



**CITY OF SOUTHPORT
BOARD OF ALDERMEN
SPECIAL MEETING AGENDA
223 E. BAY STREET
April 8, 2024
9:00 AM**

Agenda

Please turn off all cell phones

Meetings are open to the public. Face masks and social distancing may be used at the discretion of each individual. The Board of Aldermen reserve the right to make changes to this policy, as needed to help prevent the spread of the Coronavirus.

If you are not able to attend the Board of Aldermen meetings in person, the meeting will be available for you to watch via live-stream on the City of Southport website (<https://cityofsouthport.com/board-of-aldermen-meetings/>), Facebook page, and YouTube channel.

ETHICS STATEMENT:

"If any members know of any conflict of interest or the appearance of a conflict of interest concerning matters on the agenda, please so state at this time."

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Approval of Agenda**
- E. Special Presentations**
 - 1. Shoreline Stabilization Project Update (C. Creed, Olsen Engineers) **pgs 2-12**
- F. Agenda**
 - 1. Discussion of Possible UDO Changes (Board of Aldermen) **pgs 13-26**
 - 2. Discussion about the Role of the Board Liaisons (Board of Aldermen) **pgs 27-29**
- G. Mayor's Comments**
- H. Board Comments**
- I. Adjourn**



BOARD OF ALDERMEN AGENDA ITEM SUMMARY

DATE: April 8, 2024

DEPARTMENT: City Manager

PRESENTED BY: Bob Jarvis, Engineer and Chris Creed, Olsen Associates

ITEM SPONSORED BY: City Manager

ITEM/TOPIC: Shoreline Stabilization

JUSTIFICATION: The Southport/Cape Fear River shorefront beach is experiencing ongoing and increasing erosion due to the long-term effects of storm related wind waves, waves generated from both recreational and commercial boats and ship traffic, and the effects of the ongoing increase in average water level. To date, mostly limited, localized shore protection projects have been implemented, to protect upland development and infrastructure situated along the shorefront from coastal flooding and wave impacts. The City is moving forward with the preparation of design and permitting documents for the comprehensive restoration and stabilization project along the Cape Fear River shoreline in Southport.

We have been working with our consultant, Olsen Associates, in the preparation of the design and permitting documents. Olsen presented a summary of their work effort and requested direction from the Board for design, permitting, and construction phasing priorities at a workshop in October 2023. In December 2023, the Board voted to authorize a Contract extension with Olsen Associates to continue the work for design development, coordination and permitting for the Shoreline Stabilization Project.

The City's engineering consultant will present an update on the work that has been performed thus far. The proposed project is comprised of 4 individual segments. Options for shoreline protection methods for each segment will be described by Mr. Creed. Since the funding for the project is limited, we will seek confirmation from the Board that the direction the staff and the Consultant are proceeding with is in line with the Board's expectations.

Funding for the project was provided through a \$5M grant from the State Emergency Response and Disaster Relief Fund (SERDRF). The SERDRF grant will expire on June 30, 2026.

IMPACT IF NOT APPROVED: The project will not continue, and shoreline stabilization will not occur.

DEPARTMENT HEAD COMMENTS: N/A.

CITY MANAGER COMMENTS: At your Goal Setting Workshop, you had asked for an update from Olsen Associates and Mr. Jarvis so you know that we can make the deadline for spending the grant money and how much more money will be needed in order to proceed with finishing the project.

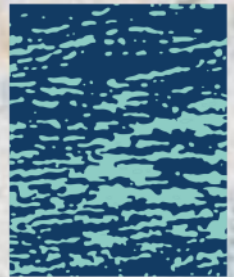
ATTACHMENTS: Power Point Presentation from Chris Creed, Olsen Associates

REQUESTED ACTION: Consensus from the Board that the priorities and path forward reflect the Board's wishes.

PROPOSED MOTION: Discussion only but we do need consensus that we are moving in the correct direction or let us know what you want done differently.



City of Southport
Board of Alderman Workshop
April 8, 2024



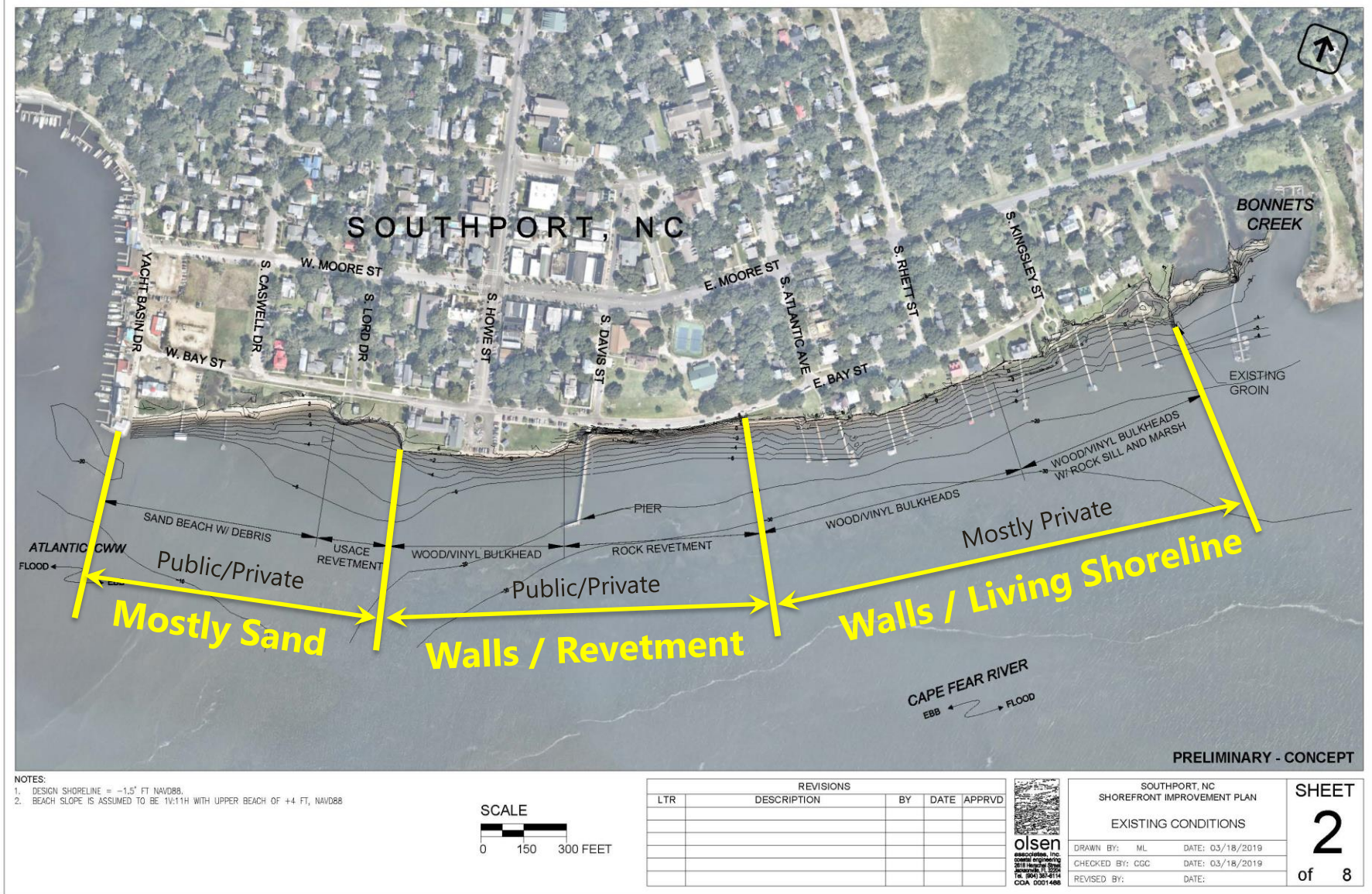
olsen
associates, inc.
Coastal Engineering



SHORELINE IMPROVEMENT PROJECT

Bob Jarvis, P.E., City of Southport

Chris Creed, P.E., olsen associates, inc.
ccreed@olsen-associates.com



Shoreline Sections

Detailed Site Condition Assessment

- **Upland, Beach and Nearshore Elevations**
- **Nearshore Bathymetry**
- **Condition of Existing Shore Protection Features**
- **Wave Climate**
 - Wind Waves
 - Recreational Boat Wake
 - Ship Waves
- **Tides and Currents**
- **Storm Surge Risk**
- **Future Sea Level Rise Expectations**

NOTES:

1. ELEVATIONS ARE EXPRESSED IN FEET AND TENTHS AND REFER TO NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
2. HORIZONTAL POSITIONS ARE REFERENCED TO NORTH CAROLINA STATE PLANE COORDINATE SYSTEM OF 1983 (NAD83/2011).
3. HYDROGRAPHIC SURVEY WAS PERFORMED USING MAHON & CREED SURVEY VESSEL, "BOTTOM LINE" ON FEBRUARY 8-9, 2023 USING RTK NAVIS CORRECTIONS FOR HORIZONTAL AND VERTICAL POSITIONING.
4. SOUNDINGS WERE ACQUIRED USING R2 SONIC 2023 MULTIBeam SONAR, DOIM CV-100 SINGLE BEAM SONAR, AND APPLIANE POS-MV NORTH NAVIGATOR SYSTEM FOR HEAVE, PITCH, AND ROLL CORRECTIONS.
5. HYPACK SOFTWARE WAS USED FOR DATA COLLECTION AND PROCESSING.
6. ELEVATIONS ARE SORTED TO 50'X50' GRID FOR DISPLAY.
7. CONTOUR LINES ARE DISPLAYED AT 2-FOOT INTERVALS AND WERE CREATED USING THE FULL DATASET THAT INCLUDES MULTIBeam, SINGLE BEAM, AND LIAR DATA.
8. THE RASTER IMAGE WAS CREATED USING THE FULL DATASET OF SINGLE BEAM AND MULTIBeam DATA.
9. THE HYDROGRAPHIC DATA DEPICTED ON THIS MAP WAS ACQUIRED USING MINIMUM PERFORMANCE STANDARD IN ACCORDANCE WITH THE US ARMY CORPS OF ENGINEERS MANUAL EM 1110-2-1003.



LIAR NOTES:

1. AERIAL LIAR (-700PPH) AND MAGERY (-0.7 CM GSD) WAS COLLECTED ON JANUARY 26, 2023 WITH AN UNMANNED AERIAL SYSTEM DJI M300 EQUIPPED WITH ZENMUSE L1 AND P1 SENSORS.
2. TOPOGRAPHIC MAPPING WAS EXTRACTED/COMPILED AS VISIBLE AND DISCRETEABLE TO MEET ASPRS ACCURACY STANDARDS FOR 1"=50' SCALE AND 1' CONTOURS.
3. THE MEASURED ROOT MEAN SQUARE ERROR FROM THE LIAR TO THE GROUND CONTROL: X=0.1103 FT, Y=0.0844 FT, Z=0.0495 FT. THIS INFORMATION WAS VERIFIED BY ROB CHAMBERS CERTIFIED PHOTOGRAMMETRIST CPM #1321.
4. ORTHOPHOTOGRAPHY ONLY VALID WITHIN MAPPING LIMITS.



VICINITY MAP - NOT TO SCALE

LEGEND



GAR 2 RESET
N 62625.00
E 2204273.02
EL. 16.89

LEGEND

- SPOT ELEVATION FROM ECHOSOUNDER
- SPOT ELEVATION FROM LIAR



McKIM & CREED
241 NORTH FRONT STREET
WILMINGTON, NORTH CAROLINA 28401
TELEPHONE: (910) 343-1048
FAX: (910) 251-8282
NORTH CAROLINA FIRM LICENSE NUMBER: F-1222

CONDITION SURVEY - PLAN VIEW
OF
SOUTHPORT SHORELINE IMPROVEMENT
PREPARED FOR
OLSEN ASSOCIATES, INC.
SOUTHPORT, BRUNSWICK COUNTY, NORTH CAROLINA
FEBRUARY 9, 2023

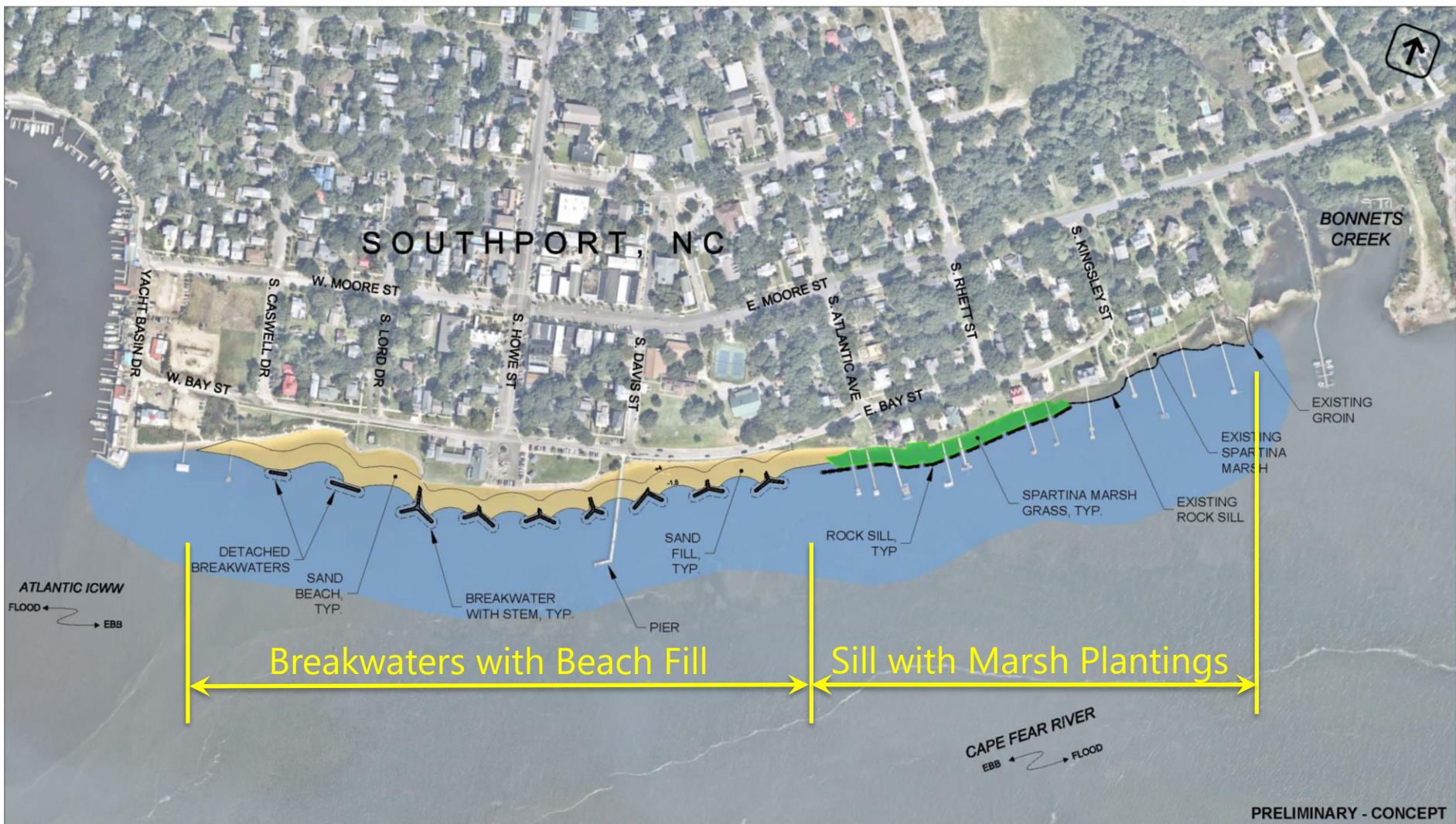
JOB NUMBER: 03028-0009
SCALE: 1" = 200'
CAD NUMBER: M-030280009.DWG
PLS: DJL
PARTY CHIEF: CSE
CAD TRICKS: W2087.56-66
DRAWING NUMBER: 03028-0009
SHEET 1 OF 9



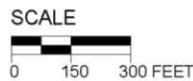
Detailed Hydrographic Survey (2023)

Project Goals

- Provide reliable protection to upland infrastructure
- Improve recreational access and use
- Restore beach/dune/marsh habitat
- Plan for future sea level rise
- Plan for larger and more frequent boat/ship traffic
- Minimize need for future maintenance
- Work within funding limit and time constraints of \$5M grant



NOTES:
 1. DESIGN SHORELINE = -1.5' FT NAVD88.
 2. BEACH SLOPE IS ASSUMED TO BE 1V:11H WITH UPPER BEACH OF +4 FT, NAVD88



REVISIONS				
LTR	DESCRIPTION	BY	DATE	APPRVD



SOUTHPORT, NC SHOREFRONT IMPROVEMENT PLAN OPTION 1 BREAKWATERS WITH STEMS & SAND FILL / SILL WITH MARSH	
DRAWN BY: ML	DATE: 03/18/2019
CHECKED BY: CGC	DATE: 03/18/2019
REVISED BY:	DATE:

SHEET



Previously Preferred Project Concept

Ft. Clinch State Park
Amelia Island, Florida



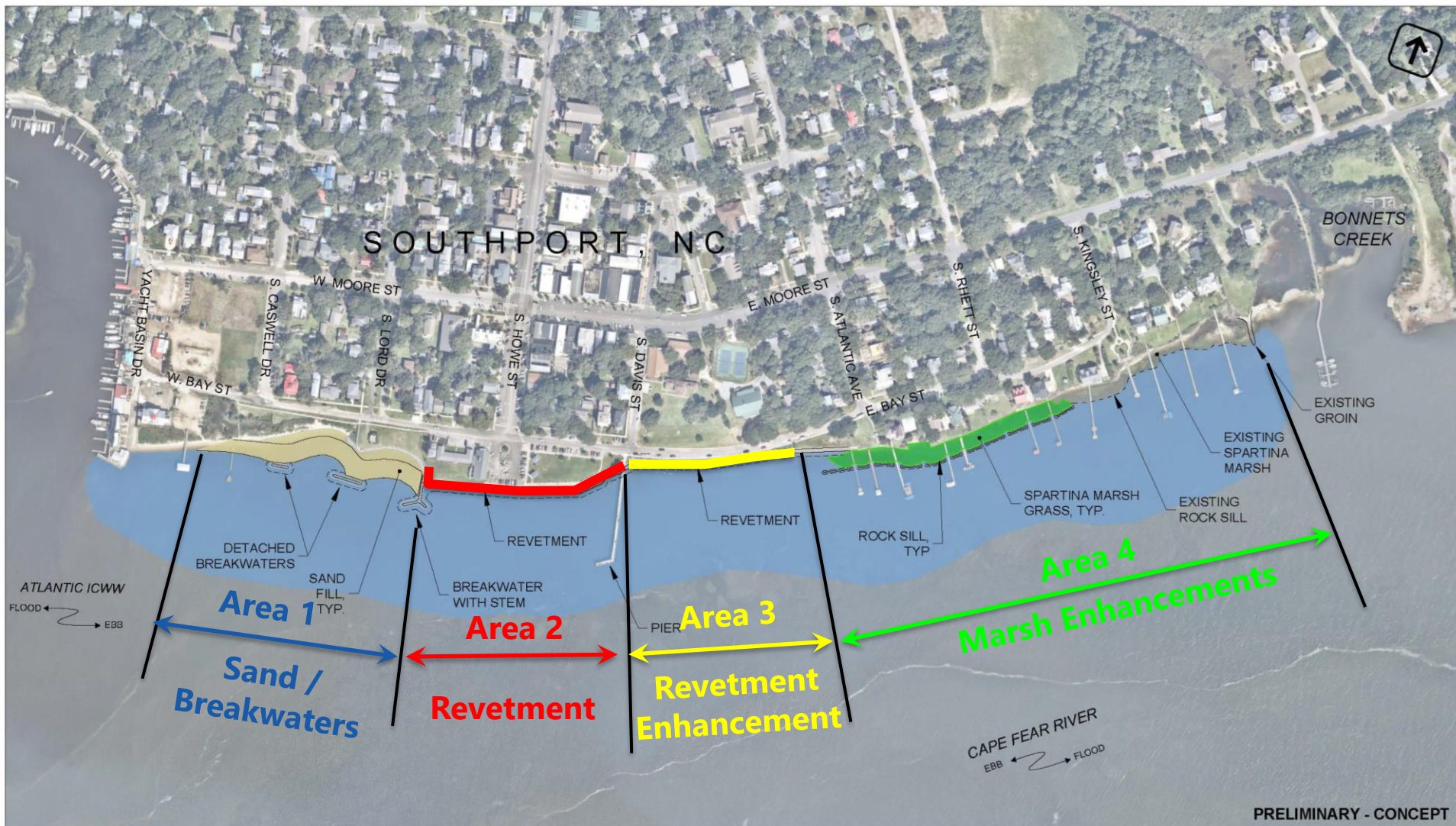
Sand Beach / Breakwaters



Revetment

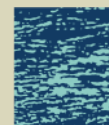


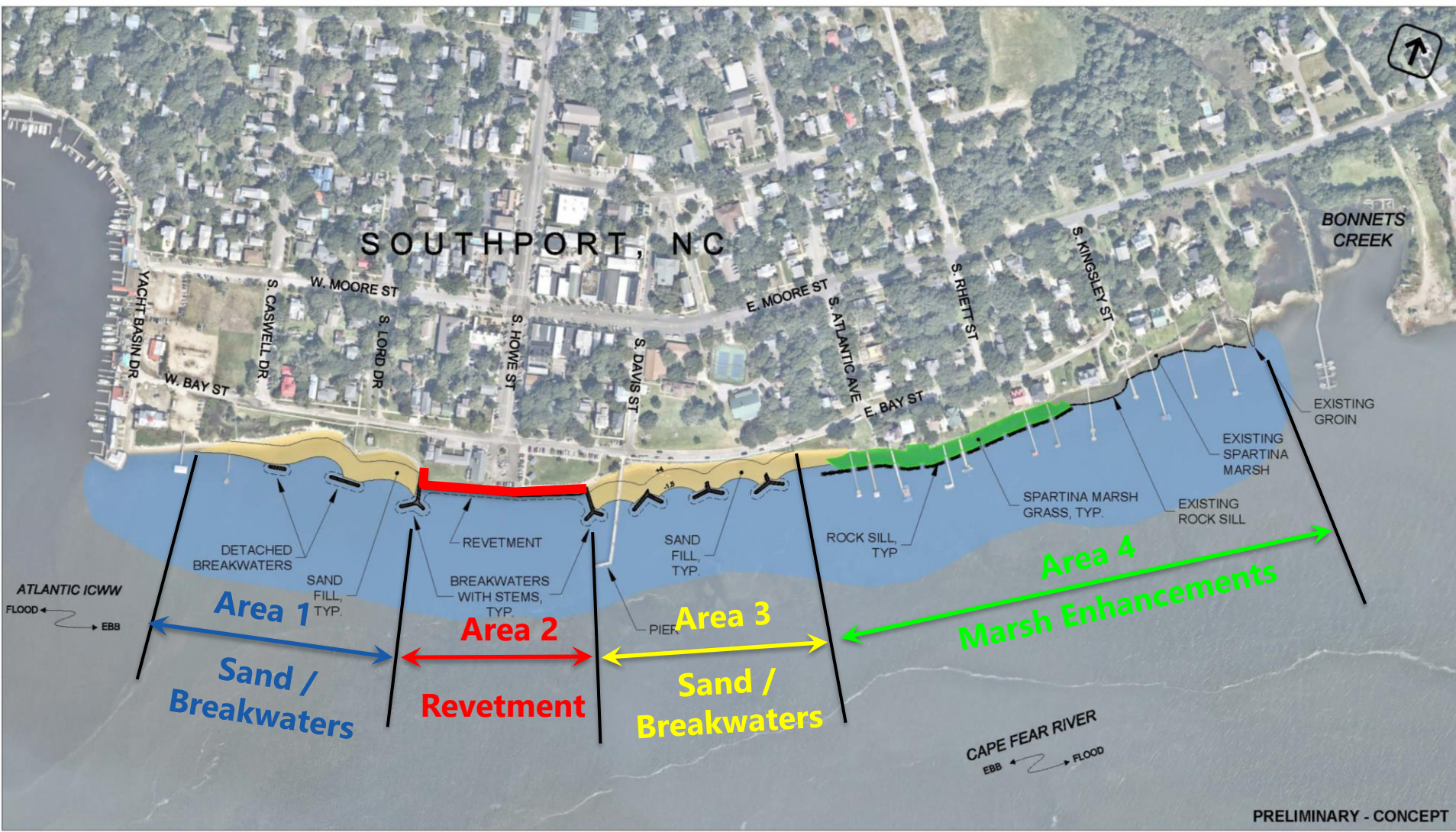
Living Shoreline



Option A

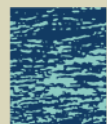
(Sand & Breakwaters / Revetment / Revetment Enhancement)





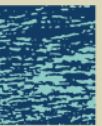
Option B

(Sand & Breakwaters / Revetment / Sand & Breakwaters)



Next Steps

- Plan Selection with City / Schematic Level Design
- Permitting (State, Federal, Resource Agency Coordination)
- Resolve Riparian Ownership Issues
- Detailed Design Analysis and Development
- Preparation of Plans and Technical Specifications
- Updated Cost Analysis (Prior to Bid)
- Development of Bid (Proposed Contract) Documents
- Bid Advertisement
- Contractor Evaluation and Selection
- Construction (Contract Administration and Oversight)
- Project Closeout
- Post Project Physical and Biological Monitoring



Topics for Possible UDO Text Amendments



1. PERVIOUS COVERAGE: Impervious coverage invites flooding. The more pervious space the more drainage. Suggested changes

a. Require all paving in ROW be pervious. (Oak Island requires this).

b. Require that a percentage of each individual lot remains pervious. (currently this applies only to subdivision lots).

c. Define the term impervious to include everything under a cover, such as a roof, awning, and overhang. (Oak Island requires this now.)

d. Define impervious material to include bricks, pavers, stones, plastic.)

2. DRAINAGE Site PLANS: In major AND minor subdivisions require complete drainage plan, approved by city engineer, before preliminary site plan is submitted to BOA.

3. MINOR SUBDIVISION: Require final site plan approval by BOA.

4. SWIMMING POOLS: Increase setbacks. (currently only 5 feet).

5. EXTERIOR LIGHTING: Increase fines for exterior lighting violations.

6. TREE PROTECTION: Increase mitigation percentage.

7. OPEN SPACE IN MAJOR AND MINOR SUBDIVISIONS: Change the formula to increase amount of land set aside for open space. (currently the major subdivision formula is $.02 \times \text{number of buildings}$; minor subdivision has no open space requirement).

Attached spreadsheet shows how much more open spaced would be gained by increases in the multiplier. Example: A subdivision with 40 houses currently the must provide only .08 acre of open space. Increasing the multiplier from .02 to .05 would provide 2 acres of open space.

8. ACCESSORY DWELLINGS: (a) Tighten definitions; (b) reduce square footage, from the current 800) for stand-alone accessory dwellings buildings; (c) require that any dwellings in a structure that also contains a garage be on second level above the garage; (d) limit the number of accessory dwellings to 1 unit per structure (i.e. no duplex apartments over a garage or in an upstairs and downstairs)

9. RESIDENTIAL BUILDING HEIGHT: Reduce from 40 to 30 feet. (same as the building height limit in CBD). Adjust to 35 feet for structures on FEMA-required 16-foot pilings.

10. SETBACKS: (a) Change formula to require minimum 6-foot setbacks on non-conforming lots. Current minimum is 4 feet. (b) do not allow HVAC to intrude into the setbacks.

SOUTHPORT — OPEN SPACE REQUIREMENTS

MAJOR SUBDIVISION — Acreage Calculations

NOW			2			3			4			5		
Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside
0.02	10	0.2	0.025	10	0.3	0.03	10	0.3	0.04	10	0.4	0.05	10	0.5
	15	0.3		15	0.4		15	0.5		15	0.6		15	0.8
	20	0.4		20	0.5		20	0.6		20	0.8		20	1.0
	25	0.5		25	0.6		25	0.8		25	1.0		25	1.3
	30	0.6		30	0.8		30	0.9		30	1.2		30	1.5
	35	0.7		35	0.9		35	1.1		35	1.4		35	1.8
	40	0.8		40	1.0		40	1.2		40	1.6		40	2.0
	45	0.9		45	1.1		45	1.4		45	1.8		45	2.3
	50	1.0		50	1.3		50	1.5		50	2.0		50	2.5
	60	1.2		60	1.5		60	1.8		60	2.4		60	3.0
	70	1.4		70	1.8		70	2.1		70	2.8		70	3.5
	80	1.6		80	2.0		80	2.4		80	3.2		80	4.0
	90	1.8		90	2.3		90	2.7		90	3.6		90	4.5
	100	2.0		100	2.5		100	3.0		100	4.0		100	5.0
increase =		0%	increase =		25%	increase =		50%	increase =		100%	increase =		150%
6			7			8			9			10		
Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside	Multiplier	Number of Homes	Acres Set Aside
0.075	10	0.8	0.1	10	1.0	0.125	10	1.3	0.15	10	1.5	0.2	10	2.0
	15	1.1		15	1.5		15	0.3		15	2.3		15	3.0
	20	1.5		20	2.0		20	0.4		20	3.0		20	4.0
	25	1.9		25	2.5		25	0.5		25	3.8		25	5.0
	30	2.3		30	3.0		30	0.6		30	4.5		30	6.0
	35	2.6		35	3.5		35	0.7		35	5.3		35	7.0
	40	3.0		40	4.0		40	0.8		40	6.0		40	8.0
	45	3.4		45	4.5		45	0.9		45	6.8		45	9.0
	50	3.8		50	5.0		50	1.0		50	7.5		50	10.0
	60	4.5		60	6.0		60	1.2		60	9.0		60	12.0
	70	5.3		70	7.0		70	1.4		70	10.5		70	14.0
	80	6.0		80	8.0		80	1.6		80	12.0		80	16.0
	90	6.8		90	9.0		90	1.8		90	13.5		90	18.0
	100	7.5		100	10.0		100	2.0		100	15.0		100	20.0
increase =		275%	increase =		400%	increase =		525%	increase =		650%	increase =		900%

SIGN ORDINANCE

City of Southport
Unified Development Ordinance (UDO)

13. Signs affixed to windows of vehicles displaying information regarding the sale of said vehicles.
14. Real Estate Signs. Temporary signs advertising the sale, rental, or lease of the property on which said signs are located are allowed, provided such signs are not illuminated.
 - a) Residential zoned property. One (1) double faced sign per street frontage is allowed. Each sign face square footage shall not exceed six (6) square feet (excluding sign support structure).
 - b) All other zoned property. One (1) double faced sign per street frontage is allowed. Signs may not exceed 32 square feet per face or eight (8) feet in height.
 - c) Removal. All such signs shall be removed within seven (7) days after the closing of the sale, rental, or lease of the property.
15. Directional Signs. Directional signs shall be located on the premises to which directions are indicated. Directional signs shall not exceed four (4) square feet per face, two (2) faces per sign, and shall not exceed three (3) feet in height if freestanding or six (6) feet in height if attached to the principal or an accessory structure. The maximum number of signs allowed per lot shall be four (4). These signs may be internally or externally illuminated.
16. Incidental Signs. Incidental signs shall be located on the premises to which the information pertains. These signs shall be single-faced only and wholly attached to a building (including the windows or doors).
17. Copy Changes and Maintenance. No permit shall be required for copy changes made to a changeable copy sign, menu board, marquee sign, or off-premise sign; provided any such changes do not change the classification of the sign under this section. No permit shall be required for maintenance where no structural changes are made.
18. Political Signs. On private property, one (1) sign shall be permitted per lot, not exceeding eight (8) square feet in area per display face, and two (2) faces per sign. Within NCDOT right-of way, sign placement and duration shall be in accordance with NCGS 136-32 during the period beginning on the 30th day before the beginning date of "one-stop" early voting under NCGS 163-227.2 and ending on the 10th day after the primary or election day, subject to the following provisions. A person must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:
 - a) No sign shall be permitted in the right-of-way of a fully controlled access highway.
 - b) No sign shall be closer than three (3) feet from the edge of the pavement of the road.
 - c) No sign shall obscure motorist visibility at an intersection.
 - d) No sign shall be higher than 42 inches above the edge of the pavement of the road.

- e) No sign shall be larger than 864 square inches.
 - f) No sign shall obscure or replace another sign.
 - g) No sign shall be located in the city's right-of-way.
19. Construction Signs. Construction signs shall be allowed provided such signs do not exceed one (1) sign per street frontage with a maximum of two (2) signs per construction site. Such signs shall not exceed 32 square feet in area display face and no more than 10 feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven (7) days of the issuance of a certificate of occupancy.
20. Fence-wrap signs affixed to fences surrounding a construction site may be allowed in accordance with NCGS 160D-908.
21. Temporary Signs. Each lot in a residential zoning district or each establishment within a nonresidential zoning district shall be allowed one (1) temporary sign not exceeding six (6) square feet or four (4) feet in height. Such sign shall not be constructed utilizing wood, cement, steel, or other similar structures of a permanent nature. Such sign shall be easily removed and placement thereof shall not be of a permanent fashion.
22. A-frame Sign. Any premises, including those containing multiple businesses, may place only one (1) A-frame sign per street frontage, per business.
- a) Placement: The sign must be placed directly in front of the business it promotes. Placement of the sign must be in accord with the Americans with Disabilities Act, which requires four (4) feet of sidewalk clearance in addition to the amount of space occupied by the sign. The sign shall be placed in a manner so as not to impede the line of sight for vehicular and/or pedestrian traffic. Along streets with diagonal or perpendicular parking, the sign may be placed within one (1) foot of the curb, but must not obstruct a pedestrian's pathway from a parked car to the sidewalk. Along streets with parallel parking, the sign must be at least two (2) feet from the curb. No sign may be placed where the unobstructed space for the passageway of pedestrians is reduced to less than four (4) feet. No signs are allowed in driveways or on improved city streets.
 - b) The sign must not exceed 48 inches in height, 24 inches in width and eight (8) square feet per side in area (which includes legs/stand/bracing). The sign must be constructed of materials that present a finished appearance and have locking arms on the sides that enable the sign to withstand high winds.
 - c) The sign must be removed and stored inside the business after business hours or at dusk (whichever comes first) and may not be outside on days when the business is closed. A-frame signs shall not be artificially illuminated.
 - d) Any person erecting an A-frame sign or a portable off-premise sign shall indemnify and hold harmless the city and its officers, agents and employees from any claim arising out of the presence of the sign on city

§ 136-32. Regulation of signs.

(a) **Commercial Signs.** – No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial or political advertising, except as provided in subsections (b) through (e) of this section: Provided, nothing in this section shall be construed to prohibit the erection or maintenance of signs, markers, or signals bearing thereon the name of an organization authorized to erect the same by the Department of Transportation or by any local authority referred to in G.S. 136-31. Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in subsection (b) of this section.

(b) **Compliant Political Signs Permitted.** – During the period beginning on the 30th day before the beginning date of "one-stop" early voting under G.S. 163-227.2 and ending on the 10th day after the primary or election day, persons may place political signs in the right-of-way of the State highway system as provided in this section. Signs must be placed in compliance with subsection (d) of this section and must be removed by the end of the period prescribed in this subsection. Any political sign remaining in the right-of-way of the State highway system more than 30 days after the end of the period prescribed in this subsection shall be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty.

(c) **Definition.** – For purposes of this section, "political sign" means any sign that advocates for political action. The term does not include a commercial sign.

(d) **Sign Placement.** – The permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected. Signs must be placed in accordance with the following:

- (1) No sign shall be permitted in the right-of-way of a fully controlled access highway.
- (2) No sign shall be closer than three feet from the edge of the pavement of the road.
- (3) No sign shall obscure motorist visibility at an intersection.
- (4) No sign shall be higher than 42 inches above the edge of the pavement of the road.
- (5) No sign shall be larger than 864 square inches.
- (6) No sign shall obscure or replace another sign.

(e) **Penalties for Unlawful Removal of Signs.** – It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a political sign that is lawfully placed under this section.

(f) **Application Within Municipalities.** – Pursuant to Article 8 of Chapter 160A of the General Statutes, a city may by ordinance prohibit or regulate the placement of political signs on rights-of-way of streets located within the corporate limits of a municipality and maintained by the municipality. Any such ordinance shall provide that any political sign that remains in a right-of-way of streets located within the corporate limits of a municipality and maintained by the municipality more than 30 days after the end of the period prescribed in the ordinance is to be deemed unlawfully placed and abandoned property, and a person may remove and dispose of such political sign without penalty. In the absence of an ordinance prohibiting or regulating the placement of political signs on the rights-of-way of streets located within a municipality and maintained by the municipality, the provisions of subsections (b) through (e) of this section shall apply. (1921, c. 2, s. 9(b); C.S., s. 3846(r); 1927, c. 148, ss. 56, 58; 1933, c. 172, s. 17; 1957, c. 65, s. 11; 1973, c. 507, s. 5; 1977, c. 464, s. 7.1; 1991 (Reg. Sess., 1992), c. 1030, s. 39; 1993, c.

UDO Changes

- Using Brunswick Street at Yacht Basin Drive as a prime example of two homes on non-conforming lots were allowed to build structures bigger than the original residence, and one was also allowed to include a new inground pool, with no consideration to pervious soil requirements. For the one with the pool there is virtually no pervious soil on land whose storm water is allowed to flow freely to the intercoastal. ALL lots should have some pervious land. I know of examples of larges lots up to .82 acres where the landowner had to jump through hoops for relatively small homes to show pervious land.

The Board of Adjustment routinely approves this type of action since there is no specific language for them to have to consider pervious soil.

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The Board of Adjustment routinely approves this type of action since there is no specific language for them to have to consider pervious soil.

- Provided the city attorney concurs, I would like to proffer to the BoA that they consider adding a reference d to this state statute in the UDO where it mentions the need for a final plat map approval. The UDO wording as it now stands is not intuitive to the average home buyer or realtor.

As I understand the following wording the jurisdiction is specifically provided the authority to take the deceptive developer to court civilly or criminally, or both. I am not as clear if the buyer can do the same under this statute.

" The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct."

UDO Changes

So the next question is, if the city decides the actions of the developer warrant the city to take action, who logistically does that work. If the city wins can the seller be made to pay our legal expenses? While a class 1 misdemeanor can provide jail time I am not sure how many need to be swindled to actually get any time in jail.

Can we sue civilly? Can the buyer sue civilly and/or obtain a warrant?

None of the elected officials I spoke to either in Southport or the County clearly understands this law and so to say "let the buyer beware" I think is disingenuous.

Can staff draft a potential UDO test amendment to include this statute and any other appropriate language to make the UDO a document that is useful for the common man?

Dorothy Dutton

From: Bonnie Therrien
Sent: Wednesday, March 27, 2024 4:39 PM
To: Dorothy Dutton
Subject: Fwd: Final Plats

Another UDO change

Bonnie Therrien, City Manager

From: Richard Alt <ralt@cityofsouthport.com>
Sent: Wednesday, March 27, 2024 4:37 PM
To: Bonnie Therrien <btherrien@cityofsouthport.com>
Subject: Fw: Final Plats

From: Richard Alt <ralt@cityofsouthport.com>
Sent: Friday, March 22, 2024 3:25 PM
To: Brady Herman <bherman@broughlawfirm.com>; Bonnie Therrien <btherrien@cityofsouthport.com>; Dorothy Dutton <Ddutton@cityofsouthport.com>
Cc: Maureen Meehan <mmeehan@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>
Subject: Re: Final Plats

Thank you. That is how I read the statute and I am happy I can still interpret such things.

Thanks Brady for your assistance
Rich

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From: Brady Herman <bherman@broughlawfirm.com>
Sent: Friday, March 22, 2024 3:10:24 PM
To: Richard Alt <ralt@cityofsouthport.com>; Bonnie Therrien <btherrien@cityofsouthport.com>; Dorothy Dutton <Ddutton@cityofsouthport.com>
Cc: Maureen Meehan <mmeehan@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>
Subject: RE: Final Plats

Good afternoon Mayor Alt,

I have provided responses to some of your questions in **red** below.

So the next question is, if the city decides the actions of the developer warrant the city to take action, who logistically does that work. **I could bring a lawsuit on the City's behalf in civil superior court seeking an injunction and order of abatement against the violator asking the court for the owner/seller to correct the UDO violation of conveying lots before final plat approval and for the unapproved subdivision to come into compliance with the UDO requirements.**

If the city wins can the seller be made to pay our legal expenses? For this type civil litigation, unfortunately we would not be able to recover attorneys' fees from the violator. Generally, recovery of the prevailing parties attorney's fees are very limited to certain types of litigation set by statute, and there are no statutes that allow for recovery of attorneys' fees in these types of actions. While a class 1 misdemeanor can provide jail time I am not sure how many need to be swindled top actually get any time in jail. I agree, I doubt they would face any jail time, but that ultimately would be up to the Judge (and prosecutor to some extent) if jail time is warranted.

Can we sue civilly? Yes, see answer to question 1 above. Can the buyer sue civilly and/or obtain a warrant? 160D-807 specifies that the local government can bring an injunction and order of abatement against the violator/seller, so the buyer would not have the same remedy. However, their recourse most likely would be a breach of contract, fraud, etc. private action case against the seller. The Buyer may be able to enforce criminally, but ultimately that would be up to the DA on whether they want to prosecute against the seller.

I have also drafted a text amendment for this and am working with staff for their review. Once they have had a chance to review I will send to you and Bonnie a draft to forward on to the rest of the Board for their consideration at the next upcoming meetings.

Hope you have a nice weekend,

Brady N. Herman



1526 E. Franklin St., Suite 200
PO Box 2388
Chapel Hill, NC 27514
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F (919) 942-5742
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From: Richard Alt <ralt@cityofsouthport.com>
Sent: Wednesday, March 20, 2024 11:14 AM
To: Brady Herman <bherman@broughlawfirm.com>; Bonnie Therrien <btherrien@cityofsouthport.com>; Dorothy Dutton <Ddutton@cityofsouthport.com>
Cc: Maureen Meehan <mmeehan@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>
Subject: Re: Final Plats

[EXTERNAL Sender]

Thank you kind sir
Rich

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From: Brady Herman <bherman@broughlawfirm.com>

Sent: Wednesday, March 20, 2024 9:12:01 AM

To: Richard Alt <ralt@cityofsouthport.com>; Bonnie Therrien <btherrien@cityofsouthport.com>; Dorothy Dutton <Ddutton@cityofsouthport.com>

Cc: Maureen Meehan <mmeehan@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>

Subject: RE: Final Plats

Mayor and all,

Be happy to draft a text amendment for the BOA's consideration to incorporate the provisions in GS 160D-807. I will also look into the Mayor's other questions and will respond to those as soon as I'm able.

Hope everyone has a good rest of the week.

Best,

Brady N. Herman



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From: Richard Alt <ralt@cityofsouthport.com>

Sent: Tuesday, March 19, 2024 11:05 PM

To: Bonnie Therrien <btherrien@cityofsouthport.com>; Dorothy Dutton <Ddutton@cityofsouthport.com>

Cc: Maureen Meehan <mmeehan@cityofsouthport.com>; Robert Carroll <rcarroll@cityofsouthport.com>; Brady Herman <bherman@broughlawfirm.com>

Subject: Re: Final Plats

[EXTERNAL Sender]

Concur

- **Future Text Amendments:** Text amendments should be used sparingly by the City until the Comprehensive Plan is done, and any text amendment that is undertaken by the City should be to correct a clear and obvious error, to ensure compliance with state statute or judicial decisions, or otherwise be so overwhelmingly necessary and so overwhelmingly supported by the public as to be a foregone conclusion. For the future though, the following is a list of text amendments that are simple, that will have positive benefits to the City, and signify a continued shift toward a modern planning program:
 - Remove the following uses from requiring a Special Use Permit in the residential districts, as the respective use standards are more than adequate, significant gains in affordable and attainable housing can be made without changing community character, and neighboring property owners generally lack standing on any of these matters:
 - Duplexes
 - Accessory Dwelling Units
 - Home Occupations
 - Expand applicability of Section 3.11 to include redevelopment, and rewrite Section 3.11 in the context of the Historic Preservation Commission's work. In the context of this change, consider raising the height of CBD and BD to 40 feet when separation from residentially zoned areas can be achieved.
 - Flexibility in tree removal standards and replanting requirements, especially in the context of tree preservation otherwise. Still want to incentivize protection of live oaks above all else, but preservation of other species should also be given credit.
 - A by-right conservation subdivision option in R-10 and R-20, that allows lot sizes to be reduced by at least half, in exchange for 50% open space protection.
 - Reduce or eliminate off-street parking requirements in the CBD and BD districts as well as for single-family uses.
 - Refresh parking standards to set maximums, not minimums. Applicants should not have the ability to drastically over-park their sites, nor should they be required to provide more parking than they think is necessary for their project.

3.7 Residential Use Standards

A. 5. Multi-family residential structures shall be controlled by a maximum height, maximum number of dwelling units per acre, [maximum floor area ratio (FAR)], the **maximum** open space ratio (OSR), and maximum impervious coverage ratio as provided below:

- a) Maximum number of dwelling units per acre shall be 11.
- b) Maximum FAR shall be 3:1.
- c) **Minimum** OSR shall be 55%.
- d) Maximum impervious coverage ratio shall be 35%.

- Question: Clarify minimum vs maximum.

A.6 No more than 20% of the off-street parking associated with the multi-family use may be located in the front yard facing a public street.

- Question: Eliminate putting off-street parking in front yard facing public streets to help create streetscapes consistent with our historic character. Currently MF has a minimum 25 ft. front setback.

F. 6. No mixed-use building shall exceed 40 feet (i.e. one (1) floor commercial plus two (2) floors residential) in height.

- Question: Redundant/Remove – number 5 above states “No mixed-use building shall exceed the maximum height limit established in 3.9 Dimensional Requirements, Table 3.2.”

3.9 Dimensional Requirements

B. 1. Nonconforming lots which are located in the R-10 district may be granted rear and side yard setbacks proportionate to the size of the lot. Example: If a 10,000 square foot lot is required and the lot is 6,000 square feet, a 40 percent reduction is allowed.

- Question: Require rear yards for non-conforming lots to maintain the standard minimum R-10 20 ft. rear yard setback.

3.14 Parking

Table 3.4 Minimum Off-street Parking Spaces Required

Mixed Uses

One (1) space per dwelling unit in addition to that required by the other uses contained within the development.

- Question: Require 2 spaces. The 1 space requirement was an inadvertent change when the UDO was updated. Before the update, 2 spaces were required. The purpose of requiring 2 spaces per unit was originally to protect the available public parking in the CBD and Business District.

3.17 Landscaping and Buffers

E. Planting Material, Size and Species

- Consistent with the mandate in State Legislature, Bill SB606 and Bill 318 to plant native species, add a reference in (3.17 E.) to the NC Invasive Plants List Approved by the NC-Invasive Plant Council and the NC Native Plant Society to help prevent the planting of invasive species that displace our native species. Please refer to the language in 3.17 A. that supports this addition.

4.14 Recreation and Open Space

C. Amount of Land Dedicated

1. The amount of land required to be dedicated shall be computed on the basis of the following formula:

a) Area to be dedicated (in acres) = (.02) x (number of dwelling units or lots – whichever is greater)

- Question: Consider increasing the required open space per unit/lot in subdivisions. R-10 and R-20 calculations could reflect lot size differences to maintain equal dedicated open space requirements. R-10 (.05) R-20 (.1) Add same language as b)...”exclusive of 404 wetlands. Such open space shall comply with the provisions outlined within this section.”

The Planning Board is currently working on potential UDO updates regarding the Sign Ordinance and side setback encroachments, so I did not reference those items.



BOARD OF ALDERMEN AGENDA ITEM SUMMARY

DATE: March 26, 2024

DEPARTMENT: Board of Aldermen

PRESENTED BY: Rules and Procedures Committee

ITEM SPONSORED BY: Rules and Procedures Committee

ITEM/TOPIC: Board Liaison Role to Committees

COST: Not Applicable

BUDGET LINE ITEM: Not Applicable

JUSTIFICATION: At your March 5th Workshop Meeting, you had asked that the Rules and Procedures Committee write up a draft policy that the entire Board can comment on and finalize to go into the Rules and Procedures Booklet. Please find attached a draft policy with a draft report form from the Rules and Procedures Committee for you to discuss and finalize.

IMPACT IF NOT APPROVED: The Rules and Procedures Booklet will not have a written policy on the Board Liaison role for Board of Aldermen members.

DEPARTMENT HEAD COMMENTS: Not applicable

CITY MANAGER COMMENTS: Board discussion only

ATTACHMENTS: 1) Draft Board Liaison Role Policy and Monthly Written report document

REQUESTED ACTION: Discussion only

PROPOSED MOTION: Discussion only



Board Member Liaison Job Description

Duties and Expectations of a Board Liaison:

1. A Board Member acting as a liaison to a Board Advisory Committee or other body is not a member of the Committee. Rather, the Board Member is a positive resource to support the Committee in the completion of its work governed by the following rules:
2. A Board Member liaison is acting as a representative of the full Board and, as such, has no authority to provide any direction or guidance to the Committee other than direction or guidance that clearly represents direction or guidance of the full Board.
3. Generally put, the Board Member liaison shall not attempt to influence the work of or recommendations of the Committee: More specifically,
 - The Board Member shall not take part in the Committee's deliberations or discussions unless (a) the Committee requests the Board member's participation in a particular discussion (in this situation the Board member must expressly state that she or he is speaking for her or himself, not for the entire Board) or (b) the Board member determines that he or she must speak in order to remind the Committee of the Board's direction, City policies or laws including the Open Public Meetings law and the Public Records Act; and
 - The Board Member shall not take part in any votes of the Committee.
4. The Board Member liaison shall work to ensure that the Committee is only taking actions or doing the work that is within the scope of the Committee's work as determined or approved by the Board. The liaison can do this by, for example, reminding the Committee as needed of the scope of work that the Board set for the Committee.
5. The Board liaison shall bring to the Board any requests from the Board, such as the following:
 - Questions raised by the Committee about the Committee's scope of work.
 - Requests from the Board to change the Committee's scope of work.
 - Requests for expenditures of City resources to further the Committee's work (money, staff time, or other resources): and
 - The Board liaison shall submit a summary of the Committee's meeting using the accepted "Liaison Meeting Form".

Governance and Oversight

If a Committee member or member of the public feels that there is a problem with the way the Committee is being managed or governed, the Committee member or member of the public should speak to the Committee Chair first. If the problem is not resolved by the Chair, then the Committee member of the public can speak to the Board Liaison about her/his concerns.

At that point, the Board liaison's duty is to bring the concerns to the full Board or the City Manager rather than attempt to resolve the problem on her/his own.



DRAFT BOARD OF ALDERMEN LIAISON REPORT FORM

(To Be Given to the Board of Aldermen Once per Month)

Please attach a copy of the monthly agenda. Once completed, please send to the City Clerk for inclusion in the next Board of Aldermen Agenda.

Committee Meeting Attended:

Boad of Aldermen Liaison Making Report:

Topics Discussed:

Issues to Be Addressed by the Board of Aldermen:

Most Important Topic the Board of Aldermen Should be Aware Of: