



COUNTY COUNCIL OF BEAUFORT COUNTY  
**BEAUFORT COUNTY PLANNING DIVISION**

Multi-Government Center • 100 Ribaut Road, Room 115  
Post Office Drawer 1228, Beaufort SC 29901-1228  
Phone: (843) 255-2140 • FAX: (843) 255-9432

PLANNING COMMISSION

Monday, December 2, 2013

6:00 p.m.

Council Chambers, Administration Building  
100 Ribaut Road, Beaufort, South Carolina

In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media was duly notified of the time, date, place and agenda of this meeting.

1. COMMISSIONER'S WORKSHOP – 5:30 P.M.  
Planning Office, Room 115, County Administration Building
2. REGULAR MEETING - 6:00 P.M.  
Council Chambers
3. CALL TO ORDER – 6:00 P.M.
4. PLEDGE OF ALLEGIANCE
5. REVIEW OF MINUTES – November 7, 2013 ([backup](#))
6. CHAIRMAN'S REPORT
7. PUBLIC COMMENT ON NON-AGENDA ITEMS
8. TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE/ZDSO, ARTICLE V. USE REGULATIONS, SEC. 106-1287. COMMERCIAL RETAIL, REGIONAL (ADDS STANDARDS TO ALLOW ADAPTIVE RE-USE OF LIGHT INDUSTRIAL PROPERTIES); APPLICANT: DAVID TEDDER ([backup](#))
9. TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE/ZDSO, ARTICLE VII, SEC. 106-1912. WATER DEPENDENT USES (ADDS STANDARDS TO ALLOW COMMERCIAL DOCKS FOR MARICULTURE USE); APPLICANT: FRANK ROBERTS ([backup](#))
10. OTHER BUSINESS
  - A. Next Meeting – Monday, January 6, 2014, at 6:00 p.m.
11. ADJOURNMENT





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The regular meeting of the Beaufort County Planning Commission (hereinafter “Commission”) was held on Monday, November 7, 2013, in County Council Chambers, the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

**Members Present:**

Mr. Robert Semmler, Chairman

Ms. Diane Chmelik

Mr. Edward Riley III

Ms. Jennifer Bihl

Ms. Mary LeGree

Mr. Randolph Stewart

Mr. Charles Brown

Mr. Ronald Petit

**Members Absent:** Mr. John Thomas, Vice-Chairman

**Staff Present:**

Mr. Anthony J. Criscitiello, Planning Director

Ms. Barbara Childs, Admin. Asst. to Planning Director

**CALL TO ORDER:** Chairman Robert Semmler called the meeting to order at approximately 6:00 p.m.

**PLEDGE OF ALLEGIANCE:** Mr. Semmler led those assembled in the Council Chambers with the pledge of allegiance to the flag of the United States of America.

**REVIEW OF MINUTES:** The Commission reviewed their October 7, 2013, meeting minutes. No changes were noted. **Motion:** Ms. Diane Chmelik made a motion, and Mr. Ed Riley seconded the motion, **to accept the October 7, 2013, minutes as written.** No discussion occurred. The motion **was carried** (FOR: Bihl, Brown, Chmelik, LeGree, Petit, Riley, and Stewart; ABSTAIN: Semmler).

**CHAIRMAN’S REPORT:** Mr. Semmler noted that the upcoming text amendment was important. He also noted the upcoming Stanford and Oregon game.

**PUBLIC COMMENT** for items other than agenda items: None were received.

**TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT STANDARDS ORDINANCE/ZDSO, ARTICLE V. USE REGULATIONS, SEC. 106-1287. COMMERCIAL RETAIL, REGIONAL (ADDS STANDARDS TO ALLOW ADAPTIVE RE-USE OF SITES, ETC.); APPLICANT: DAVID TEDDER**

Mr. Semmler noted that the Commission received a letter from Mr. David Tedder asking that the Commission table their decision until their December 2013 meeting so he can continue working on the text amendments.

Mr. Anthony Criscitiello noted that Mr. Tedder and the Marine Corps Air Station representatives were going to meet with the Planning staff before the next meeting to discuss the text amendments as it affects a specific property, as well as other properties in the future.

Applicant's Comments: Mr. David Tedder apologized for not forwarding the letter in time to cancel the meeting.

**Motion:** Ms. Chmelik made a motion, and Mr. Riley seconded the motion, **to table the Commission recommendation to County Council at the request of the agent/applicant on the Text Amendment to the Beaufort County Zoning and Development Standards Ordinance/ZDSO, Article V. Use regulations, Sec. 106-1287. Commercial Retail, Regional, that adds standards to allow adaptive re-use of sites, etc., until the December 2, 2013, Commission meeting.** The motion was carried unanimously (FOR: Brown, Bihl, Chmelik, LeGree, Petit, Riley, Semmler, and Stewart).

**OTHER BUSINESS:**

- **Next Meeting:** Mr. Semmler noted that the next meeting was on December 2, 2013.
- **Community Development Code (CDC) Committee:** Mr. Semmler noted that the CDC Committee was making tremendous progress. He noted that Commissioners Diane Chmelik, Mary LeGree, Ed Riley, and Randolph Stewart are part of that Committee. Mr. Semmler recommended that the Commissioners begin reviewing the lengthy Code before it is presented to them so they may be familiar with this tremendous document.

**ADJOURNMENT:** Mr. Ron Petit made a motion, and Mr. Riley seconded the motion, to adjourn the meeting. The motion was carried unanimously (FOR: Bihl, Brown, Chmelik, LeGree, Petit, Riley, Semmler, and Stewart). Mr. Semmler adjourned the meeting at approximately 6:06 p.m.

**SUBMITTED BY:**

\_\_\_\_\_  
Barbara Childs, Admin. Assistant to the Planning Director

\_\_\_\_\_  
Robert Semmler, Beaufort County Planning Commission Chairman

**APPROVED: December 7, 2013, as written**

*Note: The video link of the November 7, 2013, Planning Commission meeting is:  
[http://beaufort.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=1245](http://beaufort.granicus.com/MediaPlayer.php?view_id=2&clip_id=1245)*



## MEMORANDUM

**To:** Beaufort County Planning Commission  
**From:** Anthony Criscitiello, Planning Director  
**Subject:** Proposed Amendment to the ZDSO  
**Date:** November 15, 2013

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**Excerpt of PLANNING COMMISSION RECOMMENDATION from its November 7, 2013, draft meeting minutes:**

Commission Chairman Robert Semmler noted that the Commission received a letter from Mr. David Tedder asking that the Commission table their decision until their December 2013 meeting so he can continue working on the text amendments.

Mr. Anthony Criscitiello noted that Mr. Tedder and the Marine Corps Air Station representatives were going to meet with the Planning staff before the next meeting to discuss the text amendments as it affects a specific property, as well as other properties in the future.

Applicant's Comments: Mr. David Tedder apologized for not forwarding the letter in time to cancel the meeting.

**Motion:** Ms. Chmelik made a motion, and Mr. Riley seconded the motion, to **table the Commission recommendation to County Council at the request of the agent/applicant on the Text Amendment to the Beaufort County Zoning and Development Standards Ordinance/ZDSO, Article V. Use regulations, Sec. 106-1287. Commercial Retail, Regional, that adds standards to allow adaptive re-use of sites, etc., until the December 2, 2013, Commission meeting.** The motion was carried unanimously (FOR: Brown, Bihl, Chmelik, LeGree, Petit, Riley, Semmler, and Stewart).

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**Excerpt of PLANNING COMMISSION RECOMMENDATION from its October 7, 2013, draft meeting minutes:**

Mr. Criscitiello noted that Mr. Jason Mann of the Marine Corps Air Station Beaufort was in the audience and may wish to address the Commission on this topic.

Mr. Criscitiello briefed the Commissioners. He noted that Mr. Tedder's request would allow the applicant to fully utilize the building and the grounds he currently occupies that had been vacant for two years. The staff recommended a special use because of the unknown County-wide impact of this text amendment and a desire to maintain the light industrial zoning rather than morphing into Commercial Regional that is contrary to the Comprehensive Plan. Staff is not opposed to the applicant's request. The owner should be applauded for refurbishing an existing building. Staff did add qualifications to Mr. Tedder's request so that the Development Review Team (DRT) could evaluate, on a case-by-case basis, the merits of each adaptive reuse project. He cautioned the property was in the Airport Overlay District and noise abatement must be considered.

Discussion included clarifying the adaptive reuse of the property, noise consideration near the Air Station Beaufort, giving kudos for the reuse of the property, affirming the County-wide affect of the text amendment as a special use, concerns regarding traffic impact and ingress-egress issues, requiring a traffic impact analysis (TIA), and setting a time limit to prevent loud noise during late night hours.

Applicant's Comments: Mr. David Tedder, the applicant's agent, is helping the family that has redeveloped the property already. A temporary permit was issued by the County. Flea market is mentioned in one area of the ZDSO; but, there are no good standards just for flea markets. An adaptive reuse with a limited standard seemed appropriate. Limited use standards allow for 10% of retail use in light industrial districts, but special use standards require additional review by the Zoning Board of Appeals. There are three light industrial sections north of the Broad River—the Commerce Park, the area on Shanklin Road, and near Yemassee. He also added a limitation of the adaptive reuse occurring with 1000 feet of an arterial road. The special use will require a Community Impact Analysis (CIA). He recommended limited use with a Traffic Impact Analysis (TIA) being required if there were a 10% increase in traffic trips per day, to allow for flexibility. He questioned imposing the burden of a TIA if it were not necessary. Outdoor sales are prohibitive with only four permits per year per business—it would not work for a flea market. The property has a shared parking agreement with the drive-in theater next door, and is across from the Air Station and the Greenline business (at the southwest corner of Highway 21 and Parker Drive). Air Incompatibility Use Zone (AICUZ) requirements are not problematic. Mr. Tedder does not believe the Zoning Board of Appeal (ZBOA) review is required. If it is an allowable use, then the expansion should be an allowable use also. He noted the percentage he suggested for structural additions could be discussed with staff. Mr. Tedder asked that his recommended language regarding stormwater calculation be returned to the existing ZDSO language. He urged a limited use, not the staff recommended special use.

Discussion by Commissioners included clarifying a parking agreement with the drive-in theater, clarifying Mr. Tedder's proposal, clarifying Mr. Tedder's request to return to limited instead of special use, and noting that Mr. Tedder's proposed text removed the staff's ability to analyze each project on a case-by-case basis.

Public Comment: Mr. Jason Mann, the U.S. Marine Corps Air Station Beaufort community planner, asked that the Commission table a decision so that he can further analyze the text amendment since he had experienced sequestration furloughing and may experience the Federal government shut-down. He believed he would have adequate time to complete his review before the next Commission meeting on November 7. Mr. Criscitiello asked if Mr. Tedder would agree to next Commission meeting and Mr. Tedder did agree with tabling the Commission recommendation until their November 7, 2013, Commission meeting.

Further Commission discussion included recommending that the staff and the applicant meet to discuss limited versus special uses, agreeing with posting the Commission recommendation until the November meeting, noting that the text amendment impacted county-wide versus site specific, and discussing the appropriateness of limited versus special uses.

**Motion:** Mr. Stewart made a motion, and Mr. Petit seconded the motion, to postpone the Commission recommendation to County Council on the Text Amendment to the Beaufort County Zoning and Development Standards Ordinance/ZDSO, Article V. Use regulations, Sec. 106-1287. Commercial Retail, Regional, that adds standards to allow adaptive re-use of sites, etc., until the November 7, 2013, Commission meeting. The motion was carried unanimously (FOR: Brown, Bihl, Chmelik, LeGree, Petit, Riley, Stewart, and Thomas).

**STAFF REPORT:**

**A. BACKGROUND:**

**Case No.** ZTA 2013-07  
**Applicant:** David Tedder  
**Proposed Text Change:** Amendment to Sec. 106-1287 (Limited and Special Use Standards for Regional Commercial Retail Uses) to allow regional retail uses in the Light Industrial zoning district as an adaptive reuse

**B. SUMMARY OF REQUEST:**

The applicant is requesting an amendment to the Limited and Special Use Standards section of the ZDSO to allow regional commercial retail uses, including outdoor retail uses such as flea markets, to be administratively approved for properties within the Light Industrial (LI) district that are developed but have been vacant for at least two years. The applicant states that the proposed changes are necessary to avoid the creation or continuation of blight caused by vacant properties. Currently, the LI district restricts regional commercial retail uses to no more than 5 percent of the floor area of an LI project, and requires that access to these uses be from a development's interior streets.

The applicant is proposing the following text amendments, shown as ~~strike through~~ for deletions and underlined for additions:

**Article 5. Use Regulations**  
**Division 2. Limited and Special Use Standards**

**Sec. 106-1287. Commercial retail, regional**

(a) *Limited/special standards for use in all applicable districts.* Limited/special standards for regional commercial retail uses in all applicable districts are as follows:

- (1) These uses may constitute no more than five percent of the total permitted floor area of the project in which they are located.
- (2) The access to these uses shall be from the development's interior streets. The uses shall not have frontage on arterial or collector streets.

(b) *Reports/studies required.* All applications for this use shall include a community impact statement.

(c) *Limited standards for regional commercial retail uses within rural business districts.* Limited standards for regional commercial retail uses within rural business districts are as follows:

- (1) This use is limited to 3,500 square feet of floor area.
- (2) Drive-through facilities are not permitted as part of this use.
- (3) The following uses are not permitted as part of this use: vehicular sales, rental and service uses (NAICS 441); and hospitals and medical facilities (NAICS 621, 622, 623, 624).

(d) Limited standards for adaptive re-use: regional commercial retail uses in the Light Industrial zoning district. Limited standards for regional commercial retail establishments utilizing developed site uses which have been unoccupied by an operating business for more than two years are as follows:

- (1) It is the intent of this section to allow adaptive re-use of sites developed in conformity with allowable uses for the Light Industrial district, but which have become vacant and remained vacant for more than two years, thereby avoiding the creation or continuation of a blighted area.

- (2) The permitted floor space size limitations of 106-1287(a)(1) shall not be applicable; existing structures can be fully utilized for all uses qualifying as commercial retail, regional, and may utilize the permitted access to the site, notwithstanding 106-1287(a)(2), provided that:
- (i) Adequate parking is provided on-site or through shared parking, with on-site individual parking spaces delineated;
  - (ii) The site is located within 1,000 feet of an arterial road, and traffic impacts as measured by trips per day will not exceed by more than 10% the traffic impact of the former permitted use on the site;
  - (iii) The proposed use does not violate the Land Use Compatibility Recommendations of the United States Navy for the Accident Potential or Noise Zones, if the site is within such a zone;
  - (iv) Structural additions shall not increase the existing floor space by more than 15%; if more than a 15% increase is proposed, the application will be treated as a special use; and
  - (v) Any increase over 5% in the total existing impervious surface on the site will require a resubmission of stormwater calculations and appropriate mitigation measures as determined by reference to the Beaufort County Storm Water Manual.
- (3) Retail uses having exterior sales (flea markets, farmers markets, etc.) which are within a site with fencing and buffers shall be allowed to operate year-round, without limitation as to the number of outdoor sales events, provided that:
- (i) The outdoor sales area is located at least 50 feet from the public road servicing the site;
  - (ii) A permanent structure with a roof is provided for at least 50% of the spaces to be used for sales in the outdoor sales area;
  - (iii) There are clearly marked pedestrian paths of at least ten feet in width between the outdoor sales area and the existing structure within which interior retail sales will occur; and
  - (iv) Operating hours will not extend beyond 11:00 p.m.

### C. ANALYSIS:

Other than the former 84 Lumber site on U.S. Hwy. 21 at Parker Drive, it is unclear how many other properties would be eligible to take advantage of the “adaptive reuse” provisions being proposed. In the case of the 84 Lumber property, which is zoned Light Industrial (LI), an existing 34,450 sq. ft. building plus another 33,600 sq. ft. of outdoor space under cover are being used as the site of Beaufort Liquidators, a discount outlet warehouse and retail store with a weekend outdoor flea market. This business was issued a zoning permit in January of this year to operate a wholesale business with accessory retail space (retail space limited to 10,000 sq. ft. within the main building). The proposed amendment would permit the expansion of retail space within the building, as well as permit the outdoor space to be used for a flea market.

Regional retail commercial uses are those uses due to their size and scale that will attract shoppers and visitors from a larger area of the county and outside the county. Typical uses include “big box” retail stores. The proposal to permit vacant light industrial buildings to be used for regional commercial retail, especially with some of the “conditions” proposed, does not appear to result in any obvious negative impacts. If the text amendment is approved, vacant buildings that have been unable to be used for light industrial purposes may be used for retail purposes, thus keeping them open and maintained.

It should be noted; however, that the Beaufort County Comprehensive Plan (2010) identifies the need to ensure a sufficient quantity of suitably located land zoned for non-retail commercial uses to promote the

region's economic diversity. The Plan also notes that the region lacks suitable vacant industrial buildings that can be used. Without knowing exactly how many properties could take advantage of this adaptive reuse proposal, staff recommends that regional commercial retail uses in LI zones only be allowed as a Special Use instead of by right as proposed. This will allow staff and the Zoning Board of Appeals (ZBOA) to monitor the implementation of this provision to ensure that light industrial areas are not transitioning to regional commercial ones without due consideration of the Future Land Use Plan.

Allowing outdoor retail uses, which may include flea markets and vehicle sales, is also proposed by the applicant. The unincorporated county has a limited amount of property zoned Light Industrial (LI), most of which is located within the Airport Overlay District for MCAS-Beaufort (see attached map). The Overlay District outlines the Air Installation Compatible Use Zone (AICUZ) for MCAS-Beaufort, and is designed to minimize incompatible development within noise and accident potential zones.

The county adopted, via Resolution, a Joint Land Use Study (JLUS) for the AICUZ in 2004, in partnership with the City of Beaufort, Town of Port Royal, MCAS-Beaufort, and Lowcountry Council of Governments. The goal of the JLUS was to encourage land uses within the AICUZ that are compatible with the operations of MCAS-Beaufort. Incompatible uses are those which:

- Are noise sensitive – if located in a Noise Zone.
- Involve a high concentration of people – if located in any Accident Potential Zone.
- Interfere with safe air operations.

The Department of the Navy's list of suggested compatible land uses for both noise and accident potential zones was adopted as Appendix D of the JLUS. Outdoor retail sales, such as flea markets, are not specifically listed; however, other retail uses are deemed generally compatible within noise zones provided "measures to achieve NLR [Noise Level Reduction] of 25, 30 or 35 must be incorporated into [the] design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted" (see attached excerpt from JLUS).

Staff believes that outdoor retail sales as part of an adaptive reuse within the AICUZ should be evaluated through the Special Use process.

In addition to allowing regional commercial retail uses on developed light industrial sites that have been unoccupied for more than two years, the applicant proposes several additional standards:

**1. The site must be located within 1,000 ft. of an arterial road.**

The applicant has provided no rationale for this standard, nor submitted an analysis of how many properties could be eligible for the proposed adaptive reuse provision using this standard.

**2. Traffic impacts from the new use will not exceed by more than 10% the traffic impact of the former permitted use.**

A traffic impact analysis (TIA) would be required for the proposed use if undergoing the Special Use Permit process. Otherwise, no TIA is required for a Zoning (Change of Use) Permit.

**3. The new use will not violate the U.S. Navy's recommendations for uses that are compatible with Accident Potential and Noise Zones if the site is within such a zone.**

Appendix AI (Airport Overlay District/MCAS-Beaufort) already regulates uses and densities within APZs and Noise Zones based on the Department of the Navy's recommendations.

**4. Structural additions shall not increase the floor space by more than 15% without approval of a Special Use Permit.**

This provision may allow expansions that are in conflict with Appendix A1 (Airport Overlay District/MCAS-Beaufort), which prohibits the expansion of any structure that does not meet the

prescribed noise level reduction requirements. This provision is also not necessary if the entire project were subject to a Special Use Permit.

5. **An increase over 5% in impervious surface will require re-review of the stormwater management system for the site.**

All increases in impervious surfaces for commercial projects are subject to review by the County Engineer for stormwater compliance.

6. **Retail uses having exterior sales (e.g. flea markets) shall be allowed to operate year-round and must provide at least 50% of its spaces under a roofed structure.**

Staff recommends that exterior sales only be permitted as part of a Special Use Permit.

#### D. STAFF RECOMMENDATION:

Section 106-493 of the ZDSO lists seven standards (below), any of which is cause for a Zoning Text Amendment.

##### Sec. 106-493. Standards for zoning text amendment.

A zoning ordinance text amendment may be approved if:

1. **It would implement a new portion of the comprehensive plan or amendment. (N/A)**
2. **It would implement and better achieve the comprehensive plan's goals and objectives that have proved difficult to achieve under the ordinance's existing provisions. (N/A)**
3. **The ordinance's provisions were inconsistent or unreasonable in light of standards for similar uses. (N/A)**
4. **It is necessary to respond to state and/or federal legislation. (N/A)**
5. **It provides additional flexibility in meeting the ordinance's objectives without lowering the ordinance's general standards. (See above analysis)**
6. **It addresses a new use, changing conditions, and/or clarifies existing language. (N/A)**
7. **It clarifies the ordinance or makes adjustments to account for interpretation. (N/A)**

After review of these standards, staff recommends a modification to the requested text amendment as follows (modifications to the applicant's proposed amendments are **bold and underlined** for additions and **~~bold and struck through~~** for deletions):

##### Sec. 106-1287. Commercial retail, regional

(d) Limited Special Use standards for adaptive re-use: regional commercial retail uses in the Light Industrial zoning district. ~~Limited Special Use standards for regional commercial retail establishments utilizing developed site uses which have been unoccupied by an operating business for more than two years~~ are as follows:

- (1) It is the intent of this section to allow adaptive re-use of sites developed in conformity with allowable uses for the Light Industrial district, but which have become vacant and remained vacant for more than two years, thereby avoiding the creation or continuation of a blighted area.
- (2) The permitted floor space size limitations of 106-1287(a)(1) shall not be applicable; existing structures can be fully utilized for all uses qualifying as commercial retail.

regional, and may utilize the permitted access to the site, notwithstanding 106-1287(a)(2), provided that:

- (i) Adequate parking is provided on site or through shared parking, with on-site individual parking spaces delineated. Parking shall meet the requirements of Article XIII, Division 5 (Parking and Loading Standards);
  - (ii) The site is located within 1,000 feet of an arterial road, and traffic impacts as measured by trips per day will not exceed by more than 10% the traffic impact of the former permitted use on the site as determined by a traffic impact analysis (TIA); and
  - (iii) The proposed use and any proposed structural addition shall does not violate the Land Use Compatibility Recommendations of the United States Navy for the Accident Potential or Noise Zones, conform with the Airport Overlay District for MCAS-Beaufort (Appendix A1) if the site is within such a zone that overlay district;
  - (iv) Structural additions shall not increase the existing floor space by more than 15%; if more than a 15% increase is proposed, the application will be treated as a special use; and
  - (v) Any increase over 5% in the total existing impervious surface on the site will require a resubmission of stormwater calculations and appropriate mitigation measures as determined by reference to the Beaufort County Storm Water Manual.
- (3) Retail uses having exterior sales (flea markets, farmers markets, vehicle sales, etc.) which are within a site with fencing and buffers shall be allowed to operate year-round, without limitation as to the number of outdoor sales events, provided that:
- (i) The outdoor sales area is located at least 50 feet from the public road servicing the site;
  - (ii) A permanent structure with a roof is provided for at least 50% of the spaces to be used for sales in the outdoor sales area;
  - (iii) There are clearly marked pedestrian paths of at least ten feet in width between the outdoor sales area and the existing structure within which interior retail sales will occur; and
  - (iv) Operating hours will not extend beyond 11:00 p.m.; and
  - (v) Such uses are permitted within the Airport Overlay District for MCAS-Beaufort, provided that, through the Special Use process, the Zoning Board of Appeals (ZBOA) determines that noise impacts within the airport Overlay District are not deleterious to the health and safety of people visiting or participating in said activities or events.

**E. ATTACHMENTS:**

- Excerpts from ZDSO General Use Table
- Zoning Map showing Light Industrial Zones and MCAS-Beaufort Overlay Zone
- Excerpts from Lowcountry Joint Land Use Study (2004)
- Copy of application for Zoning Text Amendment

**ARTICLE V. USE REGULATIONS**

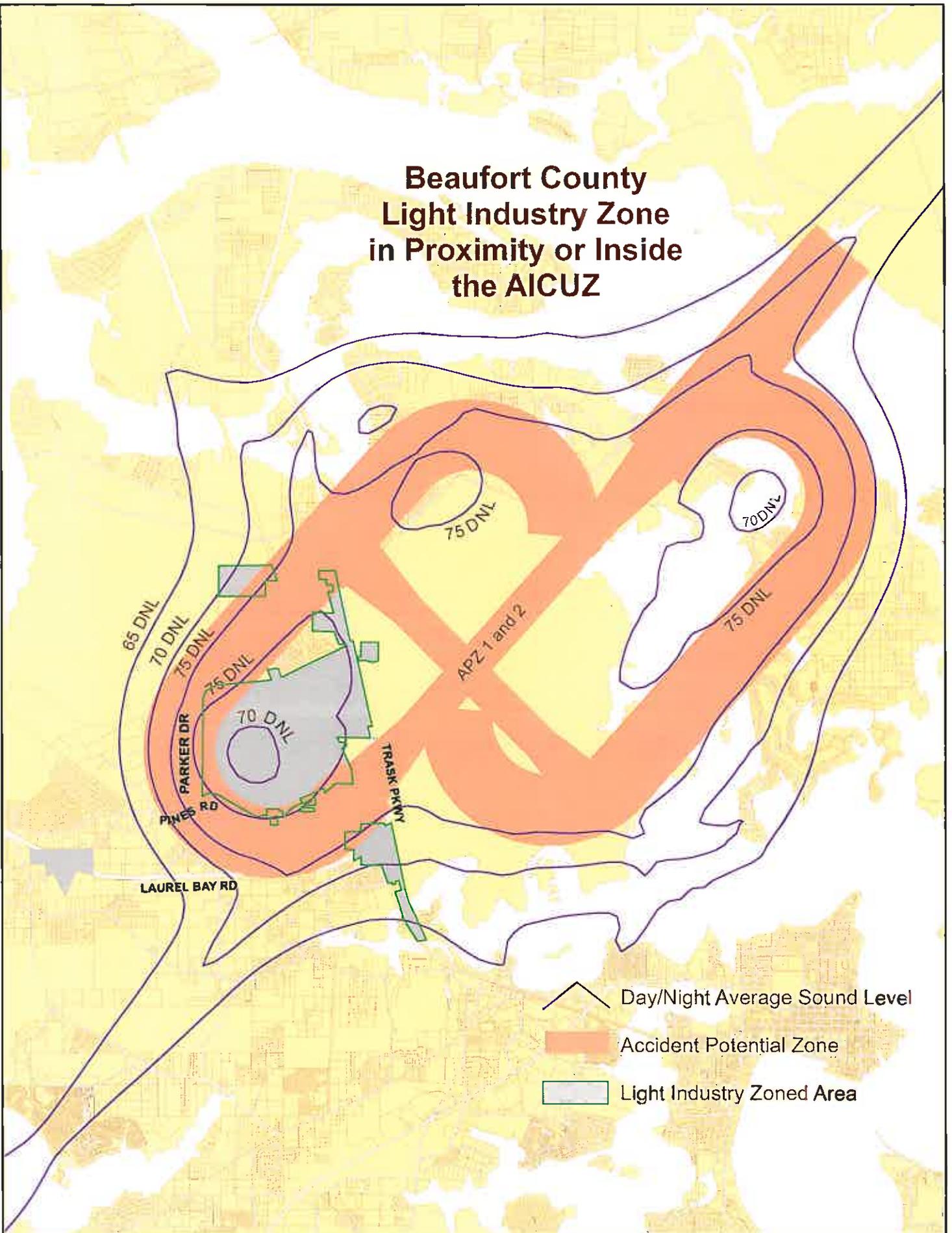
**EXCERPT FROM TABLE 106-1098. GENERAL USE TABLE**

| Land Use                    | Priority Areas |   |    |    |    |    |    | Rural Areas |    |    |    | Additional Standards<br>(See Section) | Use Definition  |
|-----------------------------|----------------|---|----|----|----|----|----|-------------|----|----|----|---------------------------------------|---|
|                             | U              | S | CR | CS | RD | LI | IP | R           | RR | RB | RC |                                       |   |
| <b>COMMERCIAL USES</b>      |                |   |    |    |    |    |    |             |    |    |    |                                       |   |
| Commercial retail, regional | N              | N | Y  | N  | N  | L  | N  | N           | N  | L  | N  | 106-1287                              | <p>These uses include all retail uses in neighborhood commercial, but which exceed the service character and scale of neighborhood commercial, above. Any retail use having exterior sales or storage shall be considered regional commercial, even if its scale does not require that. In addition to the types of retail uses listed in neighborhood commercial above, the following uses shall be permitted:</p> <ol style="list-style-type: none"> <li>1. All miscellaneous retail not included in neighborhood commercial, above [see note]*</li> <li>2. Clothing and accessory stores</li> <li>3. Furniture stores</li> <li>4. Paint, glass, wall paper specialty stores</li> <li>5. Greenhouses (retail only with garden supplies)</li> <li>6. Repair shops and related services</li> <li>7. Vehicular sales, rental and service uses, listed elsewhere in this table</li> </ol> |

\*[Note: Neighborhood Commercial uses include grocery stores, variety stores, pharmacies, hardware stores, liquor stores, and garden centers.]

| Land Use               | Priority Areas |   |    |    |    |    |    | Rural Areas |    |    |    | Additional Standards (See Section) | Use Definition  |
|------------------------|----------------|---|----|----|----|----|----|-------------|----|----|----|------------------------------------|---|
|                        | U              | S | CR | CS | RD | LI | IP | R           | RR | RB | RC |                                    |   |
| <b>INDUSTRIAL USES</b> |                |   |    |    |    |    |    |             |    |    |    |                                    |   |
| Light industry         | N              | N | N  | N  | L  | Y  | Y  | N           | N  | L  | N  | 106-1359                           | <p>Incubator development, light manufacturing, processing, assembly, or finishing operations in enclosed buildings, with limited exterior storage. The following uses shall be classified as light industry:</p> <ol style="list-style-type: none"> <li>1. Any light industrial use not requiring more than 10 percent of its gross floor area for exterior storage</li> <li>2. Any light industrial use that does not exceed 200,000 sq. ft. of gross floor area</li> <li>3. Building, development and general contracting</li> <li>4. Special trade contractors</li> <li>5. Food products</li> <li>6. Textiles and apparel</li> <li>7. Fuel dealers</li> <li>8. Furniture and fixtures</li> <li>9. High tech industry</li> <li>10. Lumber and other building materials</li> <li>11. Printing and publishing</li> <li>12. Office and computing machines</li> <li>13. Electric and electronic equipment</li> <li>14. Instruments and related products</li> <li>15. Transportation services</li> <li>16. Wholesale trade, durable and nondurable, except farm products</li> <li>17. Recreational equipment rental</li> <li>18. Heavy truck, recreational vehicle and mobile home sales</li> <li>19. Heavy truck rental</li> <li>20. Trucking and warehousing</li> <li>21. Other allowable uses under light industrial in general use table 106-1098</li> </ol> |

# Beaufort County Light Industry Zone in Proximity or Inside the AICUZ



**TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES  
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES (Continued)**

| Land Use     |  | Suggested Land Use Compatibility |        |                               |                    |                               |                |     |
|--------------|--|----------------------------------|--------|-------------------------------|--------------------|-------------------------------|----------------|-----|
|              |  | Noise Zone 1<br>(DNL or CNEL)    |        | Noise Zone 2<br>(DNL or CNEL) |                    | Noise Zone 3<br>(DNL or CNEL) |                |     |
| SLUCM<br>NO. | LAND USE NAME  | < 55                             | 55- 64 | 65 - 69<br><i>C</i>           | 70 -74<br><i>B</i> | 75- 79<br><i>A</i>            | 80 -84         | 85+ |
| <b>30</b>    | <b><i>Manufacturing (continued)</i></b>  |                                  |        |                               |                    |                               |                |     |
| 31           | Rubber and misc. plastic products; manufacturing   | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 32           | Stone, clay and glass products; manufacturing  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 33           | Primary metal products; manufacturing  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 34           | Fabricated metal products; manufacturing   | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 35           | Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks | Y                                | Y      | Y                             | 25                 | 30                            | N              | N   |
| 39           | Miscellaneous manufacturing  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| <b>40</b>    | <b><i>Transportation, communication and utilities.</i></b>   |                                  |        |                               |                    |                               |                |     |
| 41           | Railroad, rapid rail transit, and street railway transportation  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 42           | Motor vehicle transportation   | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 43           | Aircraft transportation  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 44           | Marine craft transportation  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 45           | Highway and street right-of-way  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 46           | Automobile parking   | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 47           | Communication  | Y                                | Y      | Y                             | 25 <sup>3</sup>    | 30 <sup>3</sup>               | N              | N   |
| 48           | Utilities  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 49           | Other transportation, communication and utilities  | Y                                | Y      | Y                             | 25 <sup>3</sup>    | 30 <sup>3</sup>               | N              | N   |
| <b>50</b>    | <b><i>Trade</i></b>  |                                  |        |                               |                    |                               |                |     |
| 51           | Wholesale trade  | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 52           | Retail trade - building materials, hardware and farm equipment   | Y                                | Y      | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup> | N   |
| 53           | Retail trade - shopping centers  | Y                                | Y      | Y                             | 25                 | 30                            | N              | N   |
| 54           | Retail trade - food  | Y                                | Y      | Y                             | 25                 | 30                            | N              | N   |

**TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES  
SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES (Continued)**

| Land Use  |  | Suggested Land Use Compatibility |                |                               |                    |                               |                   |                   |
|-----------|--|----------------------------------|----------------|-------------------------------|--------------------|-------------------------------|-------------------|-------------------|
|           |  | Noise Zone 1<br>(DNL or CNEL)    |                | Noise Zone 2<br>(DNL or CNEL) |                    | Noise Zone 3<br>(DNL or CNEL) |                   |                   |
| SLUCM NO  | LAND USE NAME  | < 55                             | 55- 64         | 65 -69<br><i>C</i>            | 70 -74<br><i>B</i> | 75-79<br><i>A</i>             | 80 -84            | 85+               |
| <i>50</i> | <i>Trade (Continued)</i>   |                                  |                |                               |                    |                               |                   |                   |
| 55        | Retail trade – automotive, marine craft, aircraft and accessories          | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 56        | Retail trade – apparel and accessories                                     | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 57        | Retail trade – furniture, home, furnishings and equipment                  | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 58        | Retail trade – eating and drinking establishments                          | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 59        | Other retail trade   | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| <i>60</i> | <i>Services</i>  |                                  |                |                               |                    |                               |                   |                   |
| 61        | Finance, insurance and real estate services                                | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 62        | Personal services  | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 62.4      | Cemeteries   | Y                                | Y              | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4,11</sup> | Y <sup>6,11</sup> |
| 63        | Business services  | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 63.7      | Warehousing and storage  | Y                                | Y              | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup>    | N                 |
| 64        | Repair Services  | Y                                | Y              | Y                             | Y <sup>2</sup>     | Y <sup>3</sup>                | Y <sup>4</sup>    | N                 |
| 65        | Professional services  | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 65.1      | Hospitals, other medical fac.  | Y                                | Y <sup>1</sup> | 25                            | 30                 | N                             | N                 | N                 |
| 65.16     | Nursing Homes  | Y                                | Y              | N <sup>1</sup>                | N <sup>1</sup>     | N                             | N                 | N                 |
| 66        | Contract construction services   | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| 67        | Government Services  | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | 25                 | 30                            | N                 | N                 |
| 68        | Educational services   | Y                                | Y <sup>1</sup> | 25                            | 30                 | N                             | N                 | N                 |
| 69        | Miscellaneous  | Y                                | Y              | Y                             | 25                 | 30                            | N                 | N                 |
| <i>70</i> | <i>Cultural, entertainment and recreational</i>                            |                                  |                |                               |                    |                               |                   |                   |
| 71        | Cultural activities (& churches)   | Y                                | Y <sup>1</sup> | 25                            | 30                 | N                             | N                 | N                 |
| 71.2      | Nature exhibits  | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | N                  | N                             | N                 | N                 |
| 72        | Public assembly  | Y                                | Y <sup>1</sup> | Y                             | N                  | N                             | N                 | N                 |
| 72.1      | Auditoriums, concert halls   | Y                                | Y              | 25                            | 30                 | N                             | N                 | N                 |
| 72.11     | Outdoor music shells, amphitheaters  | Y                                | Y <sup>1</sup> | N                             | N                  | N                             | N                 | N                 |
| 72.2      | Outdoor sports arenas, spectator sports                                    | Y                                | Y              | Y <sup>1</sup>                | Y <sup>1</sup>     | N                             | N                 | N                 |
| 73        | Amusements   | Y                                | Y              | Y                             | Y                  | N                             | N                 | N                 |
| 74        | Recreational activities (include golf courses, riding stables, water rec.) | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | 25                 | 30                            | N                 | N                 |
| 75        | Resorts and group camps  | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | Y <sup>1</sup>     | N                             | N                 | N                 |
| 76        | Parks  | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | Y <sup>1</sup>     | N                             | N                 | N                 |
| 79        | Other cultural, entertainment and recreation                               | Y                                | Y <sup>1</sup> | Y <sup>1</sup>                | Y <sup>1</sup>     | N                             | N                 | N                 |

25, 30, or 35

The numbers refer to Noise Level Reduction levels. Land Use and related structures generally compatible however, measures to achieve NLR of 25, 30 or 35 must be incorporated into design and construction of structures. However, measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional evaluation is warranted. Also, see notes indicated by superscripts where they appear with one of these numbers.

DNL Day-Night Average Sound Level.

CNEL Community Noise Equivalent Level (Normally within a very small decibel difference of DNL)

Ldn Mathematical symbol for DNL.

**NOTES FOR TABLE 2 - SUGGESTED LAND USE COMPATIBILITY IN NOISE ZONES**

1.

a) Although local conditions regarding the need for housing may require residential use in these Zones, residential use is discouraged in DNL 65-69 and strongly discouraged in DNL 70-74. The absence of viable alternative development options should be determined and an evaluation should be conducted locally prior to local approvals indicating that a demonstrated community need for the residential use would not be met if development were prohibited in these Zones.

b) Where the community determines that these uses must be allowed, measures to achieve and outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB in DNL 65-69 and NLR of 30 dB in DNL 70-74 should be incorporated into building codes and be in individual approvals; for transient housing a NLR of at least 35 dB should be incorporated in DNL 75-79.

c) Normal permanent construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10 or 15 dB over standard construction and normally assume mechanical ventilation, upgraded Sound Transmission Class (STC) ratings in windows and doors and closed windows year round. Additional consideration should be given to modifying NLR levels based on peak noise levels or vibrations.

d) NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design and use of berms and barriers can help mitigate outdoor noise exposure NLR particularly from ground level sources. Measures that reduce noise at a site should be used wherever practical in preference to measures that only protect interior spaces.

**BEAUFORT COUNTY, SOUTH CAROLINA**  
**PROPOSED ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO)**  
**ZONING MAP / TEXT AMENDMENT / PUD MASTER PLAN CHANGE APPLICATION**

TO: Beaufort County Council

The undersigned hereby respectfully requests that the Beaufort County Zoning/Development Standards Ordinance (ZDSO) be amended as described below:

1. This is a request for a change in the (check as appropriate):  PUD Master Plan Change  
 Zoning Map Designation/Rezoning  Zoning & Development Standards Ordinance Text
2. Give exact information to locate the property for which you propose a change:  
Tax District Number: \_\_\_\_\_, Tax Map Number: \_\_\_\_\_, Parcel Number(s): \_\_\_\_\_  
Size of subject property: \_\_\_\_\_ Square Feet / Acres (circle one)  
Location: \_\_\_\_\_
3. How is this property presently zoned? (Check as appropriate)  
 Urban/U  Community Preservation/CP  Light Industrial/LI  
 Suburban/S  Commercial Regional/CR  Industrial Park/IP  
 Rural/R  Commercial Suburban/CS  Transitional Overlay/TO  
 Rural Residential/RR  Research & Development/RD  Resource Conservation/RC  
 Planned Unit Development/PUD
4. What new zoning do you propose for this property? \_\_\_\_\_  
(Under Item 10 explain the reason(s) for your rezoning request.)
5. Do you own all of the property proposed for this zoning change?  Yes  No  
Only property owners or their authorized representative/agent can sign this application. If there are multiple owners, each property owner must sign an individual application and all applications must be submitted simultaneously. If a business entity is the owner, the authorized representative/agent of the business must attach: 1- a copy of the power of attorney that gives him the authority to sign for the business, and 2- a copy of the articles of incorporation that lists the names of all the owners of the business.
6. If this request involves a proposed change in the Zoning/Development Standards Ordinance text, the section(s) affected are: 106-1287, Commercial Retail, Regional  
(Under Item 10 explain the proposed text change and reasons for the change.)
7. Is this property subject to an Overlay District? Check those which may apply:  
 AOD - Airport Overlay District  MD - Military Overlay District  
 COD - Corridor Overlay District  RQ - River Quality Overlay District  
 CPOD - Cultural Protection Overlay District
8. The following sections of the Beaufort County ZDSO (see attached sheets) should be addressed by the applicant and attached to this application form:
  - a. Section 106-492, Standards for zoning map amendments.
  - b. Section 106-493, Standards for zoning text amendments.

9. Explanation (continue on separate sheet if needed): See Attached

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proof for the proposed amendment rests with the owner.

[Signature] Signature of Owner / Applicant      August 21, 2013 Date  
Printed Name: DAVID FEDDER      Telephone Number: 843-521-4222  
Address: POB 1282, Beaufort SC 29901-1282  
Email: dave@fedderlawoffice.com  
Agent (Name/Address/Phone/email): \_\_\_\_\_

FOR MAP AMENDMENT REQUESTS, THE PLANNING OFFICE WILL POST A NOTICE ON THE AFFECTED PROPERTY AS OUTLINED IN SEC. 106-402(D) OF THE BEAUFORT COUNTY ZDSO.

UPON RECEIPT OF APPLICATIONS, THE STAFF HAS THREE (3) WORK DAYS TO REVIEW ALL APPLICATIONS FOR COMPLETENESS. THE COMPLETED APPLICATIONS WILL BE REVIEWED FIRST BY THE BEAUFORT COUNTY PLANNING COMMISSION SUBCOMMITTEE RESPONSIBLE FOR THE AREA WHERE YOUR PROPERTY IS LOCATED. MEETING SCHEDULES ARE LISTED ON THE APPLICATION PROCESS (ATTACHED). COMPLETE APPLICATIONS MUST BE SUBMITTED BY NOON THREE (3) WEEKS PRIOR TO THE APPLICABLE SUBCOMMITTEE MEETING DATE

PLANNED UNIT DEVELOPMENT (PUD) APPLICANTS ARE REQUIRED TO SUBMIT MULTIPLE COPIES TO THE PLANNING DEPARTMENT. CONSULT THE APPLICABLE STAFF PLANNER FOR DETAILS.

CONTACT THE PLANNING DEPARTMENT AT (843) 255-2140 FOR EXACT APPLICATION FEES.

FOR PLANNING DEPARTMENT USE ONLY:

Date Application Received:  
(place received stamp below)

Date Posting Notice Issued: N/A  
Application Fee Amount Received: \$250<sup>00</sup>  
Receipt No. for Application Fee: 218071



LAW OFFICES OF  
**David L. Tedder, P.A.**

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604-A Bladen St. • Beaufort, South Carolina 29902  
Mailing Address: P.O. Box 1282 • Beaufort, SC 29901-1282

Telephone  
(843) 521-4222

David L. Tedder, Esq.  
dave@tedderlawoffice.com

Fax Number  
(843) 521-0082

November 7, 2013

BY E-MAIL ONLY

Mr. Anthony "Tony" Criscitiello  
Beaufort County Planning Director  
and  
Mr. Robert Semmler  
Beaufort County Planning Commission Chairman  
P.O. Drawer 1228  
Beaufort, SC 29901  
c/o tonyc@bcgov.net

Re: Agenda Item Number 8, November 7, 2013  
TEXT AMENDMENT TO THE BEAUFORT COUNTY ZONING AND DEVELOPMENT  
STANDARDS ORDINANCE/ZDSO, ARTICLE V. USE REGULATIONS, SEC. 106-1287.  
COMMERCIAL RETAIL, REGIONAL (ADDS STANDARDS TO ALLOW ADAPTIVE  
REUSE OF SITES, ETC.); APPLICANT: DAVID TEDDER

Gentlemen:

After receiving the November 4th letter from the USMC on Monday, I made an appointment to speak with Tony Criscitiello, County Planning Director, and Jason Mann, Director, MCAS Community Plans and Liason Office on Thursday morning. Also attending that meeting was David Wunder, Marine Corps Associate Legal Counsel, Eastern Area Counsel Office, Environmental Law. We spent a good hour discussing the concerns contained within the November 4<sup>th</sup> letter.

It was the consensus of the discussion group that everyone's interests would be best served by removing this matter from this evening's Planning Commission meeting, so that additional discussions and potential modifications to the proposed text amendment could be explored which might mitigate the concerns expressed in the letter.

Accordingly, with the consent of the landowner, I would appreciate the Commission tabling this matter for another month to allow us an opportunity to continue working on the text

Letter to Anthony Criscitiello and Robert Semmler  
RE: Removing Agenda Item 8  
November Planning Commission Meeting  
November 7, 2013  
Page Two

amendment. I would also ask the Planning Director to request that Council Chairman Sommerville and Councilman Flewelling, Chair of the Natural Resources Committee, be advised of these matters and request their participation in our discussions, if they are so inclined.

With best wishes, I am

Sincerely yours,



David L. Tedder

cc: Jeff and Katherine Lowe (by e-mail only)  
Jason Mann (by e-mail only)

**LAW OFFICE OF DAVID L. TEDDER, P.A.**  
604-A Bladen Street, Beaufort, SC 29902  
(Mailing Address: P.O. Box 1282, Beaufort, SC 29901)  
Telephone: 843-521-4222; Fax: 843-521-0082

October 9, 2013

By e-mail only to [jason.m.mann1@usmc.mil](mailto:jason.m.mann1@usmc.mil)

Mr. Jason M. Mann  
Director, Community Plans and Liason Office  
Marine Corps Air Station Beaufort  
Beaufort, SC 29906

Re: Proposed wholesale/retail store at former 84 Lumber site with flea market

Dear Jason:

We appreciate the timing situation you have been placed with regard to the federal government shutdown, and hope that my reading of the news is correct and that most employees are back at work and will be able to receive their pay by the next pay-day. I am supplying this information in the hope that doing so will make it easier to present the issue raised at Monday evening's Planning Commission meeting to whomever the decision-maker will be. I will also make myself available to discuss personally if the need arises. I believe there are two questions for MCAS; first is what concerns there may be where there is an otherwise allowable use under the Airport Overlay District for MCAS (Appendix A-1 and its AICUZ Suggested Land Use Compatibility Tables that has outdoor activities which are noted to warrant additional evaluation (see Key to Table 2 and Note 1(d) to Table 2), and what procedure to incorporate the concerns and mitigation suggestions from MCAS into the County permitting. The second is the concern, if any, as to the specific use that is the genesis of this text amendment, being the present operations of the retail liquidation business with its flea market on the site sometimes known as the old 84 Lumber site adjacent to the drive-in on Highway 21.

As introductory background, my client, Club Returns, Inc., is a minority owned small business that has purchased the former 84 Lumber site in Burton across Highway 21 from MCAS Beaufort, and has been operating under a temporary permit from Beaufort County. This permit allows the re-use of the warehouse/retail space formerly used by 84 Lumber as its retail showroom and storage/distribution area for Club Return's business, which is the operation of an excess stock distributor and retailer. Generally, large retailers who have over-ordered, or otherwise have surplus stock, sell tractor-trailer loads to my client, who receives the delivery on-site, breaks the cargo up into pallets of materials that are further shipped and distributed to other liquidators elsewhere, or are offered for wholesale or retail sale on-site. From time to time, auctions are held of some of the pallets of items, which generally are purchased by resellers who will either sell their newly acquired goods on-site as a flea market vendor, and/or take them to other sites elsewhere to be sold at other flea markets across the South. This activity is being undertaken in conjunction with a "reality" type television series which has contracted with my client to film on-site. As noted, the excess stock may be sold to vendors who can rent flea market stalls, both inside and outside. The activities outside are taking place under the covered storage areas built for the storage and distribution of the building materials (sometimes known as "T-sheds"). This activity has been in place and fully operational for the last four months. We are unaware of any problems or complaints arising from this operation, and most importantly, no complaints regarding noise from MCAS from the patrons.

Letter to Jason Mann  
Director, Community Plans and Liason Office  
Re: County Text Amendment, adaptive re-use in LI Zone  
Retail Sales and Flea Market on Highway 21  
October 8, 2013  
Page 2

As noted in the application I filed for a text amendment to the Beaufort County Zoning and Development Standards Ordinance (ZDSO), the zoning district for this property is Light Industrial (LI), with the MCAS Airport Overlay (Appendix A-1 of the ZDSO). This property is in Noise Zone 2, 70-74 dnl. The text amendment is necessary to continue this business due to two limitations under the ordinance that arise as a function of the classification of the business as a commercial regional retail operation, which both imposes some size limitations on retail operations in the LI district, and restricts operation of exterior sales in general. That section is attached to my application to the County, with the requested changes and limitations to provide for the adaptive re-use of this site. It is my understanding and recollection of matters during the adoption of the use restrictions in 2000 that the retail use limitation was included in order to preserve areas for industrial/manufacturing in the County, not as a base protection measure against incompatible uses. It is the Joint Land Use Study and the AICUZ appendix that specifically addresses those concerns.

While this adaptive re-use provision could apply to any other site that met the criteria of being an existing built site which has been vacant for more than two years within 1,000 feet of an arterial road and in a Light industrial District, in reality it is very limited in scope. While there was some question raised at the Planning Commission by County staff as to its potential applicability, it is clear that the only area this could possibly occur which is anywhere near MCAS is in the area across from MCAS that extends from Highway 21 westward 1,000 feet between the already owned by MCAS property at Shanklin Road northward to the end of the LI District at the Clarendon Farms property, where its entrance gate is located, approximately 1,000 feet or so South of Clarendon Road. Any existing building to be re-used must be in conformity with the building requirements of the Airport Overlay District for MCAS in any event under the proposed amendment.

Classification of the business is important in applying the use restrictions and conditions under Appendix A-1 of the ZDSO, which uses the Suggested Land Use Compatibility Tables promulgated as part of the Joint Land Use Study Plan of 2004 to determine compatibility of the use to the noise zone involved and what mitigation, if any, is suggested. The Land Use Names in that Table seem to be roughly comparable to categories of the North American Industrial Classification System (NAICS) categories, although the SCLUM Numbering is different. The buildings and storage/pick-up yard on this site were constructed after the adoption of the Airport Overlay in 2004, and it is our understanding were therefore built in compliance with the standards for noise reduction under the Suggested land Use Compatibility Tables. It was permitted through Beaufort County and its staff review.

Under the NAICS manual, retailing a general line of merchandise on an auction basis is classified under Section 453998, "All other Miscellaneous Store Retailers" (Page 450 of the NAICS manual, note at bottom of page), which notes this industry includes establishments primarily engaged in retailing a general line of new and used merchandise on an auction basis. I believe the NAICS classification for the under canopy flea market would be Section 453310 (page 450 of the manual), according to the NAICS index (flea market, used merchandise, permanent, page 1093 of the manual). The title to the 453 industrial classification area is Miscellaneous Store Retailers. Thus, both uses seem to be Miscellaneous Store Retailer. As a receiver of bulk goods for repackaging and shipment elsewhere, it could also be classified as a warehousing and storage distribution center, Section 493110 (page 492 of the manual).

Under the Suggested Land Use Compatibility Table, Section 50 contains the "Trade" categories. All of the listed uses are a "Yes" in Noise Zone 2, with some indicating Noise Level Reduction (NLR)

Letter to Jason Mann  
Director, Community Plans and Liason Office  
Re: County Text Amendment, adaptive re-use in LI Zone  
Retail Sales and Flea Market on Highway 21  
October 8, 2013  
Page 3

measures suggested. Under Section 60, Services, again, all of the listed uses save nursing homes (65.16) and hospitals (65.1) are a "Yes." Warehousing and storage (63.7) is specifically a "Yes", with the notation that NLR should be utilized in the buildings in noise sensitive areas. It therefore appears there is not any problem with the use of the building as a commercial retail center, up to and including as a shopping center. We believe it to be inappropriate to classify the activities on this property under Section 70, Cultural, Entertainment and Recreational, although we would note that eight of the 11 listed uses are deemed compatible.

To the point raised by Tony Criscitiello and in the staff report concerning the "noise difficulties outside the structure" and additional evaluation, we would submit that in this instance, with outdoor sales under the canopies, there is no additional noise problem that was not present as an outdoor building supply center. 84 Lumber operated for years without problem or complaint, and the present operations have been ongoing for months without complaint. The owner is well aware of the location within a noise zone, and the patrons and vendors have not been bothered at all. Just as a reminder, the Navy is extremely conservative in establishing noise levels. It is generally recognized that 70 db is the level of normal conversation:

Normal conversation (3-5') 60-70dB  
Telephone dial tone 80dB  
City Traffic (inside car) 85dB

We would hope that whoever reviews this matter recognize and acknowledge there were 1) years of outdoor sales within this noise zone as purchasers at 84 Lumber picked up building materials out in the storage yard, 2) the owner is presently operating this business without problem or concern, 3) the present building includes the NLR required under the AICUZ standards, 4) no expansion of the building can occur without it being constructed with NLR provisions being considered, and 5) sufficient protections are in place already for the protection of the base through Appendix A-1 of the ZDSO. On the site specific level, we would submit there are no additional measures that are necessary under Note 1(d) regarding building location and site planning, design and use of berms or barriers to mitigate noise exposure, especially since this is an adaptive re-use of existing buildings and the operation of the business has not caused any concerns to surface that would indicate these are needed.

Insofar as there may be some other site that could apply for a commercial regional use with outdoor sales, and the procedure to be used to incorporate MCAS concerns and suggestions, we would note many of the uses allowed under the Suggested Land Use Compatibility Tables have outdoor aspects to them; vehicle sales particularly come to mind. The present ordinance does not require submission as a Special Use where these other types of allowable uses have outdoor aspects, and to my knowledge, this issue has not been a concern for the nearly ten years the Airport Overlay has been in effect.

I see no particular need for the Zoning Board of Appeals to be tasked with evaluating noise difficulties outside that may arise from any particular use or application; it would seem that Beaufort's DRT could examine the matter, with input from MCAS, and through usage of recognized decibel exposure standards (For example, see the attached chart based on National Institute of Occupational Health and Center for Disease Control standards), common sense and judgment, reach a collaborative solution and decision with the applicant as to whether the proposed outdoor activity presented an opportunity for a risk of harm to the health and safety of occupiers of the property. We would submit that should staff and the applicant be in disagreement, that is the point at which the matter should go to the

Letter to Jason Mann  
Director, Community Plans and Liason Office  
Re: County Text Amendment, adaptive re-use in LI Zone  
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Zoning Board of Appeals for determination. To that end, perhaps an insertion in the ordinance that for any adaptive re-use of a property subject to the overlay which includes exterior sales, an advisory opinion is to be obtained from MCAS (similar to the procedure for a variance, see Section 8 of Appendix A-1) regarding compatibility and recommended noise reduction measures to prevent prolonged exposure beyond that recommended by recognized governmental standards, and in the event of a dispute with the DRT conditions, appeal would be to the ZBOA.

I have probably given too much information, but I would rather you have too much than not enough. Again, if there is some use in having a meeting to discuss, I will make myself available.

Best Wishes,

David L. Tedder

cc: Tony Criscitiello, Planning Director (By e-mail only)  
Katherine and Jeff Lowe, Club Returns, Inc. (By e-mail only)

- 332323 Flagpoles, metal, manufacturing  
 321999 Flagpoles, wood, manufacturing  
 314999 Flags, textile (e.g., banners, bunting, emblems, pennants), made from purchased fabrics  
 212311 Flagstone mining or quarrying  
 327991 Flagstones cutting  
 331314 Flakes, aluminum, made from purchased aluminum  
 331221 Flakes made from purchased iron or steel  
 331111 Flakes, iron or steel, made in steel mills  
 332995 Flame throwers manufacturing  
 332919 Flanges and flange unions, pipe, metal, manufacturing  
 325998 Flares manufacturing  
 335110 Flash bulbs, photographic, manufacturing  
 335129 Flashlights manufacturing  
 421610 Flashlights wholesaling  
 313249 Flat (i.e., warp) fabrics knitting  
 327211 Flat glass (e.g., float, plate) manufacturing  
 421390 Flat glass wholesaling  
 334119 Flat panel displays (i.e., complete units), computer peripheral equipment, manufacturing  
 332612 Flat springs (except clock, watch), light gauge, manufacturing  
 332611 Flat springs, heavy gauge, manufacturing  
 336212 Flatbed trailers, commercial, manufacturing  
 421220 Flatware (except plated, precious) wholesaling  
 332211 Flatware, nonprecious and precious plated metal, manufacturing  
 421940 Flatware, precious and plated, wholesaling  
 311942 Flavor extracts (except coffee) manufacturing  
 311511 Flavored milk drinks manufacturing  
 311930 Flavoring concentrates (except coffee based) manufacturing  
 422490 Flavoring extracts (except for fountain use) wholesaling  
 325199 Flavoring materials (i.e., basic synthetic chemicals such as coumarin) manufacturing  
 311930 Flavoring pastes, powders, and syrups for soft drink manufacturing  
 111120 Flaxseed farming, field and seed production  
 311225 Flaxseed oil made from purchased oils  
 311223 Flaxseed oil made in crushing mills  
 531190 Flea market space (except under roof) rental or leasing  
 531120 Flea market space, under roof, rental or leasing  
 454390 Flea markets, temporary location, direct selling  
 453310 Flea markets, used merchandise, permanent  
 325320 Flea powders or sprays manufacturing  
 334112 Flexible (i.e., floppy) magnetic disk drives manufacturing  
 332999 Flexible metal hose and tubing manufacturing  
 322221 Flexible packaging sheet materials (except foil-paper laminates) made by coating or laminating purchased paper  
 322225 Flexible packaging sheet materials made by laminating purchased foil  
 334412 Flexible wiring boards, bare, manufacturing  
 323122 Flexographic plate preparation services  
 323112 Flexographic printing (except books, manifold business forms, printing grey goods)  
 333293 Flexographic printing presses manufacturing  
 334511 Flight and navigation sensors, transmitters, and displays manufacturing  
 611519 Flight attendant schools  
 334511 Flight recorders (i.e., black boxes) manufacturing  
 333319 Flight simulation machinery manufacturing

- Retailing used curios and novelties—are classified in Industry 453310, Used Merchandise Stores.

#### 4533 Used Merchandise Stores<sup>CAN</sup>

#### 45331 Used Merchandise Stores<sup>CAN</sup>

See industry description for 453310 below.

#### 453310 Used Merchandise Stores<sup>CAN</sup>

This industry comprises establishments primarily engaged in retailing used merchandise, antiques, and secondhand goods (except motor vehicles, such as automobiles, RVs, motorcycles, and boats; motor vehicle parts; tires; and mobile homes).

#### *Illustrative Examples:*

Antique shops  
Used book stores  
Used clothing stores

Used household-type appliance stores  
Used merchandise thrift shops  
Used sporting goods stores

#### *Cross-References.* Establishments primarily engaged in—

- Retailing used merchandise via electronic home shopping, mail-order, or direct sale—are classified in Subsector 454, Nonstore Retailers;
- Operating pawnshops—are classified in U.S. Industry 522298, All Other Nondepository Credit Intermediation;
- Retailing used automobiles—are classified in Industry 441120, Used Car Dealers;
- Retailing used automobile parts (except tires and tubes)—are classified in Industry 441310, Automotive Parts and Accessories Stores;
- Retailing used tires—are classified in Industry 441320, Tire Dealers;
- Retailing used mobile homes—are classified in Industry 453930, Manufactured (Mobile) Home Dealers;
- Retailing used motorcycles—are classified in U.S. Industry 441221, Motorcycle Dealers;
- Retailing used recreational vehicles—are classified in Industry 441210, Recreation Vehicle Dealers;
- Retailing used boats—are classified in U.S. Industry 441222, Boat Dealers;
- Retailing used aircraft, snowmobiles, and utility trailers—are classified in U.S. Industry 441229, All Other Motor Vehicle Dealers; and
- Retailing a general line of used merchandise on an auction basis (not for others)—are classified in U.S. Industry 453998, All Other Miscellaneous Store Retailers (except Tobacco Stores).

US—United States industry only. CAN—United States and Canadian industries are comparable. When neither US nor CAN appears, Canadian, Mexican, and United States industries are comparable.

<http://www.ntis.gov/naics>

- Retailing manufactured homes (i.e., mobile homes)—are classified in Industry 45393, **Manufactured (Mobile) Home Dealers**;
- Retailing new books—are classified in Industry 45121, **Book Stores and News Dealers**;
- Retailing new jewelry (except costume jewelry)—are classified in Industry 44831, **Jewelry Stores**;
- Retailing new costume jewelry—are classified in Industry 44815, **Clothing Accessories Stores**; and
- Retailing used merchandise (except automobiles, RVs, mobile homes, motorcycles, boats, motor vehicle parts, and tires)—are classified in Industry 453310, **Used Merchandise Stores**.

#### 453991 Tobacco Stores<sup>US</sup>

This U.S. industry comprises establishments primarily engaged in retailing cigarettes, cigars, tobacco, pipes, and other smokers' supplies.

##### *Illustrative Examples:*

|                                    |                        |
|------------------------------------|------------------------|
| Cigar stores                       | Smokers' supply stores |
| Cigarette stands (i.e., permanent) | Tobacco stores         |

##### *Cross-References.*

Establishments primarily engaged in retailing tobacco products and supplies via electronic home shopping, mail-order, or direct sale are classified in Subsector 454, **Nonstore Retailers**.

#### 453998 All Other Miscellaneous Store Retailers (except Tobacco Stores)<sup>US</sup>

This U.S. industry comprises establishments primarily engaged in retailing specialized lines of merchandise (except motor vehicle and parts dealers; furniture and home furnishings stores; electronic and appliance stores; building material and garden equipment and supplies dealers; food and beverage stores; health and personal care stores; gasoline stations; clothing and clothing accessories stores; sporting goods, hobby, book and music stores; general merchandise stores; florists; office supplies, stationery and gift stores; used merchandise stores; pet and pet supplies stores; art dealers; manufactured home (i.e., mobile homes) dealers; and tobacco stores). This industry also includes establishments primarily engaged in retailing a general line of new and used merchandise on an auction basis.

##### *Illustrative Examples:*

|   |   |
|---|---|
| Art supply stores   | Flower shops, artificial or dried       |
| Candle shops  | General merchandise auction houses      |
| Cemetery memorial (e.g., headstones, markers, vaults) dealers | Home security equipment stores          |
| Collectors' items (e.g., autograph, coin, card, stamp) shops  | Hot tub stores                          |
| Fireworks shops (permanent location)                          | Swimming pool supply stores             |
|   | Trophy (e.g., awards and plaques) shops |

US—United States industry only. CAN—United States and Canadian industries are comparable. When neither US nor CAN appears, Canadian, Mexican, and United States industries are comparable.



# Decibel Exposure Time Guidelines

*How loud is too loud?*

## Exposure Time Guidelines

Accepted standards for recommended permissible exposure time for continuous time weighted average noise, according to NIOSH and CDC, 2002. For every 3 dBAs over 85dBA, the permissible exposure time before possible damage can occur is cut in half.

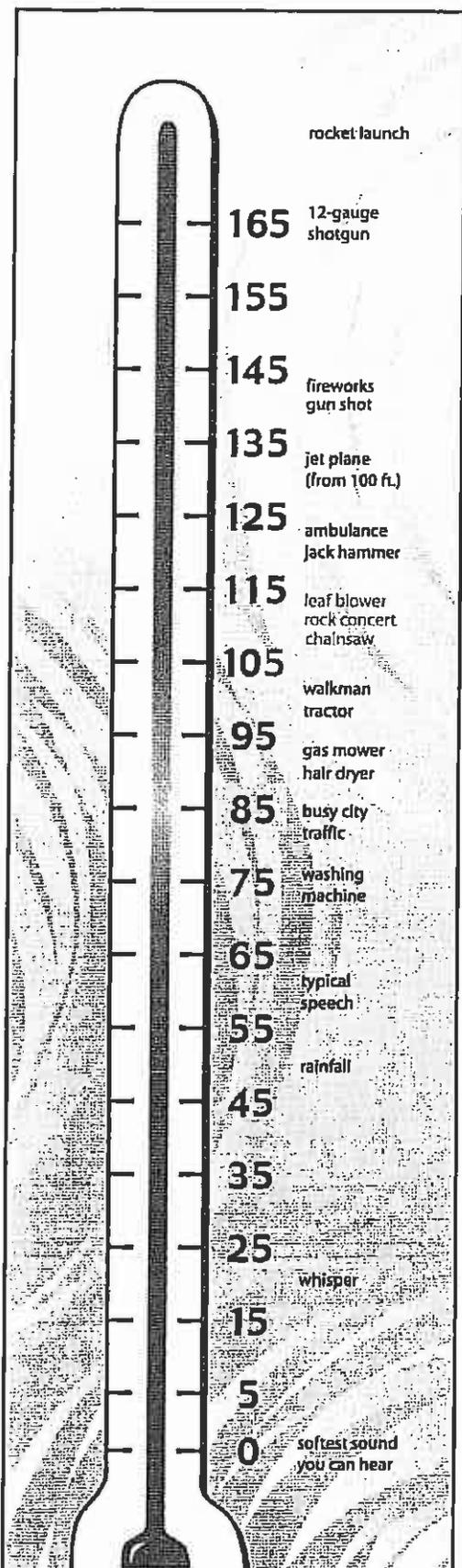
| Continuous dB | Permissible Exposure Time |
|---------------|---------------------------|
| 85 dB         | 8 Hours                   |
| 88 dB         | 4 hours                   |
| 91 dB         | 2 hours                   |
| 94 dB         | 1 hour                    |
| 97 dB         | 30 minutes                |
| 100 dB        | 15 minutes                |
| 103 dB        | 7.5 minutes               |
| 106 dB        | 3.75 minutes (< 4 min)    |
| 109 dB        | 1.875 minutes (< 2 min)   |
| 112 dB        | .9375 min (~ 1 min)       |
| 115 dB        | .46875 min (~ 30 sec)     |

## The Noise Navigator®: a database of over 1700 noise sources.

Developed by Elliott Berger, MS, Senior Scientist with 3M Occupational Health and Environmental Safety Division.

- Noise Navigator Spreadsheet - [http://www.e-a-r.com/pdf/hearingcons/Noise\\_Nav.xls](http://www.e-a-r.com/pdf/hearingcons/Noise_Nav.xls) – see the tabs at the bottom of the page to find sound levels for settings occupational, non-occupational, military, aircraft, etc.
- E.A.R. Hearing Conservation FAQs - [http://www.e-a-r.com/hearingconservation/faq\\_main.cfm](http://www.e-a-r.com/hearingconservation/faq_main.cfm) (Visit this link for a list of interesting articles and graphics.)

(See item 2 on this list of interesting articles and graphics.)





UNITED STATES MARINE CORPS  
MARINE CORPS AIR STATION  
BEAUFORT, SOUTH CAROLINA 29904-5001

11000  
Memo 13/01  
04 Nov 2013

MEMORANDUM

From: Community Plans & Liaison Officer, Marine Corps Air Station  
Beaufort

To: Planning Director, Beaufort County, South Carolina

Subj: ZONING TEXT AMENDMENT 2013-07

Ref: (1) Beaufort County Planning Director e-mail of 23 Oct 2013  
(2) Beaufort County Staff Report for Zoning Text Amendment  
2013-07  
(3) Beaufort County Zoning and Development Standards  
Ordinance  
(4) David Tedder ltr of 09 Oct 2013

1. This memorandum is to provide Air Station input requested at the 07 Oct 2013 Planning Board Meeting and by the Beaufort County County Planning Director (ref 1).

2. The Air Station appreciates the County Planning Board's willingness to allow the Air Station time to review this important matter.

3. The first area of concern has to do with the nature of the proposed text amendment.

a. Permitting regional commercial uses in the Light Industrial Zoning District inherently allows for increased risk of incompatible development and negative impacts on public health and safety. Should such negative impacts come about, they could lead to curtailment of Air Station operations in the long term. Per the County's staff report (ref 2), there are significant amounts of land zoned Light Industrial in high noise zones and Accident Potential Zones (APZ) that currently fall under the Beaufort County Airport Overlay District (AOD).

b. The Beaufort County Zoning and Development Standards Ordinance (ZDSO) states that the intent of the AOD is to "promote the health, safety and general welfare of the inhabitants of the county by preventing the creation,

Subj: ZONING TEXT AMENDMENT 2013-07

establishment or maintenance of hazards to aircraft, preventing the destruction or impairment of the utility of the airports in the county and the public investment therein and protecting the lives and properties of owners or occupants of lands in the vicinity of airports as well as the users of airports; and to aid and implement the overriding federal interest in the safe operation of airports and the security of land surrounding airports" (ref 3). The proposed text amendment (with county staff recommendations to make it a Special Use Permit process) would allow for a wide variety of commercial uses that the current AOD has treated as incompatible to date. This would allow many such uses at a time when the Air Station's operational tempo is set to increase significantly from what the community has grown accustomed to in recent years. With the increased operations comes the increased potential for negative effects on businesses that develop under the proposed text amendment, public safety and welfare, and thus, increased risk to the Air Station's operations.

4. The second area of concern is the impact that projects approved under the proposed text amendment may have on individual residents, the business community, and Air Station operations.

a. The proposed text amendment applies to the whole County, but it is worded (per Mr. Tedder's letter (ref 4)) so that it will be applicable almost exclusively in the vicinity of the Air Station. The letter also expresses that the fact that the text amendment is limited in scope because of its limited objective. That objective is a flea market at the old 84 Lumber site with an outdoor sales component.

b. The proposed use of a flea market with an outdoor sales component could be reasonably coded as 55, 56, 57, or 59 (all retail trade codes) per the Department of the Navy's Suggested Land Use Compatibility Manual (SLUCM). This manual should be consulted for compatibility guidance under the proposed text amendment. The manual would call for each of those uses to provide noise reduction of all structures at the old 84 Lumber site. The SLUCM provides additional guidance on the retail trade codes requiring noise reduction, stating "measures to achieve an overall noise reduction do not necessarily solve noise difficulties outside the structure and additional

Subj: ZONING TEXT AMENDMENT 2013-07

evaluation is warranted." Due to the nature of outside sales under shelters or in booths, such noise reduction cannot be achieved for those "structures" where business is conducted, and therefore the proposed use (flea market with outdoor sales) driving the amendment would not be permitted by the language in the proposed amendment.

c. The Air Station is concerned about the potential health effects from prolonged and repeated exposure to high noise levels people could suffer in their place of work (vendors in outdoor sales area) should a use such with outdoor sales locate in a high noise zone.

d. This is precisely the type of use that the Air Station is concerned about moving into the AICUZ because of the high potential for negative health impacts on people who work and shop there and have the strong possibility of triggering complaints curtailing our operations, and thus our long term viability in the community. While the petitioner states that there have been no noise complaints with flea markets attendees to date, this does not preclude possible complaints and legal actions from future vendors and shoppers. Such uses are not allowed under current regulations.

5. Additionally, at the last meeting some of the following topics were discussed.

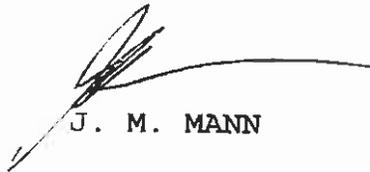
a. The previous use on that site (a lumber yard) would be coded 52 (Retail trade - building materials, hardware and farm equipment), or 51 (Wholesale trade) under the SLUCM. These have a less stringent noise reduction requirement than the retail trade uses listed above, and therefore, a flea market with outdoor sales would constitute a change in use that would trigger the need for noise attenuation, which cannot be achieved outdoors.

b. There was some discussion about the fact that the SLUCM allows for outdoor recreational uses in high noise areas, and also calls for noise reduction. The director of the Department of the Navy's Air Installation Compatible Land Use Zone (AICUZ) center of excellence has stated that the noise reduction levels at such uses were intended to apply to structures such as pro shops at golf courses, not the golf courses themselves since such noise reduction was impossible to achieve.

Subj: ZONING TEXT AMENDMENT 2013-07

c. The applicant contended that Air Station noise would not bother the flea market operators and customers because they know they are located next to an active Air Station. The Air Station is not against any land owner making the highest and best use of their property, but our overriding concerns are public health, safety, and mission accomplishment. The Air Station is on the verge of an historic increase of flight operations that is significantly higher than what the community is accustomed to, wants no part in decreasing public health and safety, nor to negatively impact a local business that may suffer financially due to the effect of high noise in the future.

6. These are some serious and substantive concerns that we hope will be addressed in the review process and resolved in such a way to prevent any increased risk to public health, safety, or the Air Station's operations.



J. M. MANN



# MEMORANDUM

**To:** Beaufort County Planning Commission  
**From:** Tony Criscitiello, Planning Director *T.C.*  
**Subject:** Amendment to the ZDSO  
**Date:** November 22, 2013

---

## A. BACKGROUND:

**Case No.** ZTA 2013-10  
**Applicant:** Frank Roberts  
**Proposed Text Change:** Amendment to allow Commercial Docks on Small Tidal Creeks for Mariculture Uses

## B. SUMMARY OF REQUEST:

The applicant owns the Lady's Island Oyster Farm and would like to utilize a property on Trask Parkway to process and ship raw oysters to market. While this use is permitted under the property's zoning, it requires a commercial dock to unload the oysters. The property is adjacent to a small tidal creek. The ZDSO currently prohibits commercial docks on small tidal creeks, except within Commercial Fishing Village Overlay Districts. In order ensure that harvested oysters are placed under refrigeration as soon as possible, and to facilitate access to major markets via major thoroughfares, the applicant is requesting that commercial docks associated with mariculture enterprises be allowed in small tidal creeks outside of commercial fishing villages.

The applicant is proposing the following text amendment, shown as ~~strike through~~ for deletions and underlined for additions:

### Sec. 106-1912. Water dependant uses

- (b) *Docks, piers, and wharfs.*
  - (1) Tidal creeks and shallows are the most sensitive, ecologically, and are, therefore, being regulated.

- (2) Small tidal creeks and shallows, which fall within the county, are defined as those bodies of water, [being tidally influenced] as per the Beaufort County official small tidal creek delineation map. Private docks and community docks in small tidal creeks may be allowed on both existing lots of record, and new subdivisions under the following criteria:
- h. The use of docks shall be limited to private, non-commercial uses, unless allowed for it is associated with an upland property productively in use as an on-going mariculture enterprise, and in possession of a current mariculture permit issued by the state of South Carolina for the purpose of growing mollusk shellfish. Also, the use of docks on small tidal creeks dedicated to commercial fishing or shrimping is permitted as part of a Commercial Fishing Village Overlay District.

*(Note: The remainder of Sec. 106-1912 is unaffected.)*

### C. ANALYSIS:

The seafood industry has strong cultural and economic ties to Beaufort County. Today, however; the industry is in decline, even though the demand for fresh, local seafood is still high. There are many factors related to this decline, including fuel costs and foreign competition. From a land use standpoint, rising land values have put a premium on waterfront property and made it very expensive to purchase new land for waterfront access for new seafood businesses. At the same time, increased residential development on waterfront properties has created the potential for conflicts between property owners and those harvesting and processing shellfish.

In 2000, the County established the Commercial Fishing Village Overlay District (CFVO) to provide for the maintenance and enhancement of the commercial seafood industry in those areas of the county that have traditionally been working waterfronts (see attached map). These areas; however, do not necessarily meet the needs of shellfish growers, which include being near to major thoroughfares for easy access to markets, and the need to process and refrigerate the shellfish close to where they are cultivated and harvested.

The County's small tidal creek regulations were also adopted in 2000, and prohibit commercial docks, except in CFVO districts. This regulation is intended to protect these fragile waterways from negative impacts associated with commercial watercraft (fuel emissions, and turbidity and erosion from boat wakes, for example). A copy of the Official Beaufort County Small Tidal Creeks and Shallows map is attached. Unlike the commercial fishing or shrimping industries, shellfish harvesting typically requires much smaller boats. Opening up small tidal creeks to commercial docks associated with an ongoing mariculture enterprise could greatly increase the opportunity for this type of industry to thrive in Beaufort County without negatively impacting these creeks.

The Cultural Resources Chapter of the Beaufort County Comprehensive Plan (2010) contains the following recommendation:

Recommendation 6-5 – Beaufort County should protect and enhance the local seafood industry by proactively working to preserve existing working waterfronts and allowing for the expansion of commercial fishing operations where appropriate.

The applicant's request to allow commercial docks in small tidal creeks for mariculture activities (growing mollusk shellfish) would allow for the expansion of the seafood industry in the County. The proposal to limit these docks to those upland properties with approval to conduct mariculture activities will regulate where these docks can be located. Mariculture (the cultivation of shellfish in seawater) is included under the definition of "Agriculture" in the General Use Table of the ZDSO. It is permitted in all of the County's rural zoning districts, in the rural community preservation areas (e.g. May River, Dale, Seabrook/Stewart Point, Corners), and as a special use in the Resource Conservation District.

**D. STAFF RECOMMENDATION:**

Section 106-493 of the ZDSO lists seven standards (shown below), any of which is cause for a Zoning Text Amendment:

1. **It would implement a new portion of the comprehensive plan or amendment.** (N/A)
2. **It would implement and better achieve the comprehensive plan's goals and objectives that have proved difficult to achieve under the ordinance's existing provisions.** (See above analysis)
3. **The ordinance's provisions were inconsistent or unreasonable in light of standards for similar uses.** (N/A)
4. **It is necessary to respond to state and/or federal legislation.** (N/A)
5. **It provides additional flexibility in meeting the ordinance's objectives without lowering the ordinance's general standards.** (See above analysis)
6. **It addresses a new use, changing conditions, and/or clarifies existing language.** (N/A)
7. **It clarifies the ordinance or makes adjustments to account for interpretation.** (N/A)

After review of these standards, staff recommends **Approval** of the requested amendment to Section 106-1912 (Water Dependent Uses) of the ZDSO to allow commercial docks on Small Tidal Creeks for mariculture uses.

**E. ATTACHMENTS:**

- Maps showing Small Tidal Creeks and Commercial Fishing Village Overlay Districts
- Copy of application for Zoning Text Amendment



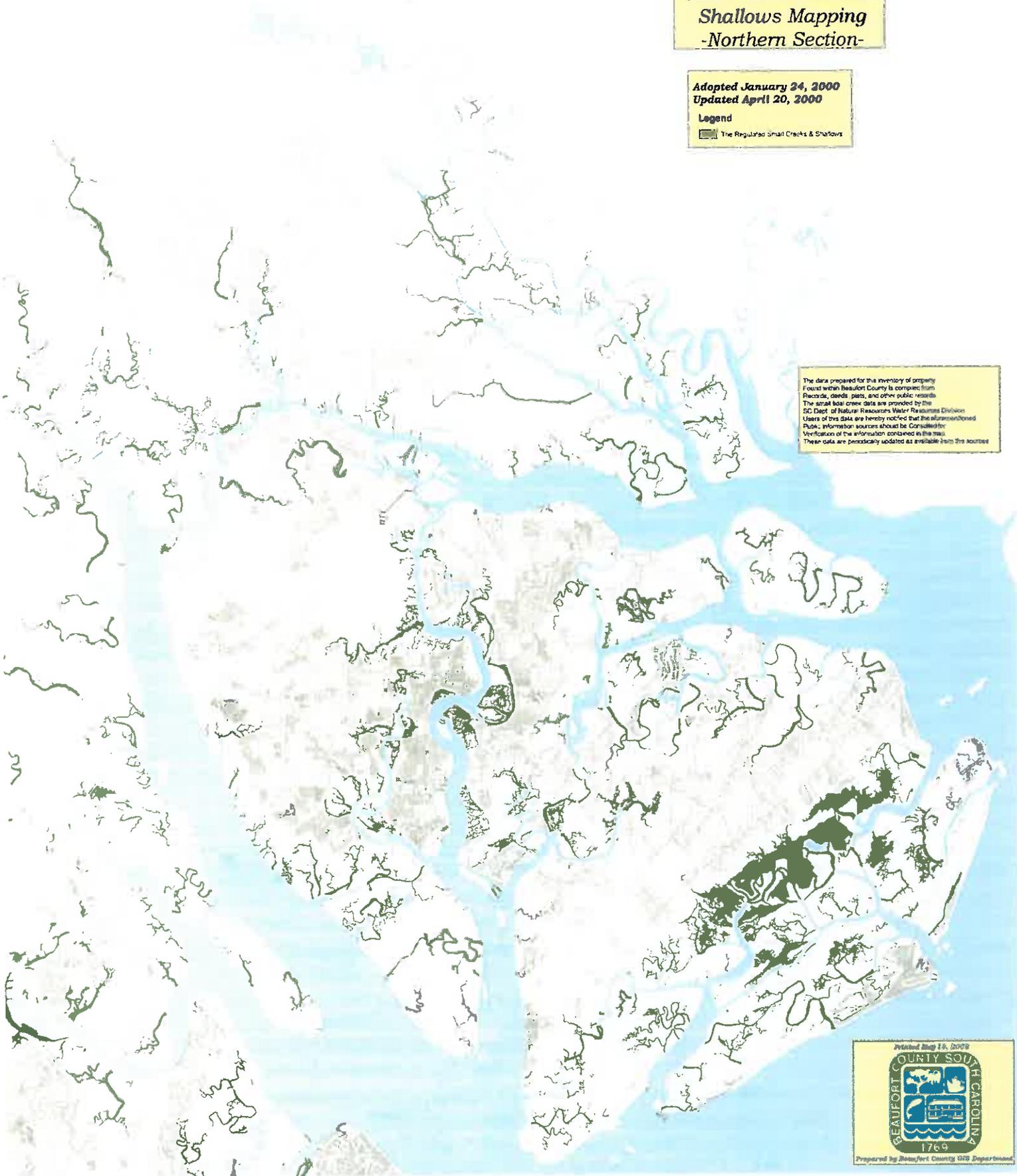
**The Official  
Beaufort County  
Small Tidal Creeks &  
Shallows Mapping  
-Northern Section-**

**Adopted January 24, 2000  
Updated April 20, 2000**

**Legend**

 The Regulated Small Creeks & Shallows

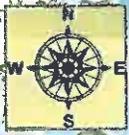
The data prepared for the inventory of property  
found within Beaufort County is compiled from  
Records, deeds plans, and other public records.  
The small tidal creek data are provided by the  
SC Dept. of Natural Resources Water Resources Division.  
Users of this data are hereby notified that the above mentioned  
Public Information sources should be consulted for  
Verification of the information contained in this map.  
These data are periodically updated as available from the sources.



*The Official  
Beaufort County  
Small Tidal Creeks &  
Shallows Mapping  
-Southern Section-*

*Adopted January 24, 2000  
Updated April 20, 2000*

**Legend**  
The Regulated Small Creeks & Shallows



The data prepared for this inventory of property found within Beaufort County is compiled from records, deeds, plats, and other public records. The small tidal creek data are provided by the SC Dept. of Natural Resources Water Resources Division. Users of this data are hereby notified that the aforementioned public information sources should be consulted for verification of the information contained in the map. These data are periodically updated as available from the sources.

Printed May 19, 2004

Prepared by Beaufort County GIS Department

Chapter  
6  
Cultural  
Resources

Map 6-1

Working  
Waterfronts

-  Commercial Fishing Village Overlay District
-  Working Waterfronts

2008  
Beaufort County  
Comprehensive  
Plan



**BEAUFORT COUNTY, SOUTH CAROLINA**  
**PROPOSED ZONING AND DEVELOPMENT STANDARDS ORDINANCE (ZDSO)**  
**ZONING MAP / TEXT AMENDMENT / PUD MASTER PLAN CHANGE APPLICATION**

TO: Beaufort County Council

The undersigned hereby respectfully requests that the Beaufort County Zoning/Development Standards Ordinance (ZDSO) be amended as described below:

1. This is a request for a change in the (check as appropriate):  PUD Master Plan Change  
 Zoning Map Designation/Rezoning  Zoning & Development Standards Ordinance Text
  
2. Give exact information to locate the property for which you propose a change:  
Tax District Number: \_\_\_\_\_, Tax Map Number: \_\_\_\_\_, Parcel Number(s): 100-015-011  
Size of subject property: \_\_\_\_\_ Square Feet / Acres (circle one)  
Location: 2151 Trask Parkway
  
3. How is this property presently zoned? (Check as appropriate)  
 Urban/U  Community Preservation/CP  Light Industrial/LI  
 Suburban/S  Commercial Regional/CR  Industrial Park/IP  
 Rural/R  Commercial Suburban/CS  
 Rural Residential/RR  
 Rural Business/RB  Research & Development/RD  Resource Conservation/RC  
 Planned Unit Development/PUD
  
4. What new zoning do you propose for this property? NA  
(Under Item 10 explain the reason(s) for your rezoning request.)
  
5. Do you own all of the property proposed for this zoning change? Yes  No  
Only property owners or their authorized representative/agent can sign this application. If there are multiple owners, each property owner must sign an individual application and all applications must be submitted simultaneously. If a business entity is the owner, the authorized representative/agent of the business must attach: 1- a copy of the power of attorney that gives him the authority to sign for the business, and 2- a copy of the articles of incorporation that lists the names of all the owners of the business.
  
6. If this request involves a proposed change in the Zoning/Development Standards Ordinance text, the section(s) affected are: 106-1912 water dependent uses (b) (4)  
(Under Item 9 explain the proposed text change and reasons for the change.)
  
7. Is this property subject to an Overlay District? Check those which may apply:  
 AOD - Airport Overlay District  MD - Military Overlay District  
 COD - Corridor Overlay District  RQ - River Quality Overlay District  
 CPOD - Cultural Protection Overlay District
  
8. The following sections of the Beaufort County ZDSO (see attached sheets) should be addressed by the applicant and attached to this application form:
  - a. Section 106-492, Standards for zoning map amendments.
  - b. Section 106-493, Standards for zoning text amendments.
  - c. Sections 106-2441 and 106-2442. General and Special Considerations for Planned Unit Developments (PUDs)
  - d. Section 106-2450, Traffic Impact Analysis (for PUDs)

9. Explanation (continue on separate sheet if needed): See Attachment # 1

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proof for the proposed amendment rests with the owner.

Signature of Owner: [Signature] Date: 10/24/13  
Printed Name: Frank Roberts Telephone Number: 843 473 5018  
Address: 16 Marsh Oates Ln Seabrook SC 29940  
Email: Ledgioster@emborgmail.com  
Agent (Name/Address/Phone/email): \_\_\_\_\_

FOR MAP AMENDMENT REQUESTS, THE PLANNING OFFICE WILL POST A NOTICE ON THE AFFECTED PROPERTY AS OUTLINED IN SEC. 106-402(D) OF THE BEAUFORT COUNTY ZDSO.

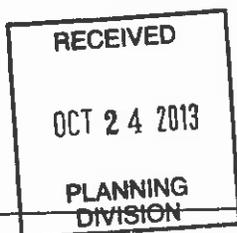
UPON RECEIPT OF APPLICATIONS, THE STAFF HAS THREE (3) WORK DAYS TO REVIEW ALL APPLICATIONS FOR COMPLETENESS. THE COMPLETED APPLICATIONS WILL BE REVIEWED FIRST BY THE BEAUFORT COUNTY PLANNING COMMISSION SUBCOMMITTEE RESPONSIBLE FOR THE AREA WHERE YOUR PROPERTY IS LOCATED. MEETING SCHEDULES ARE LISTED ON THE APPLICATION PROCESS (ATTACHED). COMPLETE APPLICATIONS MUST BE SUBMITTED BY NOON FOUR (4) WEEKS PRIOR FOR PLANNED UNIT DEVELOPMENTS (PUDs) OR THREE (3) WEEKS PRIOR FOR NON-PUD APPLICATIONS TO THE APPLICABLE SUBCOMMITTEE MEETING DATE.

PLANNED UNIT DEVELOPMENT (PUD) APPLICANTS ARE REQUIRED TO SUBMIT FIFTEEN (15) COPIES TO THE PLANNING DEPARTMENT. CONSULT THE STAFF PLANNER FOR DETAILS.

CONTACT THE PLANNING DEPARTMENT AT (843) 255-2140 FOR EXACT APPLICATION FEES.

FOR PLANNING DEPARTMENT USE ONLY:

Date Application Received:  
(place received stamp below)



Date Posting Notice Issued: NA

Application Fee Amount Received: \$250<sup>00</sup>

Receipt No. for Application Fee: 218076

## Text Amendment

The proposed text amendment is to address the emerging mariculture businesses regarding the use of private docks within Beaufort County. The current county codes do not address this issue. Lady's Island Oyster Farm is currently located at 2151 Trask Parkway. This location is currently zoned to allow farm/mariculture. This location is favorable for farming/mariculture do to its historical and current farming operations. This location is also well suited for mariculture operations which allows for the harvest of shellfish from state certified leases and processing said shellfish within the stated time limit prescribed by the U. S. F.D.A. This location is next to a major thoroughfare which allows us to deliver our "whole in shell oysters" in a cost effective manner while keeping the company's carbon footprint as low as possible. The use of a private dock at this location also puts us within a short travel time, using small boats equipped with ultra-low emission engines which are used to maintain and harvest oysters.

The reasons described above for acquiring 2151 Trask Parkway are the cornerstone of a successful mariculture operation. Being in close proximity to the oyster leases and the customer base are what allow us to deliver a superior product. The current Commercial Fishing Villages text does not address mariculture or its relationship with the upland activities necessary to deliver a fresh and safe product in an efficient manner.

The current county code section 106-1912- Water Dependent Uses (b) (h) states "the use of docks shall be limited to private, noncommercial uses, unless allowed for as part of a Commercial Fishing Village Overlay District".

I propose adding the text below to 106-1912-Water Dependent Uses (b) (h);

The use of docks on small tidal creeks shall be limited to private, noncommercial uses, unless it is associated with an upland property productively in use as an on-going mariculture enterprise, and in possession of a current mariculture permit issued by the state of South Carolina for the purpose of growing mollusk shellfish. Also, the use of docks on small tidal creeks dedicated to commercial fishing or shrimping is permitted as part of a Commercial Fishing Village Overlay District.



Anthony Criscitiello, Planning Director  
Beaufort County Council Planning Department  
100 Ribaut Rd, Room 115  
Beaufort SC 29901-1228

October 21, 2013

Dear Mr. Criscitiello,

As requested, please find attached a document describing the South Carolina shellfish mariculture industry. This document is provided as an educational resource for you and your staff. It provides an overview of growing methods, the product and markets, and regulations governing the industry. It closes with remarks on how shellfish mariculture is considered in Beaufort County's plans and regulations. I have also included a list of resources you may find useful.

Please do not hesitate to contact me should you have any further questions. I am always happy to help.

Kind regards,

A handwritten signature in cursive script that reads "Julie Davis".

Julie Davis, MSc.  
Living Marine Resources Extension Specialist  
SC Sea Grant Consortium  
Ph. 843-255-6060 ext 112  
julie.davis@scseagrant.org

October 21, 2013

## **Overview of the Shellfish Mariculture Industry in South Carolina**

### **What is Shellfish Mariculture?**

Shellfish mariculture (or shellfish farming) is the cultivation of shellfish in saltwater and typically refers to the cultivation of bivalve molluscan shellfish (i.e. oysters, clams, mussels, scallops). Shellfish farming is one of many entrepreneurial opportunities for citizens of rural coastal communities. Shellfish farming is practiced throughout the US and Canada and is a significant contributor to the economy in many areas including Virginia, Washington State, and the northeastern US. Shellfish farming is a good option for people already involved in the seafood industry because it keeps independent watermen at work doing what they love, which is being on the water.

### **Shellfish Growing Methods**

Shellfish farming methods are tailored to the local environment. Different methods are used in different areas and must be tailored to local hydrodynamics, predators, permitting needs, substrate, and logistical needs. Shellfish may be farmed on extensive bottom leases or more intensively using cages. Methods differ depending on what species of shellfish you are growing. Clams can be spread on the bottom and protected by a net covering or, if you're employing more intensive methods, clams can be contained within soft mesh bags which are staked to the bottom. Farm-raised clams take approximately two years to reach harvest size. When growing oysters on a bottom lease, a farmer typically spreads a cultch material (old shell or other hard substrate) over the soft bottom in order to provide a place for baby oysters to settle. Without the cultch material the baby oysters would suffocate in the mud and die. Frequent planting of cultch material and selective harvesting of a bottom lease can be a very productive way to farm oysters. If a farmer is looking to produce a premium single oyster he/she may grow oyster using more intensive methods. These methods involve producing or procuring single-set oyster seed (baby oysters 2-10mm long) from an approved hatchery. These oysters have been settled on a single grain of sand which allows them to grow in a more uniform shape for their whole life as long as they are not crowded. These seed are placed in mesh bags which are then placed in a cage (typically made of plastic coated wire mesh). Cages can vary in design but are typically raised off the sea bottom to allow the oysters to feed more efficiently. The mesh bags ensure the oyster seed are protected from predators such as rays and crabs. Farm-raised oysters generally take 1-1.5 years to reach harvest size.

The main keys to success in raising shellfish is to ensure the shellfish do not become too crowded at any point between planting and harvest and that they do not become overgrown with other animals (i.e. boring sponge, barnacles, etc.). The farmer must take great care to routinely reduce the density of animals in the bags to avoid misshapen or stunted clams or oysters. Routine maintenance is required to keep overgrowth in-check. All maintenance is accomplished

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by hand or by using very simple mechanized tools (i.e. tumblers and sorters). Shellfish growers never use fertilizers, drugs, antibiotics, or chemicals on their animals.

### **Shellfish Mariculture and the Environment**

Shellfish mariculture provides numerous ecosystem services, which means it is good for the environment. Bivalve molluscan shellfish, such as clams, oysters, and mussels, are filter feeders that eat microscopic plants (phytoplankton) that grow in the water, this helps keep our coastal waters clean and mitigate the impacts of increased coastal development. An individual oyster may filter as much as 50 gallons of water per day. Oyster cages, much like oyster reefs, provide nursery habitat for numerous estuarine species. Clams bury into the sediment and help aerate submerged soils when burrowing. On culture grounds, shellfish growers help keep our oyster populations healthy by spreading shell material on the bottom which ensures future generations of oysters have a place to settle and grow.

### **The Product and The Market for Farm-Raised Shellfish**

The majority of oysters and clams grown on culture leases, and typically all shellfish grown on mariculture leases, are destined for high-value markets. This is due, in part, to the higher cost associated with cultivating the product and secondly, with the premium attributes of the product that can only be achieved in a culture environment (i.e. shape, uniformity, consistency). Farm-raised oysters, for instance, are a single oyster destined for the premium half-shell market. They are delivered to the restaurant whole, in the shell, and shucked when the customer orders them. The same applies for clams. Processing of these shellfish prior to delivery typically only involves a quick rinse with a hose before they are bagged and loaded on the truck. These shellfish, because they are delivered to the restaurants alive, are very time sensitive. Because of this the farmer relies on rapid turnover and efficient access to major markets. High turnover allows even a small refrigeration unit to adequately service a farm harvesting a large number of oysters or clams. This is ideal because the on-land footprint may be kept small.

Beaufort County's extensive marshes and lack of freshwater input from large rivers allows shellfish grown here to maintain a wonderful flavor and allows growers to reliably provide a consistent high-value product to restaurants throughout the state. In recent years, market demand for locally produced high-value shellfish has increased creating opportunities not previously available for South Carolina growers. For example, the premium half-shell market for oysters currently seeks oysters that are branded based on the place where they're grown. Chefs and consumers want to be able to taste clean, crisp Beaufort County ocean water when they eat an oyster from here; just like they can taste Wellfleet, MA or Deep Bay, BC when eating a 'Wellfleet' or 'Fanny Bay' oyster. This branding has allowed oysters to jump to a new price point, thereby making specialty farming possible. This branding approach may also ensure the market remains stable for a number of years.

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### **Regulations Pertaining to the Shellfish Industry in South Carolina**

In South Carolina, shellfish culture and mariculture is regulated by several agencies that work very hard ensure the practices used by growers are sustainable and that public health is protected upon harvest. Initial permitting involves obtaining a permit to lease the sea bottom or water surface from the Department of Natural Resources (DNR) and having all structures to be placed on the lease approved by SC Department of Health and Environmental Control's (DHEC) Office of Coastal Resource Management (OCRM) and the US Army Corps of Engineers. Following initial permitting, the DNR is responsible for renewing permits for culture and mariculture leases and for annual licensing of harvesters using these areas. DHEC is responsible for opening and closing grounds and inspecting certified shellfish facilities. The Food and Drug Administration (FDA) also conducts inspections of shellfish facilities to ensure compliance with sanitation regulations.

Shellfish are cultivated on grounds leased from the state. Grounds are leased for five years and are renewable contingent upon compliance with all obligations as detailed in the Marine Resources Act, Article 9. Grounds are leased at a rate of five dollars per acre per year. These grounds fall into two categories, culture lease and mariculture lease, depending on the growing methods used:

- 1) On a **Shellfish Culture** lease, the leaseholder may harvest oysters and clams from the permitted area. These leases are extensive and well-managed through a reporting system of harvest and planting to the Department of Natural Resources. *'Each Shellfish Culture permittee must plant fifty bushels of shell, seed oysters, seed clams, or other approved cultch, or equivalent as determined by the department, annually for each acre of bottoms in his permit. All cultch planting must be done between May 1 and August 31, inclusive, except permittees may replant green oyster shell from current operations if the shell is replanted within three days after gathering. Seed oysters and seed clams may be planted at any time of the year. All planting must be done only after notice to and with the approval of the department'* (Marine Resources Act, Section 50-5-940 (A))
- 2) On a **Shellfish Mariculture** lease, shellfish (clams and oysters) are grown in cages or bags from seed to harvest. There are no replanting requirements for shellfish mariculture permits.

*Any 'person and entities granted Shellfish Culture Permits and Shellfish Mariculture Permits must submit a sworn statement stating the permittee has a wholesale seafood dealer's license, a molluscan shellfish license, and a shellfish facility certified by the South Carolina Department of Health and Environmental Control or that all shellfish harvested for sale shall be handled through a licensed wholesale seafood dealer having a molluscan shellfish license and a department of Health and Environmental Control approved facility'* (Marine Resources Act, Article 9, Section 50-5-910 (C)) .

Since cultured bivalve molluscan shellfish are sold alive and whole to the consumer they are subject to strict state and federal regulations for handling in order to manage risks associated with consuming raw shellfish. Farmers must get their product to refrigeration immediately after

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harvest to avoid bacteria multiplying to unsafe levels. The bacteria of greatest concern to shellfish harvesters are *Vibrio sp.* *Vibrio* are bacteria that naturally occur in seawater, however, when temperatures rise the bacteria can multiply to unsafe levels and pose a risk to human health, mostly for those who already have a medical condition. At 80°F *Vibrio* levels can double every hour that is why it is important for shellfish to be placed under temperature control (under 45°F) as quickly as possible. The rules that govern this are commonly referred to as time/temperature regulations. Growers employ a variety of harvest practices to protect human health such as providing shade on deck, harvesting shellfish before the tide goes out completely, and holding shellfish submerged until harvest. The SC DHEC and FDA are responsible for enforcing all rules related to shellfish and public health. The 'National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish' provides guidance for the control of molluscan shellfish for all US states and clearly emphasizes the importance of quickly getting product to refrigeration. In addition to issues of time/temperature regulation, it outlines guidance on avoiding cross-contamination with other seafood products.

These state and federal regulations require the farmer to have quick access to refrigeration from his/her at-sea culture or mariculture lease. Lengthy voyages with shellfish in the boat not only reduce the amount of time available for the harvester to work but also pose a risk to human health. Even one person getting sick from a clam or oyster from an area can shut down harvesting in the area for some time and may forever tarnish the reputation of the area's shellfish.

### **Shellfish Mariculture and Beaufort County**

Beaufort County Zoning Code currently defines mariculture as agriculture (according to the definition of 'agricultural real property') and demonstrates, along with the Comprehensive Plan for the County, a commitment to maintaining and encouraging sustainable agricultural development. Shellfish mariculture is widely accepted as one of the most sustainable agricultural practices in the world. By nature of being a water-based business that provides a live product to the end-consumer, shellfish growers have slightly different needs than land-based farmers, namely the need to land and distribute product in a very time efficient manner.

The Beaufort County Dock Ordinance allows docks located on small tidal creeks to be used for commercial purposes as long as they are located within a Commercial Fishing Village (CFV) Overlay District. These areas were created to support areas historically used for commercial fishing and do not necessarily align with current or future industry needs. It has become increasingly difficult for fishermen to rely on traditional fisheries for their livelihood; alternative means of meeting the world's seafood needs are required. Preferred alternatives, which could include shellfish farming, would allow watermen to remain employed on the water and Beaufort County to maintain its cultural identity which is so strongly linked to the seafood industry.

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**Resources:**

National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, available at:

SC Marine Resources Act, available at:

SC Department of Health and Environmental Control, Shellfish Regulations, available at:

East Coast Shellfish Growers Association Website, available at:

**Book:**

Shumway, S, eds. 2011. Shellfish aquaculture and the environment. Wiley-Blackwell.