | D | | | | | Section 9.3 |
| Certificate of Occupancy | | D | | | | | | Section 9.4.1 |
| Temporary Use Permit | | | D | | | | | Section 9.4.3 |
| Certification of Mobile Home | | | D | | | | | Section 5.3.3.C.6 |
| Sign Permit | | | D | | | | | Section 8.2.1 |
| "R" = Review and Recommendation authority; "D" = Decision authority; "A" = Appeal Decision authority; "< >" = Public Hearing Required | | | | | | | | |
| Notes: | | | | | | | | |
| ¹ The Planning Director shall serve as the approving authority for all Minor Site Plan applications (review only for Major Site Plans). The Zoning Board of Adjustment shall serve as the approving authority for all Major Site Plan applications requiring Special Use Approval. The Planning Board shall serve as the approving authority for all other Major Site Plan applications. | | | | | | | | |
| ² The Planning Board shall serve as the approving authority for all variances from Subdivision requirements; the Board of County Commissioners shall serve as the approving authority for all variances from the Stormwater Permit requirements; the Zoning Board of Adjustment shall serve as the approving authority for variances from all other requirements. | | | | | | | | |
| ³ The Board of Adjustment shall serve as the approving authority for a vested rights determination on all site plans involving a Special Use Permit except Planned Developments. The Planning Board shall serve as the approving authority for all other vested rights determinations. | | | | | | | | |
| ⁴ The Planning Board shall serve as the approving authority for all rezonings. Any person with standing may appeal their decision and appeal to the Board of County Commissioners by providing written notice to the County Manager within 15 days of the decision. | | | | | | | | |
| ⁵ The Board of County Commissioners hear and take final actions on all rezonings that are appealed. | | | | | | | | |

- Amend Article 3, to allow the Planning Board to consider and take final action on Rezoning (Zoning Map Amendment) and for the Board of County Commissioners hear and take final actions on appeal as follows:
 - Amend Section 3.8., Flow Chart by updating the existing flow chart to reflect updated process.



- Section 3.8.1.B. - Applicability
 - B. The Planning Board and if appealed the Board of County Commissioners shall consider amendments to the Zoning Map of Brunswick County, as may be required from time to time.

- Section 3.8.7. - Action by Zoning Administrator
 - A. The Zoning Administrator shall prepare a staff report that reviews the rezoning request in light of any applicable plans and the general requirements of this Ordinance. The staff report shall consider the entire range of permitted uses in the requested classification regardless of any representations made that the use will be limited, unless a development plan is submitted that restricts the permitted range of uses to specific uses.
 - B. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request, staff recommendation, and any related materials to the Planning Board for a hearing and recommendation decision.
 - ~~C. Following Planning Board review, the Zoning Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation, to the Board of County Commissioners for final action.~~

- Section 3.8.8. - Action by Planning Board
 - A. Before making any recommendation decision on a rezoning request, the Planning Board shall consider any recommendations from the Zoning Administrator and shall conduct a public hearing where interested parties may be heard.
 - B. Notice and public hearing requirements shall be in accordance with Section 9.1.
 - C. The Planning Board shall make a recommendation decision based on the approval criteria in Section 3.8.10, as appropriate.
 - D. ~~Following the Planning Board decision, the Planning Board Chair or Zoning Administrator shall announce that any person with standing may appeal the decision of the Planning Board by providing written notice to the County Manager within 15 days of the decision. review and recommendation, the completed request, Planning Board recommendation, staff recommendation and any related materials shall be forwarded to the Board of County Commissioners.~~
 - E. If notice of the appeal is not provided in writing within 15 days, then the decision of the Planning Board shall be final the Planning Board fails to make a recommendation within 75 days following the date of the first hearing on the request, the Board of County Commissioners may process the request without a recommendation.

- Section 3.8.9. - Action by Board of County Commissioners
 - A. Upon receipt of a timely appeal as described in Section 3.8.8, the Board of Commissioners shall schedule a public hearing for the rezoning case and shall hear it de novo Before making any recommendation on a rezoning request, the Board of County Commissioners shall consider any recommendations from the Planning Board and Zoning Administrator and shall conduct a public hearing where interested parties may be heard.
 - B. Notice and public hearing requirements shall be in accordance with these regulations.

- C. The Board of County Commissioners shall take action on a rezoning request based on the approval criteria in these regulations, as appropriate.
- D. The Board of County Commissioners may approve the rezoning, deny the rezoning, or send the rezoning back to the Zoning Administrator for additional consideration.

- o Section 3.8.12 - Resubmission of Application

Upon final action ~~by the Board of Commissioners~~ to deny or approve an application for the rezoning of a piece of property, the Planning Board shall not review any applications for changes affecting the same property or any portion thereof until the expiration of one year from the date of such previous action except as provided as follows:

- Amend Article 9, Section 9.1.A., Summary of Notice and Public Hearings Required, to add rezoning appeals to be consistent with the Planning Board taking final action on Rezoning and for the Board of County Commissioners hear and take final actions on appeals.

- A. Summary of Notice and Public Hearing Required

Notice and Public Hearings shall be required for applications for approval as shown in the table below.

| | NOTICE REQUIRED | | | PUBLIC HEARING REQUIRED | | | |
|-------------------------------------|-----------------|--------|--------|-------------------------|----------------|-------------------------------|--------------------|
| | Published | Mailed | Posted | Board of Adjustment | Planning Board | Board of County Commissioners | |
| | | | | BOA | PB | BOCC | |
| Text Amendment | ✓ | | | | ✓ | ✓ | Section 3.7 |
| Rezoning | ✓ | ✓ | ✓ | | ✓ | ✓ | Section 3.8 |
| <u>Rezoning Appeal</u> | | | | | | ✓ | <u>Section 3.8</u> |
| Variance | | ✓ | ✓ | ✓ | ✓ | | Section 3.6 |
| Subdivision- Preliminary Plat | | ✓ | | | ✓ | | Section 3.4.11 |
| Site Plan- Major | | | ✓ | ✓ | | | Section 3.15.B |
| Site Plan- Multifamily Developments | | | ✓ | | | | Section 3.15.A.3 |
| Planned Development Review | | ✓ | ✓ | | ✓ | | Section 3.3.3 |
| Zoning Vested Right | | | | ✓ | ✓ | | Section 9.5 |
| Special Use Permit | | ✓ | ✓ | ✓ | ✓ | | Section 3.5 |
| Appeal of Administrative Decision | | | | ✓ | | | Section 9.8 |
| Nonconforming Use Certificate | | ✓ | ✓ | | | | Section 10.3.2.B |

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-99
HOUSE BILL 237

AN ACT TO ALLOW FOR PLANNING BOARDS TO HOLD HEARINGS AND MAKE
FINAL DECISIONS FOR ZONING AMENDMENT REQUESTS IN BRUNSWICK
COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-343 reads as rewritten:

"§ 153A-343. Method of procedure.

(a) The board of commissioners shall, in accordance with the provisions of this Article, provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The procedures adopted pursuant to this section shall provide that whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. Except for a county-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the board of commissioners that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the board of commissioners that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

(b) The first class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county elects to use the expanded published notice provided for in this subsection. In this instance, a county may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearings required by G.S. 153A-323, but provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

(b1) Actual notice of the proposed amendment and a copy of the notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection applies only to an application to request a zoning map amendment where the application is not made by



the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a county-initiated zoning map amendment.

(c) Repealed by Session Laws 2005-418, s. 4, effective January 1, 2006.

(d) When a zoning map amendment is proposed, the county shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the county shall post sufficient notices to provide reasonable notice to interested persons.

(e) The board of commissioners may, by ordinance, delegate to the planning board the authority to conduct the public hearing required under this Article and make the final decision on zoning map amendment proposals, including the adoption of a consistency statement pursuant to G.S. 153A-341. The board of commissioners may prescribe procedures for the public hearing that are not inconsistent with this Article. The planning board shall make its final decision by majority vote of the members of the planning board. Any person with standing may appeal a decision of the planning board made pursuant to this subsection to the board of commissioners by providing written notice to the county manager within 15 days of the final decision. On appeal, the board of commissioners shall review the decision of the planning board de novo. If no notice of appeal of the planning board decision is provided within 15 days, then the decision of the planning board shall be final and equivalent to the final decision of the governing body. The board of commissioners may, by ordinance, rescind or modify any authority delegated to the planning board pursuant to this subsection."

SECTION 2.(a) Section 1 of this act applies to Brunswick County.

SECTION 2.(b) This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2019.

s/ Ralph E. Hise
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives



Brunswick County Planning

P.O. Box 249

75 Courthouse Drive N.E., Bldg I

Bolivia, NC 28422

(910) 253-2025

MEMORANDUM

DATE: October 14, 2019

TO: Planning Board Members

FROM: Marc Pages, Senior Planner

RE: **Proposed Flood Damage Prevention Amendments**

The attached proposed text amendments to the Brunswick County Flood Damage Prevention Section of the Unified Development Ordinance (Article 7) are relatively minor modifications that have been drafted in response to FEMA and National Flood Insurance Program (NFIP) institutional changes.

The Legislature of the State of North Carolina has delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

BRUNSWICK COUNTY FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 7.- FLOOD DAMAGE PREVENTION

7.1- FLOOD DAMAGE PREVENTION ORDINANCE (AUGUST 28, 2018) (DECEMBER 6, 2019)

7.1.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Governing Body of Brunswick County, North Carolina, does ordain as follows:

A. FINDINGS OF FACT

- (1) The flood prone areas within the jurisdiction of Brunswick County subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

B. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

C. OBJECTIVES

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the

- expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
 - (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
 - (6) Minimize damage to private and public property due to flooding;
 - (7) Make flood insurance available to the community through the National Flood Insurance Program;
 - (8) Maintain the natural and beneficial functions of floodplains;
 - (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
 - (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

7.1.2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Area of Future-Conditions Flood Hazard” means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

“Coastal A Zone (CAZ)” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

“Coastal Barrier Resources System (CBRS)” undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 7.1.3(B) of this ordinance, as Zone VE.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before April 1st, 1985.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon

submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Otherwise Protected Area (OPA)” see “Coastal Barrier Resources System (CBRS)”.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after May 15th, 1986, the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before May 15th, 1986 the effective date of the initial Flood Insurance Rate Map.

“Primary Frontal Dune (PFD)” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

(For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus **two (2)** feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least **than two (2)** feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 7.1.3(B) of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it’s before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

- (1) Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 7.1.4 Section E of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 7.1.4 and 7.1.5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

7.1.3. GENERAL PROVISIONS

A. Applicability

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) of Brunswick County.

B. Basis for Establishing the Special Flood Hazard Area

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated December 6th, 2019 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of the Flood Damage Prevention Ordinance, **and all revisions thereto after January 1, 2021**. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of Brunswick County are also adopted by reference and declared a part of the Flood Damage Prevention Ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 7.1.3, Section B of this ordinance.

D. Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions

The Flood Damage Prevention Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by Flood Damage Prevention Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Brunswick County or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

H. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$200.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Brunswick County from taking such other lawful action as is necessary to prevent or remedy any violation.

7.1.4. ADMINISTRATION

A. Designation of Floodplain Administrator

The Director of Code Administration, hereinafter referred to as the “Floodplain Administrator”, or their designee, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

B. Floodplain Development Application, Permit, and Certification Requirements

(1) Application Requirements

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 7.1.3(B), or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 7.1.3(B);

- (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 7.1.3(B);
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Section 7.1.3(B); Section 7.1.4(C); or Section 7.1.5(D);
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer may be required at the discretion of the floodplain administrator.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section) 7.1.5(B)(4)(c) when solid foundation perimeter walls are used in Zones A, AE, AH, A1-30, A99.
 - (iii) The following, in Coastal High Hazard Areas, in accordance with the provisions of Section 7.1.5(B)(4)(d) and Section 7.1.5(G) and (H):
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions Section 7.1.5 (B) subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements

The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 7.1.3(B).
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 7.1.5(F) have been met.
- (g) The flood openings requirements, if in Zones A, AE.
- (h) Limitations of below BFE enclosure uses. (i.e., parking, building access and limited storage only).
- (i) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
- (j) A statement, if in Zone VE, that there shall be no fill used for structural support.
- (k) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) Certification Requirements

- (a) Elevation Certificates
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

- (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.
- (b) Floodproofing Certificate
- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, or AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of

Section 7.1.5(B)(3)(b).

- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- (e) Certification Exemptions. The following structures, if located within Zones A or AE are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Section 7.1.5(B)(6)(a);
 - (ii) Temporary Structures meeting requirements of Section 7.1.5(B)(7); and
 - (iii) Accessory Structures that are 150 square feet or less or \$3,000 or less and meeting requirements of Section 7.1.5(B)(8).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

(4) Determinations for Existing Buildings and Structures

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

C. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 7.1.5(F) are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 7.1.4(B)(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 7.1.4(B)(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 7.1.4(B)(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 7.1.4(B)(3) and Section 7.1.5(B)(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When BFE data has not been provided in accordance with the provisions of Section 7.1.3(B), obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 7.1.5(D)(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 7.1.3(B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.

In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Section 7.1.4(D).
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 7.1.3(B) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

D. Corrective Procedures

- (1) Violations to be corrected:

When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

- (2) Actions in Event of Failure to Take Corrective Action:

If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- (a) That the building or property is in violation of the floodplain management regulations;
- (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the

building; or to remove fill as applicable.

(3) Order to Take Corrective Action:

If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than Sixty (60) calendar days, nor more than One-Hundred-Eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal:

Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(5) Failure to Comply with Order:

If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

E. Variance Procedures

- (1) The Board of Adjustment as established by the County of Brunswick, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Section 7.1.2 of this ordinance, provided provisions of Section 7.1.4(E)(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Section 7.1.2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or

victimization of the public, or conflict with existing local laws or ordinances.

- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (d) The use complies with all other applicable federal, state and local laws.
 - (e) Brunswick County has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

7.1.5. Provisions for Flood Hazard Reduction

A. General Standards

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 7.1.4(E)(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 7.1.4(B)(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

B. Specific Standards

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 7.1.3(B), or Section(D), the following provisions, in addition to the provisions of Section 7.1.5(A), are required:

- (1) **Residential Construction.**
New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 7.1.2 of this ordinance.
- (2) **Non-Residential Construction**
New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 7.1.2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 7.1.4(B)(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes

- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section 7.1.2 of this ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 7.1.5(B)(4).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) Elevated Buildings

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (b) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (c) Shall include, in Zones A, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural

status, is considered an enclosure and requires flood openings as outlined above.

- (d) Shall, in Coastal High Hazard Areas (Zone VE), Meet the requirements of Section 7.1.5(G)(5).

(5) Additions/Improvements

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a One (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the One (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(1) Recreational Vehicles

Recreational vehicles shall either:

- (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days; and

- (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
- (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(2) Temporary Non-Residential Structures

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures

When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 7.1.5(A)(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 7.1.5(A)(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 7.1.5(B)(4)(c).

An accessory structure with a footprint less than One-Hundred-Fifty (150) Square Feet or that is a minimal investment of Three-Thousand Dollars (\$3,000) or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section (B)(2). Elevation or floodproofing certifications are

required for all other accessory structures in accordance with Section 7.1.4(B)(3).

(9) Tanks

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Underground tanks

Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) Above-ground tanks, elevated

Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks, not elevated

Above-ground tanks that do not meet the elevation requirements of Section 7.1.5(B)(2) of this ordinance shall not be permitted in V or VE zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) Tank inlets and vents

Tank inlets, fill openings, outlets and vents shall be:

- (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
- (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 7.1.5(F) of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 7.1.5, Section F of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 7.1.5, Section F of this ordinance.
- (d) Commercial storage facilities are not considered "limited storage" as noted in this ordinance, and shall be

protected to the Regulatory Flood Protection Elevation as required for commercial structures.

C. RESERVED

D. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 7.1.3(B), where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 7.1.5(A), shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 7.1.5(A) and (B).
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Section 7.1.5, Sections (B) and (F).
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 7.1.3(B) and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 7.1.2. All other applicable provisions of Section 7.1.5(B) shall also apply.

E. Standards for Riverine Floodplains with a Base Flood Elevation but Without Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Sections 7.1.5(A) and (B); and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

F. Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 7.1.3(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 7.1.5(A) and (B), shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Section 7.1.5(F)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Section 7.1.5(B)(3); and
 - (b) The encroachment standards of Section 7.1.5(F)(1).

G. Coastal High Hazard Area (Zone VE)

Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 7.1.3(B), and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 7.1.5(A) and (B):

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact action and in accordance with the provisions of Section 7.1.5(B)(4)(iii)(a).—Design plans shall be submitted in accordance with the provisions of Section 7.1.4(B)(1)(iv)(c)(2); or

- (b) Breakaway walls may be permitted provided they meet the criteria set forth in Section 7.1.5(B)(4)(i),(ii),(iii). Design plans shall be submitted in accordance with the provisions of Section 7.1.4(B)(1)(iv)(c)(1).
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- (a) Water loading values used shall be those associated with the base flood.
- (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
- (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
- (b) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
- (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
- (d) Pad thickness shall not exceed 4 inches; or
- (e) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required:
- (a) Be designed to withstand all flood-related loads and load combinations.
- (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
- (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
- (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
- (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.

- (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required:
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - (f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
 - (g) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 7.1.4(B) and Sections 7.1.5(G)(3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- (8) Fill/Grading
- (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

- (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (9) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (10) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (11) Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 7.1.5(B)(6)(a).
- (12) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 7.1.4(B)(3)(f).
- (13) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (14) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
 - (c) Docks, piers and similar structures.
- (15) No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

H. Standards for Coastal A Zones (Zone CAZ) LiMWA (LIMIT OF MODERATE WAVE ACTION)

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

- (1) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.
- (2) All new construction and substantial improvements shall have the space below the lowest horizontal structural member free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact action and in accordance with the provisions of Section 7.1.5(B)(4)(iii)(e). Design plans shall be submitted in accordance with the provisions of Section 7.1.4(B)(1)(iv)(c)(2); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Section 7.1.5(B)(4)(iii)(b). Design plans shall be submitted in accordance with the provisions of Section 7.1.4(B)(1)(iv)(c)(1).
- (3) All new construction and substantial improvements shall include, in Zones CAZ, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Section 7.1.5(B)(4)(iv).
- (4) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Section 7.1.5(G)(5).
- (5) All new construction and substantial improvements shall meet the provisions of Section 7.1.5(G)(3)
- (6) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 7.1.4(B) Section 7.1.5(G)(3) and (4), on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
- (7) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Section 7.1.5(B)(6)(a).
- (8) Fill/Grading must meet the provisions of Section 7.1.5(G)(11)
- (9) Decks and patios must meet the provisions of Section 7.1.5(G)(15) and (16).
- (10) In coastal high hazard areas, development activities other than buildings and structures must meet the

provisions of Section 7.1.5(G)(17)

7.1.6. LEGAL STATUS PROVISIONS.

A. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 1st 1985 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Brunswick County enacted on April 1st 1985, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for each municipal jurisdiction within Brunswick County is as follows:

| CID | Community Name | PRE/POST FIRM Date | First Ordinance Date |
|------------|-------------------------------|----------------------------------|-----------------------------|
| 370442 | BALD HEAD ISLAND, VILLAGE OF | 4/15/1977 5/15/1986 | 2/26/86 |
| 370545 | BELVILLE, TOWN OF | 6/2/2006 5/15/1986 | 3/18/03 |
| 370453 | BOILING SPRING LAKES, CITY OF | 3/2/1989 | 2/6/89 |
| 370394 | BOLIVIA, TOWN OF | 6/2/2006 | 10/11/04 |
| 370295 | BRUNSWICK COUNTY* | 5/15/1986 | 04/01/85 |
| 370395 | CALABASH, TOWN OF | 2/4/1988 | 11/30/87 |
| 370517 | CAROLINA SHORES, TOWN OF | 1/26/1999 2/4/1988 | 11/30/87 |
| 370391 | CASWELL BEACH, TOWN OF | 1/17/1986 | 05/06/76 |
| 375352 | HOLDEN BEACH, TOWN OF | 5/26/1972 | 11/14/76 |
| 370471 | LELAND, TOWN OF | 10/19/1992 5/15/1986 | 9/17/1992 |
| 375354 | LONG BEACH, TOWN OF | 3/26/1971 | 3/26/71 |
| 370593 | NAVASSA, TOWN OF | 6/2/2006 5/15/1986 | 5/30/06 |
| 370513 | NORTHWEST, CITY OF | 11/12/1998 5/15/1986 | 11/12/98 |
| 370523 | OAK ISLAND, TOWN OF | 7/1/1999 2/16/1977 | 07/01/99 |
| 375357 | OCEAN ISLE BEACH, TOWN OF | 11/17/72 11/18/1972 | 11/17/72 |
| 370388 | SHALLOTTE, TOWN OF | 1/3/1986 | 1/20/88 |
| 370028 | SOUTHPORT, CITY OF | 4/15/1977 | 5/24/74 |
| 370530 | ST JAMES, TOWN OF | 6/27/2000 5/15/1986 | 12/7/99 |
| 375359 | SUNSET BEACH, TOWN OF | 11/17/1972 11/18/1972 | 11/18/72 |
| 370648 | VARNAMTOWN, TOWN OF | 5/30/2001 5/15/1986 | 1/13/97 |
| 370030 | YAUPON BEACH, TOWN OF | 2/16/1977 | 2/16/1977 |

B. Effect Upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

C. Severability

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

D. Effective Date

This ordinance shall become effective December 6th, 2019.

E. Adoption Certification

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the County Commissioners of Brunswick County, North Carolina, on the ____ day of _____, 2019.

WITNESS my hand and the official seal of _____, this the ____ day of _____, 2019.

(signature)