

TOWN OF RIVER BEND
BOARD OF ADJUSTMENT MEETING

March 28, 2024

6:30PM

Town Hall – 45 Shoreline Drive

Agenda

1. Call to Order
2. Accept minutes from October 27, 2022 meeting
3. Conduct Evidentiary Hearing
 - A. Announce the case
 - B. Explanation of Quasi-Judicial nature of the case
 - C. Swear all witnesses
 - D. Call for disclosures by Board of Adjustment members
 - E. Consider Questions on Standing
 - F. Staff overview and presentation of preliminary materials
 - G. Presentation by applicant
 - H. Presentation by other parties with standing
 - I. Other witnesses called if necessary
 - J. Applicant rebuttal
 - K. Other parties' rebuttal
 - L. Board deliberations on case
4. Consideration of granting Special Use permit
 - A. Vote on findings
 - B. Vote on issuing permit
5. Adjournment

**River Bend Board of Adjustment
October 27th, 2022
Town Hall
6:00 PM**

Board Members present: Chairman Paige Ackiss, Vice Chair Patty Leonard, Cinda Hill, Jon Hall, Kelly Forrest (ETJ Representative), Dave Zinni (Alternate)

Board Members absent: Chris Barta, Rick Fisher (ETJ Alternate)

Others present: Mayor John Kirkland, Councilman Buddy Sheffield (Liaison to BOA), Town Manager Delane Jackson, Assistant Zoning Administrator Allison McCollum, and 11 members of the public

SWEARING IN NEW MEMBERS

Mayor John Kirkland conducted the swearing in of Jon Hall and David Zinni as new members of the Board of Adjustment.

CALL TO ORDER

Chairman Paige Ackiss called the meeting to order at 6:04 PM on Thursday, October 27th, 2022 at the River Bend Town Hall with a quorum present.

APPROVAL OF JUNE 28TH, 2022 MEETING MINUTES

Vice Chair Patty Leonard made a motion to accept the minutes from the June 28th, 2022 meeting of the Board of Adjustment. Motion was seconded by Board Member Kelly Forrest and the motion carried unanimously.

EVIDENTIARY HEARING

Chairman Ackiss introduced the case. The Board of Adjustment assembled to conduct an evidentiary hearing and consider a special use permit to operate a specialty automotive shop at 5530 South US Highway 17, submitted by Kelsey Rowe

Chairman Ackiss explained the quasi-judicial nature of the case.

Chairman Ackiss swore in the following attendees as witnesses: Town Manager Delane Jackson, Assistant Zoning Administrator Allison McCollum, and the applicant, Kelsey Rowe.

Chairman Ackiss called for any necessary disclosures from the Board of Adjustment members. Chairman Ackiss and Board Member Jon Hall drove by the site separately. There were no other disclosures.

Chairman Ackiss, asked if anyone present wished to establish standing in the hearing. No one responded.

Town Manager Delane Jackson presented 15 exhibits that Town staff had prepared as relevant materials for the case. (See attached.)

During the presentation, board members asked questions regarding noise concerns, oil collection and containment, and hours of operation. Applicant Kelsey Rowe stated that there would be minimal noise; oil is to be contained in drums and collected by a third-party, and the shop hours would be 9am to 5pm, Monday through Friday.

Chairman Ackiss skipped items H-K on the agenda as there were no other parties present. He moved to open the deliberation portion of the meeting.

Chairman Ackiss asked if any board members had specific concerns or questions that they wanted to discuss. Board Members discussed noise concerns, location of storage, and location of inoperable vehicles. Chairman Ackiss closed the evidentiary hearing at 7:09 PM.

DECISIONS

Following the testimony and discussion, the Board voted on the following motions:

1. Vice Chair Patty Leonard moved that **the proposed use will not affect adversely the general plans for the physical development of the Town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council.** Board Member Kelly Forrest seconded and the motion carried unanimously.
2. Vice Chair Patty Leonard moved that **the proposed use will not be contrary to the purposes stated in the Town's zoning regulations.** Board Member Kelly Forrest seconded and the motion carried unanimously.
3. Vice Chair Patty Leonard moved that **the proposed use will not affect adversely the health and safety of residents and workers in the zoned area.** Board Member Kelly Forrest seconded and the motion carried unanimously.
4. Vice Chair Patty Leonard moved that **the proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses.** Board Member Kelly Forrest seconded and the motion carried unanimously.
5. Vice Chair Patty Leonard moved that **the proposed use will not be affected adversely by the existing uses.** Board Member Kelly Forrest seconded and the motion carried unanimously.
6. Vice Chair Patty Leonard moved that **the proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use.** Board Member Kelly Forrest seconded and the motion carried unanimously.
7. Vice Chair Patty Leonard moved that **the proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation, or type of physical activity.** Board Member Kelly Forrest seconded and the motion carried unanimously.
8. Vice Chair Patty Leonard moved that **the standards set forth for each particular use for which a permit may be granted have been met or will be met.** Board Member Kelly Forrest seconded and the motion carried unanimously.
9. Vice Chair Patty Leonard moved that **the proposed use shall be subject to the minimum area, setback, and other dimensional requirements of the zoning district in which it will be located.** Board Member Kelly Forrest seconded and the motion passed unanimously.
10. Vice Chair Patty Leonard moved that **the proposed use shall be subject to the off-street parking and service requirements of these regulations.** Board Member Kelly Forrest seconded and the motion carried unanimously.

Vice Chair Patty Leonard moved that **the request for a special permit be approved with conditions as submitted with the following additional restrictions and standards necessary to protect the health and safety of workers and residents of the community, and to protect the value and used of property in the general neighborhood.**

1. All outside storage must be behind an opaque fence at least six (6) feet in height and not visible from the road.
2. The property must comply with the Town's existing noise ordinance -- §13.01.004.
3. The sale of gasoline and diesel fuel is prohibited.

Board Member Kelly Forrest seconded and the motion carried unanimously.

ADJOURNMENT

Vice Chair Patty Leonard motioned to adjourn the meeting. Board Member Dave Zinni seconded the motion; it carried unanimously. The meeting adjourned at 7:15 PM.

Allison McCollum, Secretary

TABLE OF EVIDENCE

EXHIBIT 01 – Special Use Permit Application

EXHIBIT 02 – Recommendation from the Planning Board

EXHIBIT 03 – Online Notice of Public Hearing

EXHIBIT 04 – Newspaper Advertisement of Public Hearing

EXHIBIT 05 – Sign Posted at Parcel #8-200-028

EXHIBIT 06 – Letter Sent to Adjacent Property Owners

EXHIBIT 07 – Ordinance §15.02.124 – District Use Regulations

EXHIBIT 08 – GIS Map of Parcel

EXHIBIT 09 – Zoning Map of Parcel

EXHIBIT 10 – Existing Wells Photos

EXHIBIT 11 - Ordinance §15.02.122 – Review and Approval of Special Uses

EXHIBIT 12 - Ordinance §15.02.120 – General Regulations



TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562
T 252.638.3870
F 252.638.2580
www.riverbendnc.org

APPLICATION FOR SPECIAL USE PERMIT

Applicant Information

Full Name: Town of River Bend Date: 2-28-24
Address: 45 Shoreline Drive
City: River Bend State: NC ZIP Code: 28562
Phone: 638-3870 Email: Manager@riverbendnc.org

Request

I/We request a Special Use Permit to allow: The construction of a water treatment plant on +/- 4.5 acres.

- 1. Address of land: 509 Old Pollocksville Rd.
2. Parcel ID number of land: 8-200-028
3. Any other relevant description of land: The town is in the process of buying 4.5 acres at southern end of this parcel
4. Is map/plat plan/drawing enclosed? YES [checked] NO []
5. Land described is currently zoned: (R15, BD, etc.) R-20A
6. Intended use of land: Public Enterprise - drinking water plant
7. Will the proposed use adversely affect the health and safety of residents and/or workers in the zoned area? YES [] NO [checked]

- 8. Will the proposed use be detrimental to the use or development of adjacent properties? YES [] NO [checked]
9. Is the lot sufficient size to accommodate the proposed use? YES [checked] NO []
10. Will the intended use create a nuisance or hazard for the adjacent property owners? YES [] NO [checked]
11. Will the proposed use adversely affect the value of adjacent properties? YES [] NO [checked]

- 12. Is a site plan enclosed? YES NO
- 13. Are architectural drawings enclosed? YES NO
- 14. Is an off-street parking plan enclosed? YES NO
- 15. Is the \$25 fee for Special Use Permits enclosed? YES NO

Additional Information

Please list any additional relevant information or further justification for the request.

The proposed use will be similar to current uses already permitted in town. The facility will be located at least 500' away from the closest residence. The facility will include a 50' buffer around the perimeter of the site. The facility being constructed on site will be owned and operated by the Town of River Bend. The facility will be used to produce drinking water for town residents using modern water treatment techniques.

Signature

I certify that my answers are true and complete to the best of my knowledge.

Signature: Dellame Jackson Date: 2-28-24



TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562

T 252.638.3870
F 252.638.2580

www.riverbendnc.org

ATTN: River Bend Board of Adjustment
RE: Parcel # 8-200-028 – Proposed Water Treatment Plant

On March 7th, 2024 members of the Planning Board reviewed and discussed, with Town Manager Delane Jackson, the Town of River Bend’s Special Use Permit application to develop a drinking water treatment facility on Parcel #8-200-028 – adjacent to the town’s public works facility.

The Planning Board recommends granting the requested Special Use Permit, with the condition that the facility include security measures.

A handwritten signature in blue ink, appearing to read "Egon Lippert", is written over a horizontal line.

Egon Lippert
Chairman, Planning Board

⚠️ Annual Egg Hunt Sponsored by Parks & Rec

✓ 2024-2028 Regional Aging Plan Survey

⚠️ Special Use Application

✓ River Bend Parks & Recreation Online Survey

⚠️ FY 2024-2025 Budget Preparation



Town of **River Bend, NC**

MAPS

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Webpage Policy

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Departments

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Advisory Boards

Solid Waste Ordinance

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Special Use Application

NOTICE OF PUBLIC HEARING

The Board of Adjustment (BOA) of the Town of River Bend has received a request from the Town of River Bend to obtain a special use permit to construct a drinking water treatment plant in River Bend. The proposed site is located adjacent to the town’s Public Works Building at 1504 Plantation Drive, is zoned R-20A (Residential-Agriculture) and is a +/- 4.5 acre portion of a parcel identified by Craven County PIN: 8-200-028 with an address of 509 Old Pollocksville Road. The request requires a quasi-judicial hearing, which is very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements [such as petitions] cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge and focus on the ordinance-specified considerations of the BOA. The hearing will be held on March 28, 2024 at 6:30 p.m. at Town Hall, located at 45 Shoreline Drive, River Bend, NC. The application and related documents may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday.

The proposed and approximate location for the facility is outlined in green on the map below.



Classifieds

newbernsj.com
252-638-8101

email: classified@newbernsj.com
legals@newbernsj.com

classified@newbernsj.com
newbernsj.com phone 252-638-8101



The applicable rate card, copies of which are available from our Advertising Dept. All ads are subject to approval before publication. Classifieds must be paid for in advance. This sale is subject to all prior liens and encumbrances and unpaid taxes and assessments including any transfer tax associated with the foreclosure. A deposit of five percent (5%) of the amount of the bid or seven hundred fifty dollars (\$750.00), whichever is greater, is required from the highest bidder and must be tendered in the form of certified funds at the time of the sale. This sale will be held open ten days for upset bids as required by law. After the expiration of the upset period, all remaining amounts are IMMEDIATELY DUE AND OWING. Failure to remit funds in a timely manner will result in a Declaration of Default and any deposit will be frozen pending the outcome of any re-sale. If the sale is set aside for any reason, the Purchaser at the sale shall be entitled only to a return of the deposit paid. The Purchaser shall have no further recourse against the Mortgagor, the Mortgagee, the Substitute Trustee or the attorney of any of the foregoing.

MEETINGS Craven County Zoning and Review

The Craven County Board of Zoning and Review will meet as required by law.

MEETINGS

All taxpayers who own or control property, or the property of others, have responsibilities as required by law.

MEETINGS

For its first meeting on **April 01, 2024**, the purpose of accepting requests for its meeting on **April 01, 2024 at 12:00 p.m.** at 9:00 AM in the Commissioners Administration Building.

Requests should be received no later than **Friday, April 19, 2024, 4:00 p.m.**

For adjournment, notice to that effect should be published in this newspaper.

Appeals which were timely filed will be heard by the Board, serving as Clerk to the Board, individuals and organizations that have appealed to N.C.G.S. 143-318.12.

Appeals should be made to:

Shirley L. Young
Board of Equalization and Review
Craven County, NC 28563-1128
(252) 636-6640
cravencountync.gov/tax

This sale is subject to all prior liens and encumbrances and unpaid taxes and assessments including any transfer tax associated with the foreclosure. A deposit of five percent (5%) of the amount of the bid or seven hundred fifty dollars (\$750.00), whichever is greater, is required from the highest bidder and must be tendered in the form of certified funds at the time of the sale. This sale will be held open ten days for upset bids as required by law. After the expiration of the upset period, all remaining amounts are IMMEDIATELY DUE AND OWING. Failure to remit funds in a timely manner will result in a Declaration of Default and any deposit will be frozen pending the outcome of any re-sale. If the sale is set aside for any reason, the Purchaser at the sale shall be entitled only to a return of the deposit paid. The Purchaser shall have no further recourse against the Mortgagor, the Mortgagee, the Substitute Trustee or the attorney of any of the foregoing.

SPECIAL NOTICE FOR LEASEHOLD TENANTS

residing at the property: be advised that an Order for Possession of the property may be issued in favor of the purchaser. Also, if your lease began or was renewed on or after October 1, 2007, be advised that you may terminate the rental agreement upon 10 days written notice to the landlord. You may be liable for rent due under the agreement.

177 Craven Street
New Bern, NC 28560
Phone: (252) 565-7194, Ext. 200
March 15, 2024, March 12, 2024,
March 19, 2024

NOTICE OF PUBLIC HEARING

The Board of Adjustment (BOA) of the Town of River Bend has received a request from the Town of River Bend to obtain a special use permit to construct a drinking water treatment plant in River Bend. The proposed site is located adjacent to the town's Public Works Building at 1504 Plantation Drive, is zoned R-20A (Residential-Agriculture) and is a +/- 4.5 acre portion of a parcel identified by Craven County PIN: 8-200-028 with an address of 509 Old Pollocksville Road. The request requires a quasi-judicial hearing, which is very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements [such as petitions] cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge and focus on the ordinance-specified considerations of the BOA. The hearing will be held on **March 28, 2024 at 6:30 p.m.** at Town Hall, located at 45 Shoreline Drive, River Bend, NC. The application and related documents may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday or by visiting the town's website at www.riverbendnc.org and clicking on the "Special Use Application" tab.

percent (5%) of the amount of the bid or seven hundred fifty dollars (\$750.00), whichever is greater, is required from the highest bidder and must be tendered in the form of certified funds at the time of the sale. Cash will not be accepted. This sale will be held open ten days for upset bids as required by law. After the expiration of the upset period, all remaining amounts are IMMEDIATELY DUE AND OWING. Failure to remit funds in a timely manner will result in a Declaration of Default and any deposit will be frozen pending the outcome of any re-sale. If the sale is set aside for any reason, the Purchaser at the sale shall be entitled only to a return of the deposit paid. The Purchaser shall have no further recourse against the Mortgagor, the Mortgagee, the Substitute Trustee or the attorney of any of the foregoing.

SPECIAL NOTICE FOR LEASEHOLD TENANTS

residing at the property: be advised that an Order for Possession of the property may be issued in favor of the purchaser. Also, if your lease began or was renewed on or after October 1, 2007, be advised that you may terminate the rental agreement upon 10 days written notice to the landlord. You may be liable for rent due under the agreement prorated to the effective date of the termination. The date of this Notice is **March 12, 2024.**

Jason K. Purser, NCSB# 28031
Aaron Gavin, NCSB# 59503 Attorney for LLG Trustee, LLC, Substitute Trustee LOGS Legal Group LLP 10130 Perimeter Parkway, Suite 400 Charlotte, NC 28216 (704) 333-8107 | (704) 333-8156 Fax | www.LOGS.com

**Keep your
campsite
clean.**
Forest Service, U.S.D.A.





TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562
T 252.638.3870
F 252.638.2580
www.riverbendnc.org

March 8, 2024

Dear Property Owner:

The River Bend Board of Adjustment (BOA) will hold a public hearing on Thursday, March 28th, 2024 at 6:30 PM in the Council Chambers of the River Bend Town Hall located at 45 Shoreline Drive, for the following request:

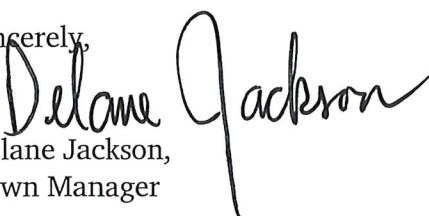
To gather comments on a request for a special use permit for the construction of a drinking water treatment plant. The proposed site is located adjacent to the town’s public works facility, which is located at 1504 Plantation Drive. The property is zoned residential-agriculture (R20-A), and is a +/- 4.5 acre portion of a lot identified by Craven County PIN: 8-200-028 with an address of 509 Old Pollocksville Road. The proposed lot is shown on the attached map.

This is a quasi-judicial hearing, very similar to a court hearing. All testimony must be sworn and in person before the BOA. Comments called in and letters or written statements [such as petitions] cannot be entered into the record. Having first-hand testimony allows for cross-examination of all witnesses by the BOA and others in attendance. Testimony offered on the case should be from direct personal or professional knowledge, and focus on the ordinance-specified considerations of the BOA. If several people have testimony to offer, it is suggested they coordinate their efforts to avoid repetition. Action on issuing the permit may be taken by the BOA following the public hearing.

The application and maps may be reviewed at the Town of River Bend Zoning Department, 45 Shoreline Drive, between 8:00 AM and 4:00 PM, Monday through Friday or by visiting the town’s website at www.riverbendnc.org and clicking on the “Special Use Application” tab.

All decisions of the Board of Adjustment are subject to appeal to Superior Court within 30 days after the aggrieved party receives the BOA’s written decision. An appeal to the BOA action must be filed pursuant to procedures noted in the North Carolina General Statutes.

If you have questions, please contact me between 8:00 AM and 4:00 PM, Monday through Friday at 252-638-3870 or via email at manager@riverbendnc.org.

Sincerely,

Delane Jackson,
Town Manager

The proposed and approximate location for the facility is outlined in green on the map below.



§ 15.02.124 DISTRICT USE REGULATIONS.

For convenience in the administration of this chapter, there hereby is established and made a part of this chapter the following schedule of district use regulations.

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY:									
P – Use permitted by right									
SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board									
Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Accessory Building	P	P	P	P	SU	SU	SU	P	
Adult Day Care					P	P	P		G
Bakery, Retail						P	P		G
Financial Services						P	P		G
Barber Shop/Beauty Shop						P	P		G
Boats and Trailer Sales						SU	SU		G
Cabinet, Woodworking or Upholstery Shops						P	P		G
Child Day Care						SU			
Churches	SU	SU	SU	SU	P	SU	SU		E
Clubs and Lounges, Private					P	SU	SU		F
Clothing Store						P	P		G
Computer Sales and Service						P	P		G
Dairy Bar and Ice Cream Parlors						P	P		G
Drug Store						P	P		F
Dry Cleaners/Drop Off/Pick Up Only						P	P		G

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/ Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Dwellings, Single-Family	P	P	P	P		SU			A
Dwellings, 2-Family				P		SU			A
Dwellings, Multi-Family				P		SU			A
Fire Department Buildings	SU	SU	SU	SU	SU	SU	SU		F
Fitness Center						P	P		G
Florists/Gift Shop						P	P		G
Furniture Store						P	P		G
Golf Course	SU	SU	SU	SU	P	SU	SU		F
Grocery Store						P	P		G
Hardware Sales						P	P		G
Home Occupations	P	P	P		P				G
Tourist Home***	P	P			P	P	P		D
Jewelry and Watch Repair						P	P		G
Libraries	SU	SU	SU	SU		P	P		G
Marina						P			G
Nursing Home and Rest Home					P				G
Office for Business, Professional and Personal Services						P	P		G

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Pet Shops (excluding Veterinary Services)						P	P		G
Pharmacy						P	P		G
Photo Shop/Supply						P	P		G
Police Station	SU	SU	SU	SU	SU	SU	SU		F
Public Enterprise**	SU	SU	SU	SU		SU	SU		F
Public Utility	SU	SU	SU	SU	SU	SU	SU		F
Restaurants					P	P	P		F
Schools	SU	SU	SU	SU	SU				F
Service Station						SU	SU		J
Shoe Sales and Repair						P	P		G
Sporting Goods Sales						P	P		G
Storage Rental Units/Areas						P	P		G
Travel Agency						P	P		G
Utility Tanks, Pumps, Electrical Substations & Related Services	SU	SU	SU	SU	SU	SU	SU	SU	
Wholesale and/or Retail Janitorial Sales & Services						SU	SU		F
Youth Center					P	P	P		G

SCHEDULE OF DISTRICT USE REGULATIONS

KEY:
P – Use permitted by right
SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board
Blank/Unlisted – Prohibited use

Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
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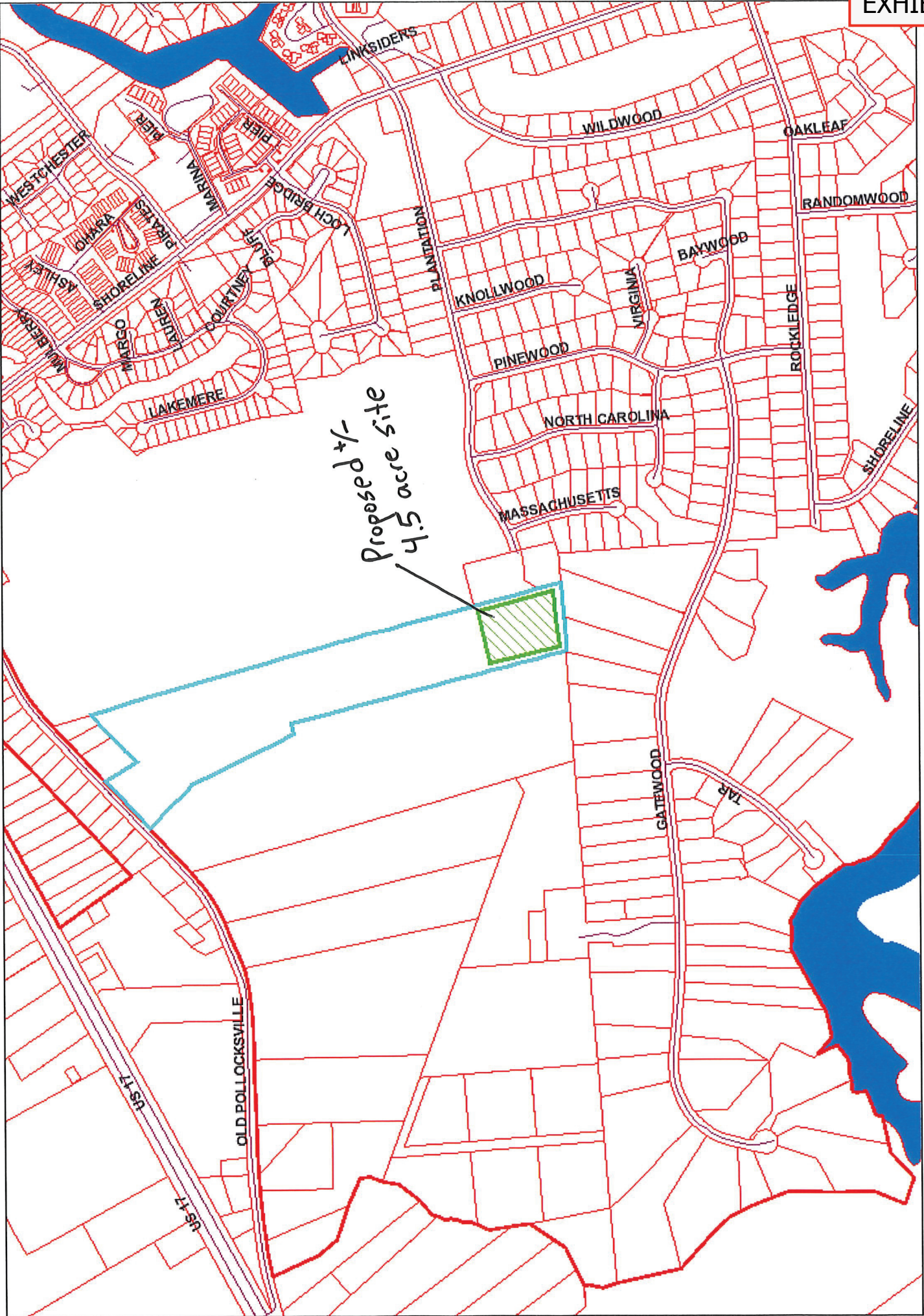
*Parking code described in §15.02.080
 ** As defined by G.S. § 160A-311
 *** Non-conforming uses of tourist home at the time of its addition to this ordinance shall be amortized for a period of 12 months from November 17,2022. After that date, the use must terminate if not permitted in the corresponding zone or a special use permit has not been obtained, as applicable.

Penalty, see § 1.01.999

Amended 11/17/22



1 inch = 739 feet



Proposed +/-
4.5 acre site



Harbour Walk

Harbourtown Marina

Town Hall Police

The Fairways

Shoreline One

Stones Throw

Lakemere

Lochbridge

Hunting Wood

The Colonies

Gatewood Park

Beech Trees

River Hills

Public Works

Beech Trees

Tar Landing



Pictured above is one of the town's current WTP sites. It is located at 25 Shoreline Drive. Homes are located within 140 ft. of it.



Here it is



Pictured above is the town's other current WTP site. It is located at 52 Shoreline Drive. A home is located within 100 ft. of it. It is 320 ft. away from the Municipal Building.



Here it is

§ 15.02.122 REVIEW AND APPROVAL OF SPECIAL USES.

- A.
 - 1. The application forms for a special use permit shall be transferred along with required plans, plats and the like to the Planning Board by the Zoning Administrator 7 days before a regularly scheduled Planning Board meeting so that the application can be placed on the Board's agenda.
 - 2. At this meeting, the owner of the property for which the special use is sought or his agent shall appear.
- B. The Planning Board shall review the application for details, where applicable, of the site, situation, existing and proposed structures, architectural plans, neighboring land and water uses, proposed parking areas, driveway locations, highway access, traffic generation and circulation potential, drainage, waste disposal, water supply systems and the effects of the proposed use, structure, operation and potential changes in water quality, shoreland cover, natural beauty and wildlife habitat.
- C.
 - 1. The Planning Board shall consider recommending conditions that may be placed in the granting of the special use permit by the Board of Adjustment.
 - 2. These conditions may include items such as landscaping, architectural design, type of construction, construction commencement and proposed completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, performance standards, street dedication, certified survey maps, floodproofing, ground cover, sedimentation control from the project construction, terraces, stream bank protection, planting of buffer screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, yard sizes or additional parking.
- D. In addition, the Planning Board shall check for compliance of the requested special use with all other relevant provisions of this subchapter, such as lot dimensional requirements, building heights, parking and loading standards.
- E. The Planning Board shall consider the application at the first regular meeting of the Planning Board after receiving the completed application. Within 45 days after the meeting at which the application is considered, the Planning Board shall make its written recommendations and pass them on to the Board of Adjustment.
- F. The Zoning Administrator shall set a date and advertise for Board of Adjustment public hearing. The Board of Adjustment shall review the application and all recommendations from the Planning Board.
- G. The Board of Adjustment shall approve or deny the application following a public hearing provided for in division (F) above.
- H. After approval or conditional approval of the special use by the Board of Adjustment, the Board shall notify the Zoning Administrator of the approval. Notification shall be by a written letter signed by the Chairperson of the Board of Adjustment, and a copy of the approval letter shall be forwarded to the special use permit applicant and the Planning Board Chairperson.

Applicant/landowner must give written consent to conditions related to the special use permit to ensure enforceability.

I.

1. Rejection of an application for a special use permit shall be recorded in the minutes of the Board of Adjustment meeting during which the decision was made.
2. Notification of the rejection or denial of an application for a special use permit shall be a letter signed by the Chairperson of the Board of Adjustment.
3. The letter shall state reasons for denial and reference the specific sections or paragraphs in this chapter that would be violated if the special use were granted.
4. The denial letter shall be forwarded to the applicant by certified or registered mail and copies of the letter shall be forwarded to the Chairperson of the Planning Board and the Zoning Administrator.
5. One copy shall be retained in the files of the Board of Adjustment.

Penalty, see § 1.01.999

§ 15.02.120 GENERAL REGULATIONS.

- A. Permission may be granted by the Board of Adjustment for the establishment of uses listed as special uses (SU) in the district use regulation tables in this subchapter, after Planning Board review and recommendations and after a public hearing held by the Board of Adjustment. And further, that the Board of Adjustment finds that:
1. The proposed use does not affect adversely the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council;
 2. The proposed use will not be contrary to the purposes stated in these regulations;
 3. The proposed use will not affect adversely the health and safety of residents and workers in the zoned area;
 4. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;
 5. The proposed use will not be affected adversely by the existing uses;
 6. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use;
 7. The proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation or type of physical activity;
 8. The standards set forth for each particular use for which a permit may be granted have been or will be met;
 9. The proposed use shall be subject to the minimum area, setback and other dimensional requirements of the zoning district in which it will be located; and
 10. The proposed use shall be subject to the off-street parking and service requirements of these regulations.
- B. The Board of Adjustment shall impose or require any additional restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.
- C. Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall rescind and revoke the permit after giving due notice to all parties concerned.
- D. If construction of a use authorized by a special use permit does not begin within 6 months of the time the permit is issued, the permit shall be revoked.

Penalty, see § 1.01.999