# AGENDA
# ZONING BOARD OF ADJUSTMENT
# BRUNSWICK COUNTY, N.C.

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

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

I. Call to Order.

II. Roll Call.

III. Consideration of Minutes of the September 12, 2019 Meeting.

IV. Agenda Amendments.

V. Old Business.

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

VI. Staff Report.

VII. Adjournment.

**MINUTES**

**ZONING BOARD OF ADJUSTMENT**

**BRUNSWICK COUNTY, N.C.**

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

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

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

MEMBERS ABSENT
None

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

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

I. CALL TO ORDER.

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

II. ROLL CALL.

There were no members absent.

III. CONSIDERATION OF MINUTES OF THE AUGUST 22, 2019 MEETING.

Ms. Shiflet made a motion to accept the minutes of the August 22, 2019 meeting as written. The motion was seconded by Ms. McCarthy and unanimously carried.

IV. AGENDA AMENDMENTS.

There were none.

V. FUNCTIONS OF THE BOARD OF ADJUSTMENT.

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

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

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

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

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

The Chairman swore in and or/ affirmed Helen Bunch, Grey Vick, Patrick Newton, Sylvain Goulet, Jon Trainor, William Gerber, Marian Cionek, Inga Alston, Gary Brown,

Matthew Nichols, Mason Anderson, Brian McLaughlin, and Joan Tomasello as to their testimony being truthful and relevant to the respective case.

VII. OLD BUSINESS.

A) 19-06V: Variance
Applicant: Grey Outdoor, LLC
Location: 4846 Southport-Supply Road SE, Southport, NC 28461
Tax Parcel 205PA001
Applicant requests two (2) Variances from the Brunswick County Unified Development Ordinance (UDO). The first variance is from Section 8.8.1.G.1. to allow a non-conforming outdoor advertising structure to be relocated one hundred sixty-five (165) linear feet from another outdoor advertising sign as opposed to the minimum three thousand (3,000) linear feet of separation for outdoor advertising structures required. The second variance is from Section 8.8.1.I. to allow a non-conforming outdoor advertising structure to be relocated five (5) feet from the left side property line as opposed to the minimum fifteen (15) feet as required.

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

Mr. Grey Vick addressed the Board. Mr. Vick stated Grey Outdoors, LLC is requesting permission to relocate the sign as a result of the road widening project on NC 211(Southport-Supply Road). Mr. Vick stated that the side yard variance is being requested to come more into compliance with the UDO by maximizing the distance from nearby advertising structures.

Mr. Vick stated that the existing sign has a five (5) feet side yard setback currently and the variance would allow the relocation to maintain that distance.

Ms. Shiflet asked Mr. Vick if he was aware of the business risk associated with locating advertising structures in areas that may be acquired for projects such as road widening projects. Mr. Vick stated that he is aware of that risk as being a part of the business.

Ms. Ward asked how many years the sign has been at that location. Mr. Vick stated that the sign has been at that site since 1988. Mr. Vick added that the structure was acquired in 2013. Mr. Vick stated that the documentation was

provided to the Planning Department for the associated Non-Conforming Use Certificate.

Mr. Vick stated that the quality of the new sign structure would be improved compared to the existing structure.

Ms. McCarthy asked if the sign is currently illuminated and if the new sign will be illuminated. Mr. Vick stated that the sign is currently illuminated and will continue to be illuminated.

Mr. Williamson asked if the size of the sign will be increased. Mr. Vick stated that the signage would remain close to the current sign. Mr. Vick added that there have been similar advertising structures that have been relocated nearby, and it is his intention is to build a sign structure that is similar in character to the nearby sign structures that have recently been relocated.

Ms. McCarthy asked if there is a residence on the property next to where the sign will be relocated. Mr. Vick stated that there is a single-wide mobile home adjacent to the sign. Mr. Vick added that he is unaware of the property owners plans for the residence. Mr. Vick stated that the building in the front of the property was included in the acquisition and will be removed.

Ms. McCarthy asked if Mr. Vick owns the entire parcel. Mr. Vick responded that he does not own the property, but he is leasing the property from Haywood Equity Group.

Mr. Williamson asked Mr. Vick why he is requesting the variance for the side setback. Mr. Vick responded that the sign is currently setback five (5) feet. Mr. Vick responded that the he needs the side setback to minimize the noncompliance related to the spacing between outdoor advertising structures with the Ordinance rather than the sign being brought closer to the nearby advertising structures.

Mr. Williamson asked what the distance to the closest sign is. Mr. Vick responded that the sign was 165 feet from the nearby sign. However, Mr. Vick added that since the nearby signs have been relocated, he is unsure of the exact distance. Mr. Vick stated that the distance between signs should remain 165 feet apart.

Ms. McCarthy asked if the other two signs were located on the same parcel. Mr. Vick responded that the other signs are located on the adjacent property to the right.

Mr. Williamson asked if the sign will be the same height. Mr. Vick responded that the sign will be built around the same height. Mr. Vick added that if the variance was granted, he would be allowed to bring the sign to a height of 35

feet. Mr. Vick stated he would like to be consistent with the nearby signs which have heights of around 30 feet. Mr. Vick added that they may potentially pursue an increase in height to address a concern of visibility.

Ms. Bunch stated that the Unified Development Ordinance sets a height limit on outdoor advertising signs at 35 feet.

Mr. Patrick Newton testified that he owns the adjacent parcel which includes the two nearby outdoor advertising signs. Mr. Newton stated that he wanted to emphasize that the variance for the side setback would maximize the space between the signs.

Ms. McCarthy asked Mr. Vick if the side setback request is for the side adjoining parcel 20500038. Mr. Vick responded that, yes, the side setback is being requested for that side of the property.

With no further comments, the Chairman summarized that Grey Outdoor, LCC is being forced to remove an outdoor advertising structure do to the widening of Southport-Supply Road. Mr. Williamson stated that Mr. Vick is requesting two variances from the Brunswick County Unified Development Ordinance to allow him to relocate the sign. Mr. Vick has obtained a Non-Conforming Use Certificate for the sign. Mr. Williamson added that Mr. Vick stated that the sign will be approximately the same size and will be approximately the same distance to the nearby sign structures. Mr. Vick is requesting a side yard variance as well as a variance to allow the sign to be located within 165 feet of another sign.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having held a public hearing to consider Case Number 19-06V, submitted by Gray Outdoor, LLC, a request for a variance to use the property located at 4846 Southport-Supply Road SE, Southport NC 28461 in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACTS and draws the following Conclusions:

1. It is the Board's **CONCLUSION** that, unnecessary hardship will result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following **FINDINGS of FACT**: The need to relocate the sign is a result of the State of North Carolina's decision to widen NC 211 (Southport-Supply Road) into a four-lane facility. The sign was placed at its current location prior to zoning in Brunswick County.

2. It is the Board's **CONCLUSION** that the hardship does result from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for grant a variance. This conclusion is based on the following **FINDINGS OF FACT**: The location of the current sign, in the path of the proposed NCDOT right-of-way has forced the relocation of the sign on the parcel.

3. It is the Board's **CONCLUSION** that the hardship does not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following **FINDINGS OF FACT**: The applicant did not choose to sell the property or move the sign. The decision of NCDOT to expand the right-of-way for Southport-Supply Road at this location caused the hardship.

4. It is the Board's **CONCLUSION** that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following **FINDINGS OF FACT**: No testimony was provided regarding public safety. The applicant did not ask to have his land taken. The chosen location requires the least variance possible, as the sign is being moved back further from the existing right-of-way.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED, with the condition that the sign must comply with all other components listed in the UDO related to outdoor advertising signs, <u>with no exceptions</u>, as motioned by Ms. Ward, seconded by Mr. Williamson and granted by a vote of 4-1 (Shiflet).

B) 19-11S: Special Use Permit
Applicant: Sylvain Goulet
Location: 2558 Maco Road NE, Leland, NC 28451
Tax Parcels 02700032 & 02700033
Applicant requests a Special Use Permit consistent with Section 5.2.3. and Section 5.3.5.S. of the Unified Development Ordinance (UDO) to allow "Vehicle and Heavy Equipment Sales and Rentals".

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

Mr. Sylvain Goulet addressed the Board. Mr. Goulet stated that he wants to sell used cars on the site with his son. Mr. Goulet continued that they want to be able to have five to six cars at a time or whatever is allowed. Mr. Goulet stated that there is already a garage and office on the site. Mr. Goulet added that they will not be selling heavy equipment or making repairs on the site. Mr. Goulet stated that he intends to make the landscaping very appealing.

Ms. Shiflet asked if there would be heavy equipment sales or rentals on the site. Mr. Goulet responded that there would not be heavy equipment sales or rentals.

Ms. McCarthy asked if Mr. Goulet owns the property. Mr. Goulet stated that he owns parcel 02700032 and will be purchasing parcel 02700033 if the Special Use Permit is approved.

Mr. Goulet stated that the site will just be used for the sale of custom used cars.

Ms. Ward asked if he would sell 5-6 cars at a time. Mr. Goulet stated that, yes, they would sell 5-6 cars at a time.

Ms. McCarthy asked what the proposed hours of operation are. Mr. Goulet responded that the business will be open from 9 a.m. to 12 p.m. and 3 p.m. to 6 p.m.

Ms. McCarthy asked if there is a home on the property and if he is living there. Mr. Goulet stated that he is living at the home on the property.

Mr. Williamson asked Ms. Bunch to read the conditions of approval from the Staff Report.

With no further comments, the Chairman summarized that Sylvain Goulet is requesting a Special Use Permit to use the site for used car sales. Mr. Williamson added that the applicant does not intend to use the site for repairs. Mr. Williamson stated that the applicant will use the site to sell five to six cars at a time. Mr. Williamson stated that the applicant is aware of the conditions and has agreed to them if the Special Use Permit is approved.

The Chairman asked if there were any comments to the summation. There were none. The Board discussed the worksheet and determined the following:

**DECISION:** Having heard all of the evidence and arguments presented at the hearing, the Board of Adjustment, at its meeting on September 12, 2019, finds and determines that the application is complete, and subject to the conditions imposed below, the following findings are made.

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

2. The use, "Vehicle and Heavy Equipment Sales and Rentals", for which the Special Use Permit is sought is in harmony with the area and is not substantially injurious to the value of properties in the general vicinity. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
   a. The Staff Report states that this is a rural area with a mixed-use zoning designation. As such, the proposed use is in harmony with the area.
   b. No expert testimony was provided, or report submitted by an appraiser regarding the value of properties.

3. The use, "Vehicle and Heavy Equipment Sales and Rentals", for which the Special Use Permit is sought, is in conformance with all special requirements applicable to this use. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
   a. Section 5.2.3. of the Brunswick County Unified Development Ordinance Lists Vehicle and Heavy Equipment Sales and Rentals as a permissible use in the RR Zoning District if approved by the Board of Adjustment through the Special Use Permit process.
   b. Section 5.3.5.S. of the UDO outlines the additional criteria for Vehicle and Heavy Equipment Sales and Rentals if approved by the Board of Adjustment through the Special Use Permit process.
   c. The application packet submitted by the applicant was reviewed by the Zoning Administrator and found to meet all requirements and conditions of the ordinance, if all the conditions outlined in the Staff Report are met.
   d. The applicant testified that all standards required by the UDO would be met.

4. The use, "Vehicle and Heavy Equipment Sales and Rentals", for which the Special Use Permit is sought, if developed as proposed will not adversely affect the health and safety of the public. This is based on sworn testimony and evidence submitted during the hearing which shows the following:
   a. The Staff Report addresses the minimum 12 standards for all commercial development. The applicant has agreed to meet these standards.
   b. The applicant stated that it is his intent to limit the number of vehicles to 5-6 and operational hours from 9:00 a.m. – 12:00 Noon and 3:00 p.m. – 6:00 p.m.

5. The use, a "Vehicle and Heavy Equipment Sales and Rentals", if developed as proposed will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified

Development Ordinance. This is based on sworn testimony and evidence submitted during the hearing which shows the following:

a. The Board concurs with the staff report which outlines the twelve (12) review factors as stated in the Unified Development Ordinance, specifically:

1. **Circulation:** All access to the site will occur from Maco Road (NC 87) via an existing residential driveway developed within the parcel. As a condition of approval, the applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
2. **Parking and Loading:** A minimum of one (1) standard and one (1) accessible parking space must be provided.
3. **Service Entrances and Areas:** All service vehicles will access the subject property from Maco Road, which is a state-maintained road.
4. **Lighting:** No outdoor lighting is proposed with this request. Any new outdoor lighting must meet the lighting requirements stated in Section 6.9. "Outdoor Lighting" of the UDO prior to installation.
5. **Signs:** Any signage must meet the requirements of Article 8, Signs of the UDO prior to installation. Signage is a separate permitting process.
6. **Utilities:** Public water and sewer are not available to this site. The existing septic and well must be rechecked to ascertain its utilization for the vehicle sales office and the home.
7. **Open Space:** There are no separate open space requirements for this use.
8. **Environmental Protection:** The applicant must meet all applicable Federal, State and Local Government requirements.
9. **Screening, Buffering and Landscaping:** Project boundary buffers are required. RR Zoning to RR Zoning Undeveloped will require a 10' deep buffer with 0.2 visual opacity. RR Zoning to RR Zoning Existing Residentially Developed will require a buffer with 0.4 visual opacity, which will be 20' in depth, unless the depth is reduced by adding a six-foot fence or wall. If the opacity requirement cannot be met with existing vegetation, plantings must be added to meet the opacity requirements. The front yard will require a twenty-foot (20') street yard with one (1) canopy tree or two (2) understory trees per one hundred linear feet (100') of street frontage. Landscaping requirements per Section 5.3.5.S. of the UDO.
10. **Effect on Adjoining Property:** The effect on adjoining property is minimal as two (2) parcels are residentially developed, which

will require a 20' deep buffer planted at 0.4 visual opacity. The remaining parcels will require a minimum of a 10' deep buffer planted at 0.2 visual opacity.

11. **Compatibility:** The proposed use is permissible in the RR Zoning District with Special Use Permit approval by the Board of Adjustment.
12. **Impacts on Military Installations:** The proposed Special Use is within five (5) miles of a military installation.

b. **Additional Approval Criteria (Section 5.3.5.S.): Vehicle and Heavy Equipment Sales and Rentals** shall be permitted in accordance with the use tables in Section 5.2, subject to the following:

1. Automobile and light truck sales and rentals are permitted as an Accessory Use to a Vehicle Wrecking, Junk or Salvage Yard only in the I-G Zoning District. **N/A**
2. Junked or inoperable vehicles/heavy equipment shall not be on the premises unless such is within an enclosed building or screened area. **Applicant is aware of this requirement.**
3. Vehicle or equipment repairs made on-site shall be subject to the same restrictions under Section 5.3.5.T, Vehicle Service and Garage. **N/A- Vehicle Sales only.**
4. Adequate on-site area shall exist for the loading and unloading of vehicles from car carriers to ensure that no such loading or unloading occurs in any public right of way. **Applicant to denote proposed area on the site plan.**
5. Vehicle sales, leasing, and rental facilities shall meet the following landscaping standards rather than those of Section 6.12.10, Vehicular Use Area Landscaping:
   i. The provisions of Section 6.22, Outdoor Display, shall not apply. **Applicant is aware of this issue.**
   ii. Vehicles may not be in any required yard or buffer area, even for temporary display purposes. **Applicant is aware of this requirement.**
   iii. Permanent vehicle sales areas may not be located in any required parking spaces. **Applicant is aware of this requirement.**
   iv. Vehicle sales or display areas may not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic. **Applicant is aware of this requirement.**
   v. Adequate lighting shall be provided in conformance with Section 6.9, Outdoor Lighting. **Applicant is aware of this requirement.**
6. Aircraft and boat sales and rentals are permitted as an Accessory Use to an aircraft or boat manufacturing facility only in the I-G Zoning District. **N/A**

c. Mr. Goulet stated that he is aware of the requirements and agreed to comply with all conditions of the permit.

Ms. McCarthy made a motion to grant the Special Use Permit because the proposed use if developed as proposed, and subject to the conditions imposed below:

a) will be in harmony with the area and not substantially injurious to the value of properties in the general vicinity,
b) will be in conformance with all special requirements applicable to the use,
c) will not adversely affect the health and safety of the public, and
d) will adequately address the twelve (12) review factors identified in Section 3.5.9.B. of the Brunswick County Unified Development Ordinance with the following conditions:

1. The development of the parcel shall comply with all regulations as specified in the Brunswick County Unified Development Ordinance (UDO).
2. The development shall proceed in conformity with all amended plans and design features submitted as part of the special use application and kept on file by the Brunswick County Planning Department.
3. The applicant must legally combine Tax Parcels 02700032 & 02700033 in the manner denoted on the site plan.
4. Identify on the Site Plan Maco Road and NC 87.
5. The applicant must notify the North Carolina Department of Transportation (NCDOT) of the proposed change of use and provide the Brunswick County Planning Department with documentation from NCDOT stating whether site access improvements are warranted. Required improvements must be made prior to final zoning approval.
6. Provide Grading and Stormwater Plans for this project. In addition, revise the Site Plan to be consistent with the comments outlined in the July 31, 2019 email, including the height of the proposed structure, all setback requirements, traffic and circulation information, refuse collection location, type of fencing, height of fence and diagram of fence.
7. Provide a Landscaping Plan that addresses the requirements for periphery buffers; front yard buffers; parking lots and for "Vehicle and Heavy Equipment Sales and Rentals" as well as requirements for landscaping outlined in Section 6.12.10.
8. Provide Building Facade drawings consistent with Section 6.8 of the UDO.
9. Address Outdoor Lighting per Section 6.9. of the UDO.

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

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

VIII. NEW BUSINESS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## IX. STAFF REPORT.

There was none.

## X. ADJOURNMENT.

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

| Internal Use Only |
|---|
| Application No. 19-12A |
| Date Received 7-24-19 |
| Fee $125 |

# COUNTY OF BRUNSWICK

## NOTICE OF APPEAL TO BOARD OF ADJUSTMENT

Applicant James R. Todd, Ward and Smith, P.A.
Address 127 Racine Dr.
Wilmington, NC 28403

Owner Brunswick Plantation Property Owners Association, Inc. ("Association")
Address 1630 Military Cutoff Rd., Suite 108
Wilmington, NC 28403

Telephone (H)_____ (O) 910.794.4838

Telephone (H)_____ (O)_____

Relationship of Applicant to Owner Attorney

Property Street Address 252 S. Middleton Dr., Calabash, NC 28467

Tax Map # Parcel: 210IA058
PIN: 103703001747

Lot Dimensions 168.35' x 109.84'

Zoning R-6000

I ( Association ) hereby appeal to the Brunswick County Board of Adjustment
Appellant

from the following adverse decision, order, requirement or determination of the Brunswick County Zoning Administrator.

In the space provided below or on the back of this form, please describe in detail, the background of your case and the specific nature of your appeal.

Please see Appendix A attached.

I certify that all the information provided by me in this Notice of Appeal is accurate to the best of my knowledge, information, and belief.

7/24/2019
Date

President BP POA
Signature of Appellant

APPENDIX A

**Please describe in detail, the background of your case and the specific nature of your appeal.**

Brunswick Plantation Property Owners Association, Inc. ("Association") is appealing the June 25, 2019 administrative determination ("Determination") of the Brunswick County Planning Department (the "Planning Department") determining that Caw Caw Land Corporation ("Caw Caw") can operate a "Model Home" as a residential use on the property located at 252 S. Middleton Dr., Calabash, NC 28467 (the "Property") subject to several conditions and requirements (as copy of the Determination is attached). The Property is within an R-6000 zoning district, and a Model Home is not a permitted residential use in that district, regardless of the conditions imposed on the use.

The Association has standing to bring this appeal in its own capacity and on behalf of the interests of the owners that it represents. The Association is a community owners association that represents owners and individuals living in the area immediately affected by the Model Home purportedly permitted by the Planning Department's Determination. If allowed, the Model Home use will cause special damages to these owners. These special damages will include increased noise, traffic, parking problems, and a decrease in property values for owners in the vicinity of the use. These owners have standing to appeal individually as a result of those special damages, and, as their representative, so does the Association. In addition, the Determination purports to require several modifications to the Property (e.g. construction of a six (6) foot fence, enlargement of on-site parking) that contravene the Association's land use covenants. Those covenants restrict the Property to residential use unless several additional criteria—including compliance with all applicable zoning requirements—are met. If it remains in force, the Determination will prevent the Association from fulfilling its fiduciary obligation to its members to enforce the covenants applicable to the Property.

The Association is required to file this appeal within thirty (30) days of having actual or constructive notice of the Determination, and, in any event, is filing within thirty (30) days of the Determination itself.

In the Determination, the Planning Department claimed that "Brunswick County allows a model home as a residential use." This is not accurate. These is no "Model Home" use in the Brunswick County Unified Development Ordinance (the "UDO"). Section 5.2.1 of the UDO provides that "Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines . . . that the use is similar to a permitted individual use or permitted group of uses as listed in this article." The Property cannot be operated as a Model Home without a determination that the Model Home is similar to a permitted use in the R-6000 district. That decision is not left solely to the discretion of the Planning Department. Instead, there are specific criteria in Section 5.2.1(D) of the UDO to compare a proposed, not-listed use to an existing use:

1) The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category;
2) The relative amount of site area or floor space and equipment devoted to the activity;
3) Relative amounts of sales from each activity;
4) The customer type for each activity;
5) The relative number of employees in each activity;
6) Hours of operation;
7) Building and site arrangement;
8) Types of vehicles used and their parking requirements;
9) The relative number of vehicle trips generated;
10) Signs;
11) How the use is advertised;
12) The likely impact on surrounding properties;
13) Whether the activity is likely to be found independent of the other activities on the site.

Section 5.1.2(A)-(B) of the UDO lists the permitted residential uses in all districts. These uses are divided into Household Living and Group Living. To be permissible under the UDO, the Model Home use must, subject to the criteria identified above, be similar enough to one of the identified uses to be a permitted use in the R-6000 zoning district. It is not.

The Model Home would be the only use on the Property requiring it to qualify as a Principal Use under the UDO. The options for Household Living Principle Uses are: (i) Congregate care facility; (ii) Mobile home; (iii) Multifamily (including apartments and retirement center apartments); (iv) Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis; (v) Single-family detached or other recognized house; (vi) Upper-story residential; or (vii) Family care home. Group Living adds several additional uses, none of which are applicable here. Several of these uses are completely inappropriate for comparison to the Model Home (i.e. congregate care facility, mobile homes, multifamily, residential occupancy of a dwelling unit, upper-story residential, and family care home), which leaves Single-family detached house as the sole option for favorable comparison.

The Model Home is not similar enough to the Single-family home use to qualify as a principle use in a residential district. While the structures of both are similar, a Model Home has no residents, is commercially oriented, requires non-resident employees to occupy the site during standard business hours, and allows "work stations" within the Property as part of the principle use of the site. None of these would be permitted at a Single-family use without at least some additional qualification as a Home Occupation; which is an accessory use and cannot exist without an attendant principle use. Ultimately, the only qualification for the Model Home is that it physically looks like a Single-family home. The physical structure of the Model Home cannot control; a law firm using a historic home as an office is not a single-family, and the Model Home is not a residential use in any common sense meaning of the phrase.

The Single-family house use cannot, and does not, encompass any structure just because it could otherwise serve as a family-occupied dwelling. The UDO requires an examination of the actual behavior within the structure, and an accurate examination of those criteria comparing a non-listed use with an existing use demonstrates that the Model Home is not currently a permitted use in the R-6000 zoning district. The Association respectfully requests the Board of

Adjustment to reverse the Determination and deny the use of the Property as a Model Home.

**Brunswick County Planning Department**
P.O. Box 249
75 Courthouse Drive N.E., Bldg I
Bolivia NC 28422

June 25, 2019

Caw Caw Land Corporation
c/o Attorney Matthew Nichols
3205 Randall Parkway, Suite 104
Wilmington, NC 28403

Re: 252 S. Middleton Drive – Appeal to Board of Adjustment

Thank you for your email dated June 20, 2019 outlining the proposed use for the model home at 252 S. Middleton Drive. Respectfully, a sales office is a commercial use and will not be allowed in the residential area. Brunswick County allows a model home as a residential use. Below I have outlined the conditions regarding the extent to which the model home may be used and still retain the residential character.

1. As there have been frequent complaints and safety concerns raised related to on-street parking impacts, Brunswick County will agree to the installation of a new driveway along South Middleton Drive and a corresponding parking area with eight spaces. The parking shall be consistent with the design standards outlined in Section 6.12.5 of the Brunswick County U.D.O. The use of these spaces will be limited to employees and sales agents.
2. Installation of a six-foot wooden privacy fence along the rear (Western) property line of the model home. The finished side of the fence shall face outwards.
3. Installation of a six-foot wooden privacy fence from the rear property corner toward South Middleton Drive, along the inside property line to a point even with the rear of the model home. This is to effectively screen the proposed parking area. The finished side of the fence shall face outwards.
4. Associated with the parking in the rear, there will need to be landscaping along South Middleton Drive to screen the parking lot from view.
5. Brunswick County does not agree to the installation of a new vehicle turnaround space contiguous to the existing drive way.
6. An employee presence is typical at a model home. To that end, Brunswick County will allow for two full-time regularly scheduled employees on site during standard business hours (8:30 am to 5:00 pm). Other personnel shall also be permitted to be on site at various times throughout the day on a limited basis for business associated with clients/prospective clients.
7. With regard to landscaping, in addition to item four above, there will need to be landscaping along the new fencing with 3 understory trees and three shrubs per 100 linear feet.

8. There shall be no on-street parking associated with the use of the model home. In addition, street signage shall be placed indicating that on-street parking is prohibited.
9. There shall be no events or gatherings held in the model home other than open houses.
10. There is currently one sign on site for the model home. Customary model home signage for a temporary nature indicating an open house or an agent on duty shall also be allowed. No additional sales signage in any form will be permitted.
11. There shall be no more than three work stations in the model home.

Brunswick County Planning appreciates the opportunity to work with you prior to the appeal hearing. Should you wish to cancel the pending appeal based on the criteria above, please do so in writing by the close of business on Wednesday, June 26, 2019.

Sincerely,

Helen Evans Bunch, CZO
Zoning Administrator

/heb
Cc:

# CASE 19-12A

## ADJACENT PROPERTY OWNER(S)

| PARCEL ID | NAME | ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|---|---|
| 210IA070 | TRUEMAN LARRY D ET MILAGROS | 380 BIRCHRIDGE DRIVE | KERNERSVILLE | NC | 27284 |
| 210IA072 | LEWIS GREGORY W ET DIANE L | 251 S MIDDLETON DR NW | CALABASH | NC | 28467 |
| 210IA014 | HELF TODD | 8979 MARSHVIEW LANE | SUNSET BEACH | NC | 28468 |
| 210IA059 | STATHOS GEORGE GUS ETUX JANETTA A | 262 S MIDDLETON DRIVE NW | CALABASH | NC | 28467 |
| 210IA060 | FULFORD PAUL D ETUX AMY P | 89 GRAYSON AVE | EAST EARL | PA | 17519 |
| 210IA071 | WAWRO ARDETH L ETALS | 4836 NORRISVILLE RD | WHITE HALL | MD | 21161-9679 |
| 210IA057 | ESSEX HOMES SOUTHEAST INC | 13000 S TRYON ST # F205 | CHARLOTTE | NC | 28278-7652 |
| 210IA073 | HARRIS ROY L III | 628 COVINGTON DR NW | CALABASH | NC | 28467-1892 |

## OWNER(S)

| PARCEL ID | NAME | ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|---|---|
| 210IA058 | CAW CAW LAND CORP | 380 BRUNSWICK DR NW | CALABASH | NC | 28467-2377 |

## APPLICANT(S)

| PARCEL ID | NAME | ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|---|---|
| | JAMES R TODD | 127 RACINE DR. | Wilmington | NC | 28403 |

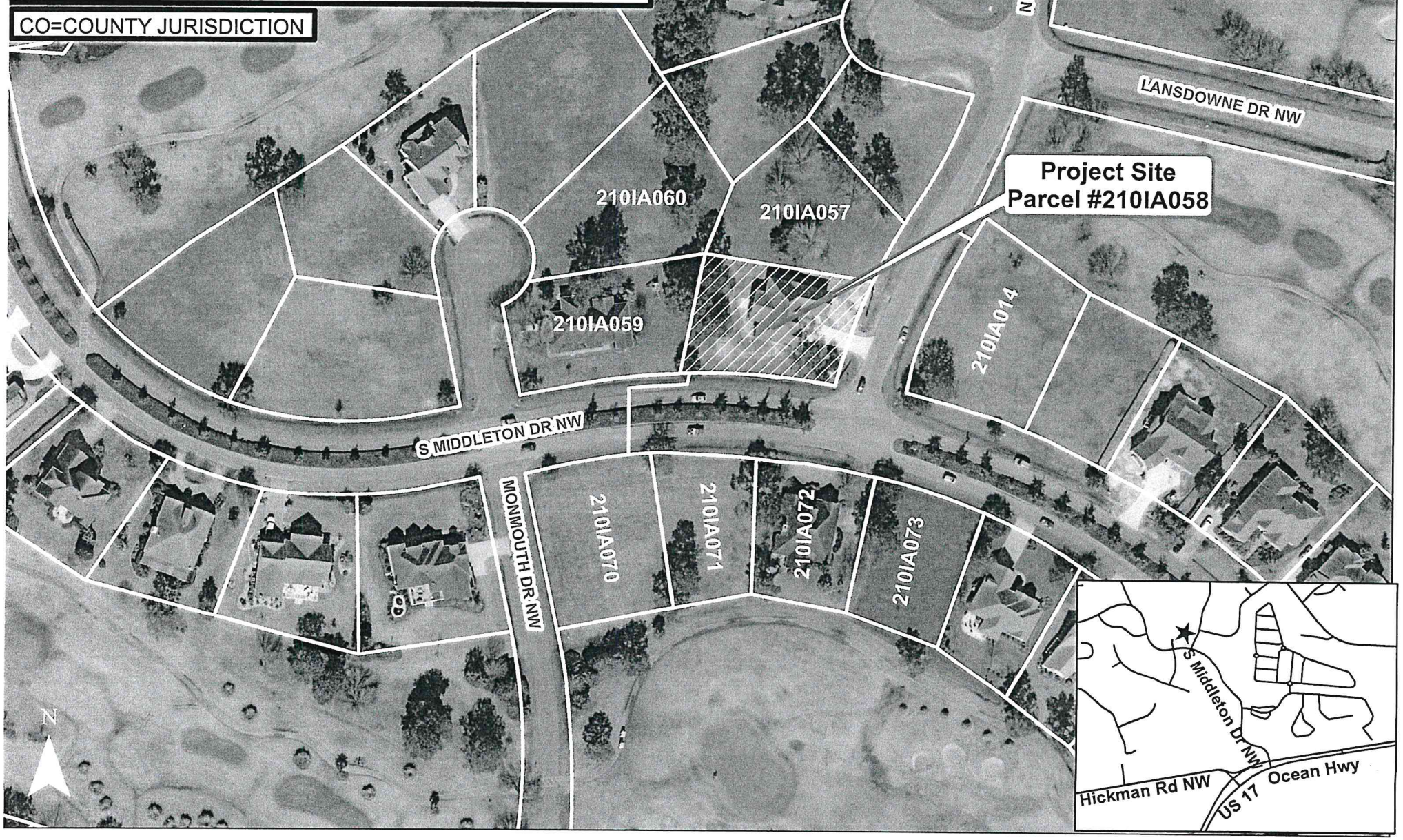
## P.O.A.

| PARCEL ID | NAME | ADDRESS | CITY | STATE | ZIP |
|---|---|---|---|---|---|
| | Jon Trainor (President) | jontrainor1948@icloud.com | | | |

# Brunswick County Board of Adjustment

## Appeal of Decision

## Case 19-12A



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

September 12, 2019

| | |
|---|---|
| **Application No.** | 19-12A |
| **Applicant:** | James R. Todd for Brunswick Plantation Property Owners Association, Incorporated |
| **Property Location:** | 252 South Middleton Drive, Calabash NC 28467 |
| **Parcel Number:** | 210IA058 |
| **Zoning District:** | SBR-6000 (High Density Site Built Residential) |
| **Surrounding Zoning** | **North:** SBR-6000 **South:** SBR-6000<br>**East:** SBR-6000 **West:** SBR-6000 |

**Proposed Use of Property**: Model Home

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

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

## Relevant Information

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

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

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

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

# COUNTY OF BRUNSWICK
# ORDER INTERPRETING THE
# UNIFIED DEVELOPMENT ORDINANCE (UDO)

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

The Brunswick County Unified Development that Caw Caw Land Corporation can operate a model home at 252 S. Middleton Drive, subject to the conditions and requirements outlined in the June 25, 2019 letter to Caw Caw Land Corporation from Brunswick County Planning.

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

1. **There was substantial evidence in the record to show the following FACT(S):**
   _____
   _____
   _____
   _____

2. **(a) The resolution of this case depends on the interpretation of the Ordinance language as applied to the foregoing facts. It is the Board's CONCLUSION that the following sections o this Ordinance, as applied to those facts, shall be interpreted as follows:** _____
   _____
   _____
   _____
   _____

   **(b) The resolution of this case depends solely on an interpretation of the Ordinance Language, without regard to the particular facts of this case. Therefore, it is the Board's CONCLUSION that the following sections or provisions of the Ordinance shall in this case and hereafter be interpreted as follows:** _____
   _____
   _____
   _____
   _____

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

____ **Affirmed**
____ **Reversed**
____ **Modified as follows:** _____

In addition, IT IS FURTHER ORDERED that the following action be taken:

_____
_____
_____

Ordered this the 17th day of October, 2019.

_____
Robert J. Williamson, Chairman

Secretary _____