



CITY OF SOUTHPORT
PLANNING BOARD
REGULAR MEETING AGENDA
Community Building, 223 E. Bay Street
October 17, 2024
6:00 PM

Agenda

Please turn off all cell phones

The regular monthly meeting of the Planning Board will be held at 6:00 p.m. on the third Thursday of each month. All members are asked to attend.

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Approval of Minutes**
 - 1. August 15, 2024
- E. Approval of Agenda**
- F. Public Comment**
- G. Old Business**
 - 1. Cades Cove- PUD Modification and Rezoning
- H. New Business**
 - 1. Bed and Breakfast/ Special Events - Text Amendment
- I. Other Business**
- J. Announcements**
- K. Member's Information**
 - 1. Attendance Record
 - 2. Member's Roster
- L. Adjourn**



Planning Board Minutes
Community Building 223 E. Bay Street
August 15, 2024
6:00 P.M

Members Present: Sue Hodgins, Will Hewett, Fred Fiss, Roy Pender, and Kevin Locklin

Members Absent: Scott Jones, Chris Jones, and Dick Sloan

Staff Present: Mo Meehan, City Planner
Tanya Shannon, Deputy Clerk
ChyAnn Ketchum, Director of Communications/PIO
Tori Deviney, Permit Technician

Board of Aldermen Rebecca Kelley (absent) and Frank Lai
Liaisons:

A. Chair Sue Hodgins called the meeting to order at 6:00 p.m.

Chair Hodgins announced that due to health issues, Member Dick Sloan has decided to resign his seat. As a result, City Alternate Kevin Locklin will be temporarily serving with full voting privileges until the seat is filled. Chair Hodgins also mentioned that until the county formalizes its assumption of the ETJ, Alternate Chris Jones and Member Scott Jones will remain as members, although neither was available for tonight's meeting.

B. Mr. Hewett gave the Invocation.

C. Chair Hodgins led the Pledge of Allegiance.

D. Approval of the Minutes

Mr. Hewett made a Motion to Approve the July 18, 2024, Minutes seconded by Mr. Pender.
Unanimous Vote; Motion Carried.

E. Approval of the Agenda

Mr. Hewett made a Motion to Approve the Agenda, and Mr. Pender seconded it. **Unanimous Vote; Motion Carried.**

F. Public Comment:

Mr. Hewett made a Motion to Open Public Comment, which was seconded by Mr. Fiss.
Unanimous Vote; Motion Carried.

1. Marty Younts, 285 Lord Thomas Ave. in Cades Cove, fully supports all efforts to prioritize traffic management within the neighborhood streets. She is strong on preventing traffic from using the streets as shortcuts, especially because they are maintained by the Homeowners' Association (HOA). Her main concern is the safety of the children who ride their bikes along these streets.
2. Marien Stevens, 503 Cades Trail, stated that the developer failed to finish the infrastructure and roads in the community. As a result, the residents had to pay for the completion and repair of the roads themselves. She mentioned that many people use the development as a shortcut, and she would prefer to keep the roads private in order to protect the residents' investment in the streets.
3. Lora Sharkey, 432 Cades Trail, commented (verbatim): 'This zoning request does not support CAMA land use goals.'

The restriction of travel along Lord Thomas and Cades Trail to Robert Ruark Dr. will have a negative impact on Southport residents seeking to reach the Brunswick Senior Center and dialysis center.

Residents in the Wind Tree and Fiddlers Creek apartments will be forced to make left turns using 14th Street or 12th Street to access N. Howe Street. This can be very challenging for older drivers.

Closure of the Robert Ruark and Cades Trail intersection will cause confusion for drivers, who are unaware that once they enter from the Lord Thomas/Caswell Ave intersection, they will be unable to exit the neighborhood. Traffic unable to enter from Robert Ruark will end up looking for ways to turn around also, causing traffic hazards.

The request to change the streets from public to private was not a 100% in favor result. I have been told more people are skeptical about the proposal because there is a lack of communication about what this will cost the homeowners. Without financial disclosure on what the HOA will require in assessments, this zoning request is premature and illogical since homeowners may reject increases in HOA fees.

Section 4.8 of UDO Streets and Roadway Network

All PUDs are required to have a major subdivision review process as part of the zoning procedure. Under review, it would be found that this request would violate the street connectivity requirements set forth in Section 4.8 of the UDO, Street Connectivity Requirements: The BOA hereby finds and determines that an interconnected street system is necessary to protect the public health, safety, and welfare. Streets will function in an interdependent manner, provide adequate access for emergency vehicles, enhance non-vehicular travel, and provide continuous and comprehensible traffic routes.

In accordance with the UDO, this application for zone change should include documentation that specifies each lot owner's responsibilities for the maintenance of private streets and drainage systems.

This application is also lacking the private street maintenance agreement that is required to accompany the recorded plat that indicates which streets are private.

This zoning request is unfair to me as a resident and taxpayer in Southport. I knowingly agreed to pay HOA fees during the purchase of my home. I was told HOA fees were necessary to maintain our alleys, the open space and common areas, the pool and clubhouse. In 2016 the residents and HOA had adopted a plan to meet the objectives necessary so the streets would meet City standards and be turned over. I would not have purchased a home in this subdivision if I knew I would also be responsible for the streets, sidewalks, streetlights and hurricane debris removal for eternity. It doesn't make good financial sense.'

4. Kevin Wall, 816 Cades Trail, mentioned that the Cades Cove Community collaborated to hire Southeast Foundation to repair the sidewalks after a neighbor fell on the uneven concrete. He noted that the City has not contributed to any sidewalk or street repairs since he moved there in 2013. He emphasized that anyone claiming that the City maintains the streets and sidewalks is untrue.
5. Dirk Mroczek, 305 Lord Thomas Ave., stated that there is a lot of cut-through traffic that goes down his road. He is in favor of privatizing the opportunity to put up a gate and is grateful for the opportunity to discuss this with the Board. He said that the gate would stop the cut-through traffic and also enhance the atmosphere of the community.
6. Pete Stewart from 510 Cades Trail supports prioritizing the protection and maintenance of the streets in Cades Cove. He mentioned that the City hasn't taken over their streets, and the residents have been sharing the cost of repairs and maintenance. He believes that when Phase 2 of the Indigo Plantation development begins, traffic will increase. However, there will still be access for emergency services, deliveries, and buses.

G. Old Business

1. 101 E. Moore St. Update

Ms. Meehan provided an overview of the Major Site Plan at Bullfrog Corner, which was initially submitted in 2022. She detailed the process, procedures, and the concerns raised by the Review Committee, as well as the problems that were addressed. A new plan was submitted in December 2023. The approval of the site plan hinged on the ability to back out onto Howe Street. Ms. Meehan expressed the Committee's significant concerns concerning the prospect of backing out onto Howe Street.

Chair Hodgkin reviewed the discussions held by the Review Committee, which included herself, Mr. Fiss, and Mr. Scott Jones. She explained the issues that the Committee had with the parking spaces. Originally, there were five spaces provided. Ms. Meehan mentioned that the maneuverability study conducted in December and the new submission in 2023 was not accepted. In December 2023, a variance was requested with the Board of Adjustments. The variance allowed the removal of one parking space. The applicant stated that he was going to address these issues, but Chair Hodgkin noted that the ordinance prevents some of the things that he is offering to do. Ms. Hodgkin expressed concern about the safety of the citizenry and the visitors to Southport.

Chair Hodgkin mentioned that after discussing with the City Council last week about the process and decision made by the Board of Adjustments, and the communication received by the City from Ms. Amy Schaefer informing that she had been retained as counsel for Mr. Laing, Ms. Meehan questioned reconvening the Review Committee for further discussion. Chair Hodgkin proposed moving the matter to the full Planning Board for a decision. Chair Hodgkin then asked the other Committee Member, Fred Fiss (since Chris Jones was not present), to share his comments.

Mr. Fiss feels the parking issue was circumvented through the Board of Adjustments, and that this is really a significant public safety issue for a busy public street. He quoted the DOT 's comments and notations. He feels that the project should be Approved or Disapproved by the Planning Board and not the Board of Adjustments. Mr. Fiss feels that the hardships have been brought on by the applicant. He would like to deny it based on the parking proposals and taking away one of the mandatory parking spaces. Ms. Meehan said the 5th space was not required, and Ms. Meehan explained. Mr. Fiss would like to see that the process is more streamlined moving forward.

The Chair commented (verbatim): *'There shouldn't be anyone on this Board that's not familiar with some aspect of this application. The 101 E. Moore Street submission came to us just after we had completed work on a Text Amendment that had been forwarded to the Aldermen for a vote regarding building height restrictions. A couple of days before that Aldermen's meeting, a very basic hand-drawn 'application' was presented to City Staff. No architectural or engineering drawings – a hand-drawing. My understanding is that Staff told Mr. Laing that he had everything he needed to move forward with this 3-story building that would alter the building's use. And he was told that the parking brought forward was correct ... which was NOT correct.*

In earlier Committee meetings, Mr. Laing reported that he was attempting to obtain easements from other property owners for his vehicular traffic through the alleyway between the 2 buildings he'd purchased. Those easements were not successfully negotiated, and there is now a fence erected for a beer garden for Royal James Café (that owner has leased the majority of the land available from the other surrounding property owners).

There is an audiotape of the January 23 (Adjustments) Hearing that has already been provided to the Committee members. We also have minutes of that Meeting – those were left at each Member's place before the meeting.

The Hearing for this particular property was about 40 minutes long. The Board members questioned Staff about interaction with public safety and emergency services staffs -- of which there had been none at that point in time. Staff was also asked about DOT interaction concerning this property; at that point, zero interaction had occurred with this entity either. Adjustment Members spoke of their safety concerns; Mr. Laing told them that his exiting vehicles were no different than the cars that back out of Howe St spaces, and in fact would have better line-of-sight than those other vehicles 'because they'd be higher as they came out'. Members talked about possibly painting the curb-cut yellow, and signage that could be used to draw attention. Ultimately, the Board of Adjustments granted Mr. Laing's request and elimination of one required parking space 'without condition'. (In fact, one Adjustments member was heard in the Hearing to say he wanted to include in the decision that this would be 'an open-ended variance for either of Mr. Laing's properties for any purposes'.)

Adjustments made their determination – as a quasi-judicial body – without public safety or the owner of the road (the State) weighing in.

The next meeting for the Planning Board Committee came in May. There was no discussion given concerning the details from the Board of Adjustments; Mr. Laing told us that he'd taken his original parking plan to Adjustments, and that they'd helped resolve his parking issues at the meeting. Our Committee asked at that time about public safety and DOT interaction and found out that there had been none; we requested that all of those entities be contacted regarding any concerns they would have.

In July we had another Committee meeting, where we saw both police and fire department's one-sentence responses that had come back in June -- they had no issues with the proposal. DOT Engineer Ben Hughes was contacted July 1 and enumerated his concerns. (Copies of this email were also distributed at Members' seats prior to the meeting tonight.) Mr. Laing stated at that Committee meeting that he 'was already going to do ALL the things DOT had mentioned', though there's nothing to show that...no plans, no Agreement. (And our ordinances prohibit some of the things Mr. Laing had mentioned that he would do: animated, flashing signs, mirrors, etc.)

Our Committee (me, Fred, and Chris) determined at the time that we were not comfortable with the vagueness of the Adjustments determination with no conditions, no Agreement as to the Applicant's intentions. We were further concerned about the safety liability, with this corner being Southport's busiest intersection and traffic backing out – over a pedestrian sidewalk, past other parked cars -- into a State-owned road.

During the phone call with the City Council on August 7th, Staff stated that the published minutes were not correct and that Adjustments (or Staff) had wanted to impose conditions concerning safety measures. At the time of that call, no Agreement had been drawn up for this Applicant...since January. (I've just received that draft from Staff just before tonight's meeting; an Agreement has been drafted, but not executed. Neither the Review Committee nor the full Board has seen it.)

What questions would Members have of Staff, the Applicant's counsel, or for your Committee members? Does the Board feel led to Table this action, returning the matter to the Committee for further discussion and appropriate review and opinion regarding the actions of the Board of Adjustment? Or does this Board have enough information from this discussion and report to make a determination tonight on this Major Site Plan? Be reminded, this Board's decision is final in the matter -- it will not go before the Board of Alderman for review and vote.'

Mr. Locklin inquired whether the Order from the variance hearing had been recorded with the Register of Deeds and if there was a Final Order. He pointed out that during the Adjustments Hearing, not enough evidence was presented. He explained that decisions in quasi-judicial Hearings must be based on competent material and substantial evidence, which he felt was lacking in this case. He mentioned that important safety information was not provided and asked if the decision could be sent back to Adjustments for appropriate evidence.

Ms. Meehan mentioned that the Order had not yet been signed; the last time she spoke to the City Attorney, she was advised that was okay because one of the conditions was that the Adjustments approval went along with the approval of the Major Site Plan. So, if it were Approved, it would still have that variance on the deed, but it would create a grey area on the deed. She also stated that the Counsel mentioned that signing after the time of the Major Site Plan approval would be most appropriate.

Mr. Locklin expressed the desire to have Staff ask the City Attorney if the decision can be remanded and sent back to the Board of Adjustments so that pertinent information can be submitted for additional evidence, since there is not a Final Order and it has not been recorded. Ms. Meehan will seek information from Counsel and advise back to the Board.

Mr. Locklin moved to Table the discussion of the 101 E Moore St. Major Site Plan for further discussion and review by the Committee. Additionally, he asked the Staff to consult with the City Attorney to determine the feasibility of scheduling a new Hearing with the Board of Adjustments. This would allow for the presentation of important evidence that was not previously provided. Staff will report back to the Planning Board. Motion seconded by Mr. Hewett.
Unanimous Vote; Motion Carried.

Before discussing Agenda Item 2 under Old Business, Mr. Pender asked to address Agenda Item 1 under New Business. The item in question was the Cades Cove Planned Unit Development Modification Rezoning, which had brought several of the Cades Cove Residents to this evening's meeting. Mr. Pender made a Motion to Amend the Agenda and move Item 1 from New Business to become Item 2 under Old Business, which was seconded by Mr. Hewett.
Unanimous Vote; Motion Carried.

New Business Item 1. Cades Cove Planned Unit Development Modification/Rezoning

Ms. Meehan provided background information on Cades Cove's approval as a Planned Residential Development. The master site plan and preliminary plat include a public right of way with through streets for interconnectivity, but the City has not accepted the streets due to the developer's abandoned infrastructure projects.

In the spring of 2023, the Cades Cove Homeowners' Association requested to add a gate to their entrance. The Development Services Director, in consultation with City Attorney Brady Herman, determined the following:

- The City is not involved in the community's desire to rescind the public dedication of streets. If the community meets statutory requirements to rescind the streets, City ordinances are not violated.
- If the dedicated streets are rescinded, the City has the right to all city easements within the streets and the Cades Cove community.
- The placement of a gate will violate the original development approval as it places a new structure not on an Approved plan. The gate would block public use of roadways dedicated to public use. Modifying the PUD and rezoning to amend the master plan will be necessary.

Mr. Rick Jones submitted a request to modify a Planned Unit Development (PUD) and rezone the area, incorporating private street right-of-ways and a gated entrance on Robert Ruark Drive. Emergency vehicles can access through siren-activated sensors, while buses and delivery drivers can use personalized codes and remotes.

Ms. Meehan clarified that the streets are public, but the City has not taken them over, so the City does not have jurisdiction over them at this point. The applicant, Mr. Rick Jones of 828 Cades Trail, came to the podium and provided the history of the development and explained why they are pursuing a gated entrance.

The Board members expressed concern about vehicles entering the development from Caswell Ave, reaching the gate, and needing to turn around to exit. Mr. Jones explained that there would be adequate space at the gate for vehicles to turn around. Additionally, they will implement signage on both sides to warn of traffic changes and a dead end. Mr. Jones mentioned that bicycles, walkers, and golf carts will still be able to access the area to maintain connectivity, but vehicle traffic will be restricted. The pathway going to the Senior Center will remain open, and they will not be closing the entrance to N. Caswell, stated Mr. Jones. He also explained that UPS drivers will have access codes. He said there would be a keypad at the gate as well as a clicker for residential access.

Mr. John Galowski, 508 Cades Trail, came to the podium and said that they had spoken to vendors and service providers for example, on what the possibilities are. He said the primary method would be a remote for homeowners and a keypad in addition to that. He said it is preferred for service vehicles to enter through the Caswell entrance. He said that the signage would be critical and would ensure that all emergency services, busses, and other services would be provided access.

After more discussion, Chair Hodgkin stated she understands the neighborhood's angst about maintenance of their private roads, but the bottom line is that the Cades Cove roads have still not been accepted by the City of Southport and from the documentation provided, they should not be. Allowing this would be an inconvenience for anyone accustomed to using Cades Cove roads because once vehicles have come in and they get to that gate, they're going to turn around and simply go back through again – using their roads again to get out. Another determiner for her is that this community has heightened its concerns now that Osprey Landing and the potential of Indigo Phase Two will also be using Robert Ruark Drive. The Chair stated that we say our city is open to everyone and that we want folks to be able to move about freely, that we like connectivity. This request, if Approved, would be, in her opinion, presenting a bad precedent. She does not feel it should be Approved.

Mr. Hewett made a Motion to Table the PUD Modification Request submitted by Cades Cove, allowing it to be a “semi-private” rather than a “public” community, and its installation of a private gate access on Robert Ruark Drive, for further review and discussion at the September Meeting. Seconded by Mr. Pender. **Unanimous Vote; Motion Carried.**

Back to Old Business

2. Section 3.19 – Sign Ordinance – Political Sign Discussion

Meehan provided an overview and explained that during the regular meeting on June 20, the staff presented an updated draft of text amendments for Section 3.19 Signs. After review and discussion, the Board of Aldermen unanimously recommended approval. They also called for a Public Hearing for the amendments to Section 3.19 at their July 11, 2024, meeting.

Upon reviewing the updated text, specifically Section 3.19.C.18. Political Signs, City Attorney Brady Herman expressed concerns about treating noncommercial speech equally. He stated, "The political sign ordinance amendment gives me a bit of concern with the way it is written, one sign per candidate, as it could violate the Reed v. Gilbert Supreme Court case by regulating signs based on the content of the message—i.e., the political candidate." He also included directions and text from other jurisdictions for consideration that address political signs while achieving the same goals.

Therefore, Staff has brought this item back for a review of Section 3.19.C.18. There were conversations about this subject during the last election season, and we want to ensure the goals of the City's sign ordinance and citizens' freedom of speech will be met.

A Motion was made by Mr. Hewett to Approve the drafted language as presented and move back to the Board of Aldermen for advancement to a Public Hearing. Seconded by Mr. Locklin. ***Unanimous Vote; Motion Carried.***

Mr. Hewett read the Consistency Statement that recommended approval to the Board of Aldermen.

3. ETJ Update

Ms. Meehan gave a brief 'where we stand' regarding the ETJ and the cooperative efforts being made by County and City Planning Staff.

Chair Hodgkin gave a statement on the Brunswick County August 12, 2024, Planning Board Meeting (verbatim):

'There were interesting dynamics at play during the County Planning Board meeting this past Monday night. First I want to thank the 19 citizens that attended and spoke (ETJ residents or not) on the effects of the activities of this year's General Assembly relative to our now former ETJ in the passage of Session Law 2024-21 (what we all came to know as H911). And I want to thank City Manager Stuart Turille, Alderman Karen Mosteller and fellow Planning Board Member Fred Fiss for attending and for all their comments.

If one does not understand legislative process then one might believe that there may yet be a way to derail the removal of Southport's oversight of this area. As was expressed at Monday night's meeting by another attendee, an Assistant County Attorney AND myself in comments, that is not going to happen. It would take a Special Session of the General Assembly to reverse legislation it had already passed. We may think and believe that 'we are special' here in Southport folks, but we are just not that special to the North Carolina General Assembly! They will not return to Raleigh in Special Session to do away with what THEY voted into place before they adjourned.

Social media is still very active, encouraging everyone to insist that the County Commissioners vote this action down, or to ask for an extension of the process for more discussions, but it's my own firm opinion that it is just not going to happen. I would not

discourage anyone from submitting written comments to the County expressing concern for our city and the County's management of this newly-acquired area. Absolutely. you have until Monday, August 19th if you want to do that before the Commissioners' last meeting before the September 1 statutory deadline.

While I'm at this point, let me address something that keeps occurring both in social media and very recently in The State Port Pilot. Oakton -- its clearing in prep for infrastructure and utilities. I want to be clear about this. Oakton was Approved before the latest revision to the Tree Ordinances for Southport -- this approval was granted before Southport became even more protective of its trees. They are Approved for the work that they are doing. No one should assume that this is currently- allowed 'clear cutting' of property for development. The City is overseeing the work that is being done there, and it is proceeding by the permission granted in its original submission & approval.

I want to express again tonight -- and I've commented again about this to Staff -- what I have found extremely bothersome throughout this whole legislative debacle... and that is the inactivity of our City Leadership to call our 4400+ citizens into bold action. At Monday night's meeting the County Planning staffer assigned as the lead in this rezoning activity stated into record that the only opposition correspondence received from Southport was the official letter of concern that the City of Southport submitted. No one in this entire town submitted correspondence to the County Planning staff -- no one!

Yes, there was and still is a barrage of bashing online... but the County Planning staff cannot use online rants as documentation of opposition. They must use what is sent into them as 'official' letters of concern or letters of opposition. So once again I'll say that our City Leadership should have had information on the City website, or on its own social media page, and in City meetings to educate the citizenry on the process and promote a City suggestion that citizens get involved from the very beginning of this activity.

I've heard that we (the City) didn't want to rub folks the wrong way. For me, personally, not speaking for anyone else here - I don't espouse the thought that we don't need to rub a legislator the wrong way because of funding they might bring in our direction. Folks, legislators will bring money to our area: they need our votes, we pay their salaries, and they want these contributions on their election ads and accomplishments. The 'pork' comes, folks -- my own honest opinion is that we couldn't upset our elected officials enough to where they would not be financially respondent to their district. They need us -- in many ways, far more than we need them.

What I did see happen Monday night -- and I'm very encouraged by it -- is that County Planning Board members and Staff seemed to have the dim glow of light bulbs that they are recognizing how truly detrimental this legislation is, especially to Southport and our successful efforts in protecting our town, its trees, and the potential creep of massive development we're all seeing along Hwy. 211 in the county. And I'm very thankful for the couple of County Planning Board members who spoke up saying they were making an on-the-record commitment to help work on amendments to the County UDO to provide corridor- and overlay- areas and to encourage text amendments that would help protect what we've worked so hard to have here in Southport. I hope that our own Planning Board can be an integral part of those discussions and in helping to see good and right things done for Southport and ALL of Brunswick County.'

H. New Business

2. Turtle Bay Major Subdivision Preliminary Plat

Ms. Meehan gave an overview of the application. Jackson Starling, applicant, on behalf of Turtle Bay at Southport, is requesting approval of the Turtle Bay Subdivision Preliminary Plat, which consists of 100 single-family lots. The subdivision will be developed in two (2) phases: Phase 1 will consist of 59 lots, and Phase 2 will consist of 41 lots. The property is located on

NC 87 (River Road) to the north of Rob Gandy Boulevard, south of Duke Energy, and east of Hwy 211 (N Howe Street). This property is located within the Southport city limits.

This proposal was first Approved as a Planned Unit Development and Master Development Plan in June 2024. It meets all the requirements listed in Appendix A of the UDO and the required improvements found in Section 4.7 of the Unified Development Ordinance.

The parcel of land totals 54.09 acres. The proposed subdivision's density is 1.85 dwelling units/acre, which meets the maximum density of 6 du/acre as laid out within the Unified Development Ordinance. Further, 10.88 acres of open space exists, which meets the existing 20% requirement for all PUDS.

Mr. Hewett made a Motion to Approve the Turtle Bay Major Subdivision Plat, seconded by Mr. Fiss. ***Unanimous Vote; Motion Carried.***

3. Dosher Hospital Emergency Department Major Site Plan

Ms. Meehan gave an overview of the plan. Brian Turner, the applicant, is requesting a revision to the previously Approved Commercial Project - Major Site Plan for the expansion and relocation of the Dosher Memorial Hospital Emergency Department (ED). Specifically, the request is to construct a new 8,914 SF building on the southeast portion of the Hospital campus, repave and restripe the project property and the existing parking lot, and install landscaping. The property is located at 924 N Howe Street between Fodale Avenue and E. 9th Street, within the incorporated city limits of the City of Southport. It is zoned O&I -- Office and Institutional.

Mr. Fiss inquired about whether the doctors' offices would be removed or relocated. Mr. Turner responded that they would be relocated. Subsequently, Mr. Pender raised a question regarding the tree plan. Mr. Turner explained that Dosher wanted to ensure tree protection and would take great pride in ensuring the trees are protected.

There was no further discussion. Mr. Hewett made a Motion to Approve the Dosher Hospital Emergency Department Major Site Plan, seconded by Mr. Locklin. ***Unanimous Vote; Motion Carried.***

I. Other Business: None

J. Announcements:

Chair Hodgkin announced the Brunswick County Commissioners Meeting on 8/19 at 6 PM; the published Agenda includes the ETJ zoning and assumption.

K. Being that there was no further discussion, Chair Hodgkin requested a Motion to Adjourn. So Moved by Mr. Hewett and seconded by Mr. Pender. *Unanimous Vote; Motion Carried.*****

Adjourn—8:11 p.m.

Chair Sue Hodgkin

Deputy Clerk, Tanya Shannon

STAFF REPORT FOR CADES COVE PLANNED UNIT DEVELOPMENT MODIFICATION REZONING AND MASTER DEVELOPMENT PLAN

APPLICATION SUMMARY

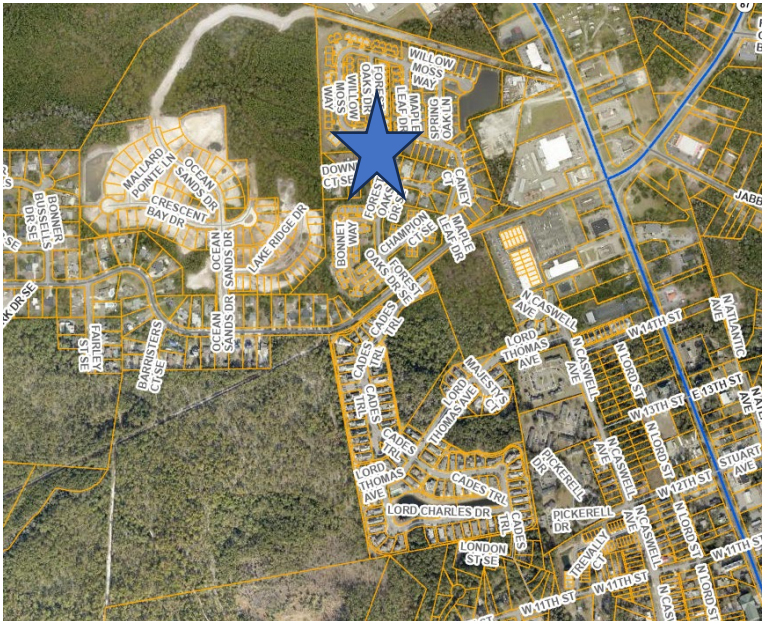
Presentation Date	October 17, 2024 Planning and Zoning Board
Applicant	Rick Jones, President Board of Directors
Property Owner	Cades Cove Homeowners' Association
Zoning District	PUD

PROJECT OVERVIEW

Since the project was first heard at your August 15, 2024, meeting, there has not been any new information provided by the applicant. There is a new attachment showing a similar type of sign that may be considered for the neighborhood.

Rick Jones, applicant, on behalf of the Cades Cove Homeowners' Association, is requesting approval of a modification to the Planned Unit Development and a rezoning request to modify the PUD zoning district. This modification includes rescinding the public dedication of the subdivision's streets and adds a gated entrance and exit on Robert Ruark Drive.

LOCATION



Subject property is situated west of North Howe Street before Smithville Woods, with access from Robert Ruark Drive and North Caswell Avenue.

BACKGROUND AND PROPOSED AMENDMENT

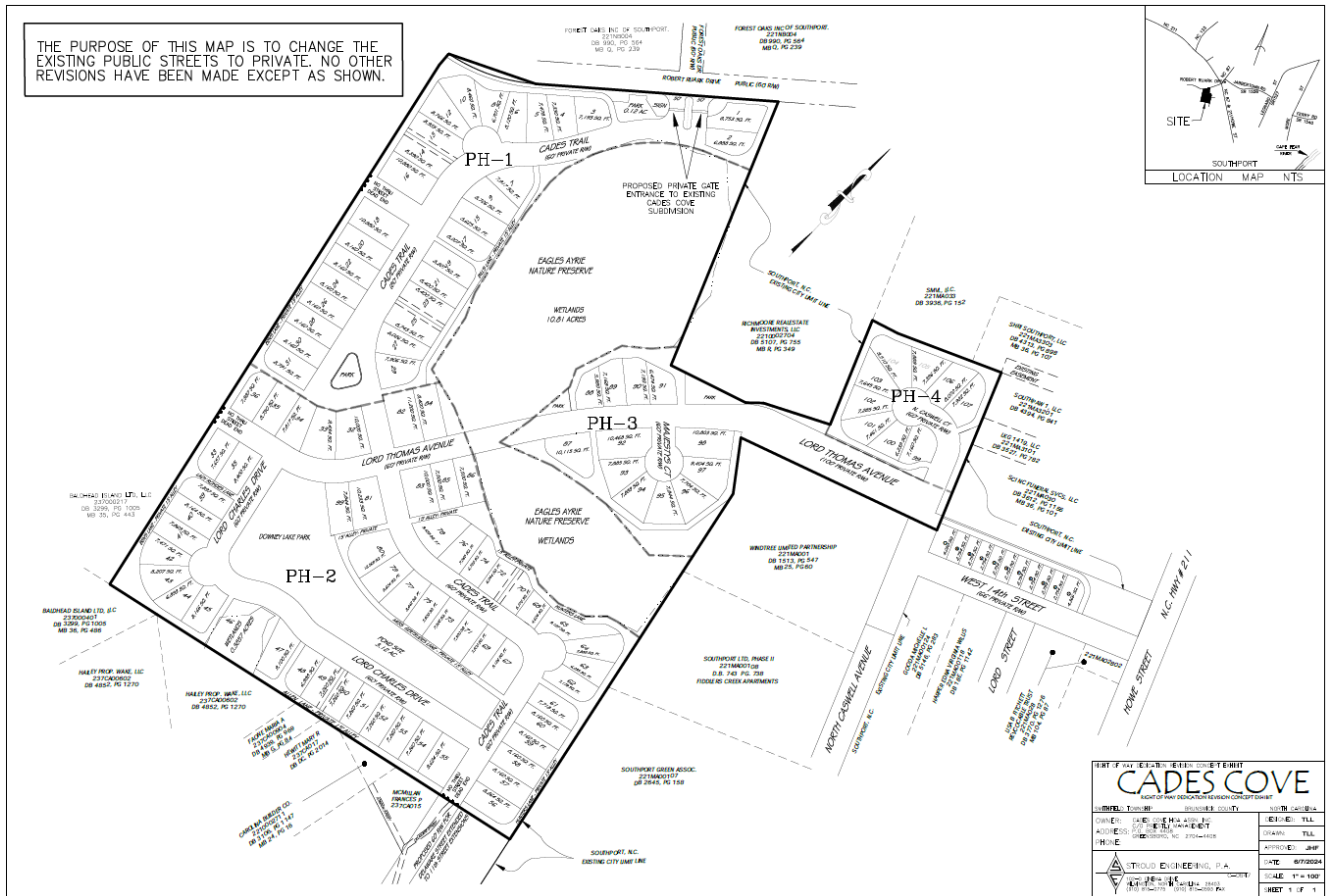
Cades Cove was approved as a Planned Residential Development, similar to the existing PUD process. A master site plan with standards was conditionally approved. All conditions of the approval must be followed throughout the life of the subdivision. The approved master plan and preliminary plat include public right of way with through streets for interconnectivity. The streets, while dedicated as a public right of way, have yet to be accepted by the city due to several different stormwater and other infrastructure projects that the developer abandoned.

In the Spring of 2023, the Cades Cove Homeowners' Association approached staff with a request to add a gate to their entrance. The Development Services Director at the time, in consultation with Brady Herman, City Attorney, determined the following:

- The city is not involved in the community's desire to rescind the public dedication of streets. If the community can meet statutory requirements to rescind the streets, city ordinances are not violated.
- If the dedicated streets are rescinded, the city has the right to all city easements within the streets and the Cades Cove community.
- The placement of a gate will violate the original development approval since it is placing a new structure not on an approved plan. The gate would impede the public from traveling roadways that are dedicated to public use. A modification to the PUD and rezoning to amend the master plan will be required.

Per staff direction, the applicant has submitted a PUD modification and rezoning application, including a proposed plat showing private street right-of-ways and a gated entrance and exit on Robert Ruark Drive. The entrance on Lord Thomas from North Caswell Avenue will remain open. There will be siren-activated sensors to ensure emergency vehicles have access through both gates. Buses and delivery service drivers can receive access with personalized codes and/or remotes.

The applicant also includes updated articles of incorporation that grant the HOA authority to assume private streets, a current assessment of the condition of the streets, and financial documentation showing how the HOA will accommodate future funding for maintenance and repairs. The documents mentioned are attached to this report.



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GATE POSITIONING RUARK ENTRANCE
View from Ruark, center island at left



EXIT ON TO RUARK FROM CADES TRAIL



REVIEW PROCESS

Proposed amendments to the zoning map may be initiated by the Board of Aldermen, Planning Board, city administration, or by the owner, or his or her agent, of property within the area proposed to be changed. Every amendment, supplement, change, modification, or repeal of the zoning map/ordinance shall be referred to the Planning Board for its recommendation and report to the Board of Aldermen.

A Planned Unit Development (PUD) is planned and developed as an integral unit in a single development operation or a defined series of development according to an approved master plan. Per Section 2.9 C of the City of Southport Unified Development Ordinance, the Planning Board shall review the proposal and transmit a formal recommendation to the Board of Aldermen. The Board of Aldermen is the final decision maker on all Master Development Plans within the City of Southport.

A PUD requires an amendment to the City's zoning map in conjunction with the approval of the master development plan. Applications for both the master development plan and rezoning are submitted concurrently. The master plan outlines the framework for development within the PUD, including intended uses, dimensional standards for parking, landscaping, design guidelines, and buffers. The proposal must comply with the design guidelines provided in Section 4.15 of the Unified Development Ordinance.

When evaluating the application for a PUD zoning district, the Planning Board and the Board of Aldermen shall consider the following:

- a) The application's consistency to the general policies and objectives of the City's Comprehensive Plan, any other officially adopted plan that is applicable, and the Unified Development Ordinance.
- b) The potential impacts and/or benefits on the surrounding area and adjoining properties.

The Planning Board will provide a recommendation to the Board of Aldermen.

Prior to the Board of Aldermen's consideration of a change, a public hearing must occur on a set day and time. The hearing is notified to adjacent property owners by mail, published in a local newspaper of general circulation, and posted on the property for two (2) consecutive weeks, not less than 10 days and not more than 25 days before the hearing.

The Board of Aldermen may adopt the approval, conditional approval, or denial of the rezoning after the duly advertised public hearing and upon the approval of a plan consistency statement and a statement of reasonableness.

Following an affirmative decision by the Board of Aldermen, the official zoning map will be updated to PUD, and all development shall follow the approved master development plan.

LAND USE PLAN CONSISTENCY

The 2014 CAMA Land Use Plan (LUP), along with subsequent updates, is the plan that is used for policy decisions in the City. The Planning Board and Board of Aldermen shall consult the plan's policies when considering a zoning change. Further, each rezoning must be recommended and ultimately adopted with a statement describing if the action is consistent or inconsistent with the adopted land use plan.

Policy 2.1 "...rezonings and amendments in classifications to the future land use map should be carefully balanced with a demonstrated need for such proposed development

The modified master development plan proposes a gated single-family development with private streets.

Policy 6.1: Southport supports the interconnectivity of residential and non-residential subdivisions through the enforcement of street design standards contained in the UDO.

The modified master development plan is not consistent with the land use policy above or with the requirement of subdivisions to provide interconnectivity with existing streets.

The following policy supports the proposed rezoning request.

Policy 2.4: Southport will permit residential development to occur in response to market needs provided the following criteria are met:

- 1) Due respect is offered to all aspects of the environment.
- 2) Concurrent planning for improvements to community facilities, infrastructure, and services provided.

This policy is appropriate for the site due to the unique characteristics of the tract of land and changing development patterns on Robert Ruark Drive.

STAFF'S RECOMMENDATION

City Planning Staff submit the proposed Modification of a Planned Unit Development and Zoning Map Amendment to the Planning Board to consider a recommendation to the Board of Aldermen in accordance with the standards and processes laid out within the City of Southport Unified Development Ordinance. The application has been deemed complete and is eligible for review.

The proposal appears to be inconsistent with the 2014 CAMA Core Land Use Plan but is reasonable due to the physical conditions, and other attributes of the area and there are changing conditions that may warrant the amendment. An amendment to a master development plan and rezoning that is inconsistent with adopted plans can be recommended for approval if the Planning Board recognize that they are doing so and

there is documentation of the reasoning for the decision. The statement of reasonableness shall consider the following factors:

- i. the size, physical conditions, and other attributes of the area proposed to be rezoned;
- ii. the benefits and detriments to the landowners, the neighbors, and the surrounding community;
- iii. the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- iv. why the action taken is in the public interest; and
- v. any changed conditions warranting the amendment.

You do not have to consider each of the factors, as not all will be appropriate for every zoning amendment.

Attachments:

- 1) Applications – Zoning and Planned Unit Development
- 2) Proposed Plat with Private R/W and proposed gated entrances
- 3) Applicant's Summary of the proposed amendment and accompanying documents
- 4) Consistency Statements

PRIVATE ROAD

No Thru Traffic
No Parking on
Street or Grass



**City of Southport Planning Board
Statement of Plan Consistency and Zoning Recommendation
(As per NC General Statute 160D-604)**

When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

AMENDMENT: ZMA 24-02

STATEMENT OF CONSISTENCY AND RECOMMENDATION:

The City of Southport Planning Board hereby recommends **approval** of the proposed Zoning Map Amendment to the Board of Aldermen and finds that it is consistent with the City's 2014 CAMA Core Land Use Plan originally adopted Nov. 13, 2014 and subsequently amended by the Southport Board of Aldermen. More specifically, the proposed amendment is consistent with **Policy 2.3:** Southport supports quality development reflecting a spectrum of housing needs, from low-end (affordable) residences to high-end (luxury) residences. Further, the Planning Board finds that the proposed text amendment is reasonable due to the size, physical conditions, and other attributes of the area.

The statement and motion was seconded and passed _____.

Tanya Shannon, Deputy City Clerk

Sue Hodgins, Chairman



**City of Southport Planning Board
Statement of Plan Consistency and Zoning Recommendation
(As per NC General Statute 160D-604)**

When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

AMENDMENT: ZMA 24-02

STATEMENT OF CONSISTENCY AND RECOMMENDATION:

The City of Southport Planning Board hereby recommends **denial** of the proposed Zoning Map Amendment to the Board of Aldermen and finds that it is inconsistent with the City's 2014 CAMA Core Land Use Plan originally adopted Nov. 13, 2014 and subsequently amended by the Southport Board of Aldermen and not reasonable due to the size, physical conditions, and other attributes of the area and is not in the public interest for the amendment.

The statement and motion was seconded and passed _____.

Tanya Shannon, Deputy City Clerk

Sue Hodgins, Chairman



Development Services Department

Upon review of the file for the Cades Cove community as well as current and previous development regulations and North Carolina General Statutes, City of Southport Development Services Staff have come to the following determination:

- The City of Southport is not involved in the Cades Cove community's desire to rescind the public dedication of its streets. If the community can meet the statutory requirements necessary to rescind the public dedication for its streets, doing so does not create a violation of any City of Southport ordinances; provided, however, the City has the right to retain any and all City easements within these streets and the Cades Cove community if the dedicated streets are rescinded. (See G.S. 160A-299(g) and G.S. 136-96).
- The placement of a gate or other impediment to the public's ability to use the rights-of-way within the community would be considered a violation of Cades Cove's original development approval for the following reasons:
 - The introduction of a structure not shown on any approved map or plat of the community without zoning approval; and
 - The introduction of a gate that would result in the prohibition of the public's ability to travel the roadways, when the approval granted to the community included the provision that all roadways would be dedicated for public use.
- The Cades Cove community may request a revision to its original approval to include the addition of a gate(s) and to revise the street dedication from public to private. Doing so would be considered a major modification per Section 2.6.J of the City of Southport Unified Development Ordinance, and the process shall follow the provisions laid out for original approval of Planned Unit Developments. Such process shall include an application to amend the Planned Unit Development and a rezoning request to modify the PUD zoning district, and the Board of Aldermen shall be the final decision maker in a legislative process following a public hearing.

Pursuant to the Unified Development Ordinance, this determination is subject to appeal to the Board of Adjustment within 30 days of receipt of it. Should you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Travis Henley", is written over a light blue horizontal line.

Travis Henley – Director
Development Services
City of Southport, NC
910-457-7900 x1008
thenley@cityofsouthport.com



Zoning Map Amendment

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461

www.southportnc.org

Planning & Inspections

Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

PERMIT No. ZMA 24-02 FEE: \$ 6,700 Date Received: 6/27/24

Applicant's Name: Cades Cove Homeowners' Association; Rick Jones, President 2024

Mailing Address: 407 Lord Thomas Avenue (HOA), 828 Cades Trail (Rick); City: Southport

State: NC

Zip Code: 28461

Phone: 914-714-5039

Email: rickcadescove@gmail.com

Property Owner's Name: SAME AS ABOVE

Address of Owner: _____ City: _____

State: _____ Zip Code: _____ Phone: _____

Email: _____

Project Name: CADES COVE ZONING REVISION: public to private access

Project Address and/or Description of Location: _____

Parcel ID #: _____ Number of Lots: _____ Site Acreage: _____

Current Zoning District: _____ Proposed Zoning District: _____

Please describe the changing conditions in the area or in the City of Southport that makes the proposed amendment necessary to the promotion of the public health, safety and general welfare, or that identifies an obvious error in the zoning map based upon the zoning classification or current land use of surrounding properties. Also include an explanation on why the proposed zoning is or is not consistent with the Land Use Plan and other adopted plans (Attach separate sheet if necessary)

Cades Cove Homeowners Association wishes to change the zoning of our development from public to private. As the development evolved, the streets were dedicated to the city in nine separate 15-year dedications. By 2024, four of those nine have expired, including from the Robert Ruark entrance well past the four-way stop at Lord Thomas and the section of Lord Thomas whose terminus is adjacent to the BHI/Indigo Phase II property.

The developers abandoned Cades Cove in 2016 after receiving back \$190,000 of their \$365,000 bond to the City of Southport. This was done without having all the streets finished or having the stormwater system inspected by the City or State. The remaining \$175,000 bond was largely used by CCHOA to repair sinkholes in the stormwater system (and then repaving).

The residents agree to take over responsibility from the City, saving Southport valuable funds. In turn, we would like the opportunity to regulate the wear and tear on our streets, both currently from cut-through traffic, and in the future with the present development of Osprey Landing and eventually the Indigo II property. The expansion of 211 where 4 lanes go down to two at Ruark will likely exacerbate this problem.

We value being engaged members of the Southport community but look to gate our Robert Ruark entrance to achieve the goal of enhanced safety for residents and guests while reducing wear and tear on our roads.

In filing this Rezoning Petition, I hereby certify that I am authorized to submit this application and that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Richard D. Jones

Signature (Owner or Authorized Applicant)

February 5, 2024

Date

APPROVED BY:

Maureen Melhan

UDO Administrator

6/27/24

Date



Executive Summary

Cades Cove Rezoning Request

Originally submitted February 2024, updated June 2024

Our Ask:

Cades Cove seeks to privatize our neighborhood with the intention of placing a gate at our Robert Ruark entrance. We would like to better control the wear and tear on our streets and to improve safety for our residents, their children, grandchildren and guests. In turn, the Cades Cove Homeowners' Association will assume the cost of maintaining quality roads. This will save the City of Southport nearly a quarter of a million dollars upfront based on a recent estimate provided to one of our residents from the Assistant City Manager (estimate developed by the City Engineer). There will also be substantial savings in ongoing maintenance for Southport.

Document Contents:

- 1) Executive Summary and Our Ask
- 2) Articles of Incorporation Amendment approved by CCHOA membership September 2022
 - a. Appending the streets as Common Area, developed by LawFirmCarolinas
 - b. Permitting our Board to levy assessments for their maintenance and care
- 3) PUD Amendment – submitted to Southport 10/10/23
- 4) PUD Amendment Letter and Rationale
- 5) Rezoning Document – submitted to Southport January 2024
- 6) Rezoning Document Attachments
- 7) Plat Plans – newly updated by Stroud Engineering to reflect private status
- 8) Condition of Streets – CCHOA assurance that streets will remain in quality condition
- 9) Financial Accountability – our assurance that we will have resources and strategic plans that permit us to afford the assumption of responsibility for our streets on an ongoing basis

Board of Directors, Cades Cove Homeowners' Association
Rick Jones, President, 914-714-5039, rickcadescove@gmail.com



3 Return to Black Slaughter & Black Type Mail
Total 26 Rev Int.
Ck \$ 26 Ck # 1256 Cash \$
Refund Cash \$ Finance
☐ Portions of document are illegible due to condition of original.
☐ Document contains seals verified by original instrument that cannot be reproduced or copied.

Prepared by/mail to: Harmony W. Taylor, Law Firm Carolinas 1927 S. Tryon St. Suite 100 Charlotte NC 28203

BRUNSWICK COUNTY
NORTH CAROLINA

**NINTH AMENDMENT TO THE
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR CADES COVE**

This NINTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CADES COVE is made this 4th day of October, 2022, by Cades Cove Homeowners' Association, Inc.

WITNESSETH:

WHEREAS, the Declarant subjected Cades Cove (the "Property") to the Declaration of Covenants, Conditions, and Restrictions for Cades Cove recorded in Deed Book 2337, Page 1407 of the Brunswick County Registry and amendments to the same, including but not limited to the following (collectively, the "Declaration"):

- a) Book 2338, Page 1;
- b) Book 2485, Page 0466;
- c) Book 2532, Page 0733;
- d) Book 2636, Page 0020;
- e) Book 2803, Page 0337;
- f) Book 3616, Page 0997;
- g) Book 3715, Page 0683;

WHEREAS, the Declaration applies to and runs with the land described in the Plat Books and Pages of the Brunswick County Register of Deeds, including but not limited to the following:

- a) Book 34, Page 279;
- b) Book 35, Page 115;
- c) Book 40, Page 83;
- d) Book 50, Page 71;
- e) Book 71, Page 28;

- f) Book 75, Page 73;
- g) Book 78, Page 98;
- h) Book 80, Page 3;
- i) Book 84, Page 24;
- j) Book 85, Page 20;
- k) Book 85, Page 21;
- l) Book 85, Page 33;
- m) Book 86, Page 96;

WHEREAS, NCGS § 47F-2-117 states that the declaration may be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, or any larger majority the declaration specifies. The percentage required for passage per the Declaration is sixty-seven percent (67%), and such approval has been obtained.

NOW THEREFORE, the Declaration of Covenants, Conditions, and Restrictions for Cades Cove is amended as follows:

Amend ARTICLE II (“COMMON AREA PROPERTY RIGHTS”) to add a new Section 4 (“Private Roads”) to read as follows:

Section 4. Private Roads. Notwithstanding any language or provision within the Declaration, Articles of Incorporation, or Bylaws of the Association to the contrary, or any dedication or language contained on any recorded plat of real property within the Cades Cove subdivision, the Board of Directors shall have the authority to take any and all actions necessary to:

(1) withdraw offers of dedication of any portions of the Properties to the public for public roads, which right the Association shall exclusively exercise on behalf of itself and the Owners within the Properties;

(2) undertake any and all actions related to the withdrawal of such an offer of dedication on behalf of the Association and the Owners within the Properties;

(3) maintain, repair, and replace the roads which are located on the Properties in perpetuity as private roads, for the use and enjoyment of the Owners and their tenants, guests and invitees;

(4) to collect assessments for the purposes recited herein in the same manner as other assessments under the terms of applicable law and the Declaration, Bylaws, and Articles of Incorporation, as amended; and

(5) to otherwise take any and all actions related to the private roads which the Association deems it to be appropriate to take.



All other terms and conditions contained in the Declaration shall remain unchanged.

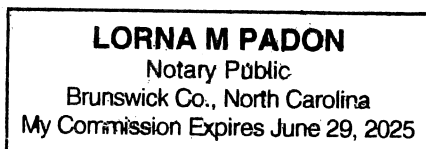
CADES COVE HOMEOWNERS' ASSOCIATION,
INC.

By: Thomas Rawson Hale
THOMAS RAWSON HALE, President

STATE OF NORTH CAROLINA
COUNTY OF Brunswick

I, a Notary Public of the County and State aforesaid, certify that Thomas Rawson Hale personally came before me this day and acknowledged that he is President of Cades Cove Homeowners' Association, Inc., and that he, President, being authorized to do so, executed the foregoing on behalf of Cades Cove Homeowners' Association, Inc.

WITNESS my hand and official stamp or seal, this 4th day of October, 2022.



Lorna M. Padon
Notary Public

Lorna M. Padon
Printed Name

My commission expires: June 29, 2025



Planned Unit Development Permit

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461

www.southportnc.org

Planning & Inspections

Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

PERMIT No. _____ FEE: \$ _____ Date Received: _____

Applicant's Name: Laura Howell on behalf of: Cades Cove HOA Board of Directors

Mailing Address: _____ City: Southport

State: NC Zip Code: 28461 Phone: 703-483-1681

Email: Emma4H@gmail.com Rickcadescove@gmail.com

Property Owner's Name: N/A

Address of Owner: _____ City: _____

State: _____ Zip Code: _____ Phone: _____

Email: _____

Property Address: N/A City: _____

Parcel Size (acres): _____ Number of Dwellings: _____

Open Space Area: _____ Right-of-way Area: _____

Surveyor: N/A License #: _____

Mailing Address: _____ City: _____

Page 2 of 2 State: _____ Zip Code: _____ Phone: _____

Email: _____

Per Section 2.9 of the UDO, the purpose of A Planned Unit Development (PUD), is planned and developed as an integral unit, in a single development operation or a definitely programmed series of development

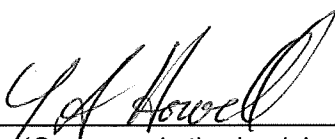
operations and according to an approved master development plan. All PUDs require an amendment to the city's zoning map and master development plan approval, followed by the major subdivision approval process as specified in this ordinance.

The minimum amount of land (unified control to be planned and developed as a whole) required for a PUD district shall be eight (8) acres of net buildable area within the city corporate limits, on one or more contiguous parcels or 25 acres of net buildable area in the ETJ, on one (1) or more parcels (this may include parcels on both sides of a street).

Application and Planned Unit Development Review Procedure is found in Section 2.9.C

Minimum Dimensional Standards:

1. Lot area. Not less than 60 percent of the minimum lot area which would normally be required under the single-family standards of the prevailing zoning district.
2. Lot width. 40 feet.
3. Lot frontage. 40 feet, except on the radius of a cul-de-sac where such distance may be reduced to 20 feet.
4. Public or private street setback. No principal or accessory structure shall be closer than 10 feet to a public street right-of-way or private street easement.
5. Side yard setback. Not less than 8 feet. Dwellings which do not utilize zero lot line provisions shall maintain a minimum side setback of not less than six (6) feet.
6. Rear yard setback. Not less than 15 feet.
7. Building separations. No portion of any principal structure shall be located less than 10 feet from any accessory structure as measured to the closest point.
8. Periphery boundary setback. No principal or accessory structure shall be located less than 25 feet from the peripheral boundaries of the development.
9. Maximum height. 40 feet.
10. Detached accessory structure requirements.
 - a) Shall not be located within any front yard setback;
 - b) Shall not be located within five (5) feet of any other accessory structure;
 - c) Shall not cover more than twenty (20) percent of any side or rear yard; and
 - d) The side or rear yard requirement for detached accessory structures shall not be less than five (5) feet.
 - e) Shall not be greater than 30 feet in height.



Signature (Owner or Authorized Applicant)

9-27-2023

Date

APPROVED BY:

UDO Administrator

Date



Laura Howell
President, Cades Cove Homeowners' Association
832 Cades Trail
Southport, NC 28461

October 10, 2023

Ms. Bonnie Therrian
City Manager
City of Southport
1029 N. Howe St.
Southport, NC 28461

Dear Ms. Therrian:

The Board of Directors of the Cades Cove Homeowners' Association is pleased to submit to you, Dorrie Dutton and Brady Herman our application to change the PUD for Cades Cove per the letter we received from Travis Henley in June. Specifically, we are seeking to change the neighborhood from "public" to "semi-private" for the immediate priority to place a gate at our entrance off Robert Ruark.

We also are providing a two-page explanation and rationale for this submission. We look forward to discussing this with City Staff, counsel, Planning Board and Board of Alderman.

We and our counsel are prepared to move forward with this request at your earliest convenience and welcome the chance to arrange an in-person meeting sometime this month.

With warmest regards.

Laura Howell
President, CCHOA

cc: Ms. Dorothy Dutton
Mr. Brady Herman
Mr. Rick Jones, CCHOA Vice-President



Cades Cove Homeowners' Association **PUD Modification Amendment Rationale**

The Cades Cove Homeowners' Association (CCHOA) requests to amend the PUD for our 99-home community, changing our streets' status from **public access** to **private**. We would like to **place a gate at the Robert Ruark entrance only**, with the Caswell entrance at Lord Thomas to remain open. Emergency vehicles will have total access through both entrances. We are seeking this modification to ensure **pedestrian safety** of our community, to **reduce the wear and tear** of our streets and the associated costs from cut through traffic.

REASONING

CCHOA would like to remain an active part of the Southport Community. For many years cut-through traffic has posed a pedestrian safety concern for our citizens, many of whom are seniors, and visitors (particularly grandchildren).

CCHOA has funded many steps to mitigate speed and cut through issues in our community. We have installed speed bumps and added stops signs to no avail. We've also consulted with Chief Coring on these matters.

HISTORY

Cades Cove was begun by Blake Family Builders in 2004. It was approved as a Planned Residential Development and the first houses were built in 2006. Through Blake and successor company Cardinal Builders, the streets were dedicated to the City in nine specific sections, each with a 15-year expiration. As of May 2023, four of those nine have expired without Southport taking any action to accept the streets. These include the ones at the Robert Ruark entrance and one at the terminus of Lord Thomas adjacent to the BHI/Indigo 2 property.

In 2013, Cardinal's posted bond with the City of Southport was for \$365,000. That bond was returned and replaced with a \$175,000 bond (from a different financial backer) for reasons unknown. This occurred without a stormwater inspection as seemingly suggested in Southport's UDO and without streets completed or fully paved. Cardinal Builders abandoned Cades Cove not long after the bond was reduced from \$365k to \$175k.

In 2016, residents took over management of the HOA. The remaining bond was used for stormwater and sinkhole repair, plus related expenses. Additionally, Cardinal had delinquent back taxes with Brunswick County of \$9,579.45 that the residents wound up paying.

In June 2018, the residents of Cades Cove approved securing a loan for \$400,000 to finish our streets and the myriad of other infrastructure projects that Cardinal Builders did not complete. Hurricane Florence hit in September of that year and caused the collapse of inferior stormwater pipes installed by Blake that

were the outflow of our storm water system from our retention pond to Cottage Creek. These repair costs absorbed the majority of the loan fund. We were only able to pave the entrance at Robert Ruark to the four-way stop at Lord Thomas. Cades Cove will be paying on this loan until 2026 without the remaining streets being repaired or paved.

FUTURE

Osprey Landing (200 homes) has been approved and its infrastructure is in place. The Main egress is onto Robert Ruark. More cut-through traffic is likely. Indigo Phase II is directly adjacent to Cades Cove and significantly exacerbates our concerns of still more cut through traffic and the consequential pedestrian safety of our residents, plus the resulting additive wear and tear of our streets. The expansion of 211 continues. With the four lanes becoming two where 211 meets Robert Ruark, additional cut-through traffic would appear likely.

WHERE TO NEXT?

On advice of counsel, CCHOA created an amendment to our Articles of Incorporation in August 2022 to make our streets common ground, allowing our Board to make assessments as needed. Ninety of 99 households participated in the vote with 83 voting in the affirmative and only 7 in the negative.

Our Infrastructure Team has met with multiple suppliers on gate design. We will likely employ a swing gate with codes that permit passage for emergency vehicles, delivery services and school buses. The area will permit passage for walkers and bicycles as we want to keep connectivity with the community. The Ruark entrance will be available for vehicular traffic for residents, guests, vendors and emergency vehicles. The Lord Thomas entrance at N. Caswell will remain fully open.

If the City approves our plan, we will submit building permits and work closely with City staff to make sure all municipal requirements are met, including Police and Fire Departments.

We look forward to working closely with City staff, Planning Board, and the Board of Alderman for what we believe to be a sensible proposal to help protect one of Southport's very important neighborhoods. Thank you.

Board of Directors, Cades Cove Homeowners' Association

Rick Jones, 2024 President, 914-714-5039, rickcadescove@gmail.com

Laura Howell, 2023 President, 703-483-1681, emma4h@gmail.com



Zoning Map Amendment

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461

www.southportnc.org

Planning & Inspections

Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

PERMIT No. _____ FEE: \$ _____ Date Received: _____

Applicant's Name: Cades Cove Homeowners' Association; Rick Jones, President 2024

Mailing Address: 407 Lord Thomas Avenue (HOA), 828 Cades Trail (Rick); City: Southport

State: NC

Zip Code: 28461

Phone: 914-714-5039

Email: rickcadescove@gmail.com

Property Owner's Name: SAME AS ABOVE _____

Address of Owner: _____ City: _____

State: _____ Zip Code: _____ Phone: _____

Email: _____

Project Name: CADES COVE ZONING REVISION: public to private access _____

Project Address and/or Description of Location: _____

Parcel ID #: _____ Number of Lots: _____ Site Acreage: _____

Current Zoning District: _____ Proposed Zoning District: _____

A complete application for any amendment shall contain a description of the proposed zoning regulation or zoning map amendment. The application shall state in detail whether the proposed amendment is consistent with the CAMA Core Land Use Plan and any other officially adopted plan that is applicable. The application shall also give detailed evidence that the proposed amendment is in the interest and will benefit the general public and not solely be of benefit to the applicant; that the uses within the proposed zoning district are similar or comparable to the uses in the district as currently zoned, or that none of the uses permitted in the proposed zoning district may potentially adversely affect property values or the health, safety, morals, or general welfare of the residents of the surrounding area. Such application shall be filed with the Administrator to be processed in accordance with Section 2.7.D of the UDO.

The Planning Board and Board of Aldermen may consider the following when deciding: Impact on neighbors and neighborhood, traffic, environment, utilities, suitability of land, harmony with area, schools, economic impact, tax base increase, spot zoning created, road capacity, adequate infrastructure, community opinion, property values, consistency with the Land Use Plan, future land use map, jobs, public services, buffering requirements, environmental impact, site limitations, and consistency with plans and prior decisions. The Boards cannot consider ethnicity, income of future residents, owner vs. renter housing, or who the owner is when deciding.

If the proposed change would require a change in the zoning map, attach an accurate diagram of the property proposed for rezoning showing:

- A. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline;
- B. Boundaries indicated as approximately following lot lines, city limits, or extraterritorial boundary lines, shall be construed as following such lines, limits, or boundaries;
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;
- D. Where a district boundary divides a lot each part of the lot or tract so divided shall be used in conformity with the regulations established by this ordinance for the district in which said part is located, nor shall a change in lot line be construed to have modified a zoning district boundary;
- E. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.
- F. Where any further uncertainty exists, the UDO Administrator shall interpret the intent of the map as to location of such boundaries.

Future Land Use Map Designation: _____

Is the proposed zoning consistent with the Land Use Plan? (Check One and Describe Below):

☒ **Yes** ☐ **No**

Also see attached Appendix with additional details and photographs.

Please describe the changing conditions in the area or in the City of Southport that makes the proposed amendment necessary to the promotion of the public health, safety and general welfare, or that identifies an obvious error in the zoning map based upon the zoning classification or current land use of surrounding properties. Also include an explanation on why the proposed zoning is or is not consistent with the Land Use Plan and other adopted plans (Attach separate sheet if necessary)

Cades Cove Homeowners Association wishes to change the zoning of our development from public to private. As the development evolved, the streets were dedicated to the city in nine separate 15-year dedications. By 2024, four of those nine have expired, including from the Robert Ruark entrance well past the four-way stop at Lord Thomas and the section of Lord Thomas whose terminus is adjacent to the BHI/Indigo Phase II property.

The developers abandoned Cades Cove in 2016 after receiving back \$190,000 of their \$365,000 bond to the City of Southport. This was done without having all the streets finished or having the stormwater system inspected by the City or State. The remaining \$175,000 bond was largely used by CCHOA to repair sinkholes in the stormwater system (and then repaving).

The residents agree to take over responsibility from the City, saving Southport valuable funds. In turn, we would like the opportunity to regulate the wear and tear on our streets, both currently from cut-through traffic, and in the future with the present development of Osprey Landing and eventually the Indigo II property. The expansion of 211 where 4 lanes go down to two at Ruark will likely exacerbate this problem.

We value being engaged members of the Southport community but look to gate our Robert Ruark entrance to achieve the goal of enhanced safety for residents and guests while reducing wear and tear on our roads.

In filing this Rezoning Petition, I hereby certify that I am authorized to submit this application and that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Richard D. Jones

Signature (Owner or Authorized Applicant)

February 5, 2024

Date

APPROVED BY:

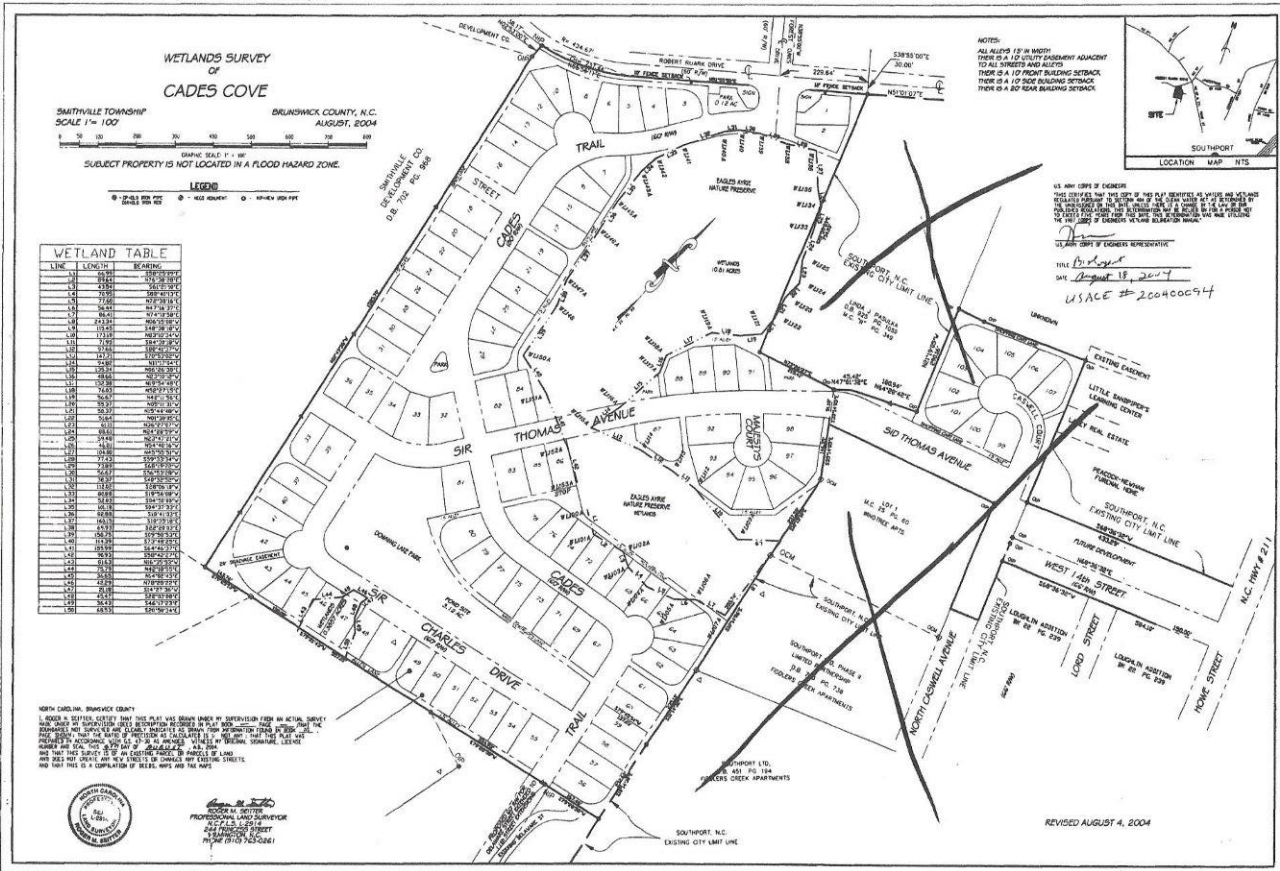
UDO Administrator

Date

CADES COVE PLAT PLAN 2004 GATE POSITION AT RUARK ENTRANCE (Top Center of Plan)

30 / 534

Brunswick County-Register of Deeds
Robert J. Robinson
Book 4334 Page 534
08/26/2004 02:44:05pm Rec'd 2599



map cabinet: 30 page: 534 2:44:05 p.m. 8/26/04 \$21.00 By



**Cades Cove Homeowners' Association
2024 Southport Zoning Amendment**

Appendix

February 5, 2024

INDEX

- 1) Cades Cove by Lot**
- 2) Nine street dedications with expiration dates**
- 3) Potential Gate Designs**
 - a. Home Place**
 - b. Old Southport**
- 4) Robert Ruark approach to Cades Trail, left turn lane**
- 5) Initial gate specifications, subject to change on final design and bids**
- 6) Entrance gate positioning**
 - a. From Ruark**
 - b. From Cades Trail**
- 7) Exit on to Ruark from Cades Trail**

CADES COVE BY LOT; COTTAGE BUILDERS' PUD AMENDMENT REMOVE ALLEYS IN PHASES III / IV



THECOTTAGESNC.COM

STREET DEDICATIONS
NINE PHASES



 **THE COTTAGES**
AT SOUTHPORT
THECOTTAGESNC.COM

GATE EXAMPLES
HOME PLACE & OLD SOUTHPORT
(Final CCHOA design TBD zoning approval)



**ROBERT RUARK APPROACH TO CADES TRAIL
APPROXIMATELY 110 FEET OF LEFT TURN LANE
(Transponder on pillar to left)**



INITIAL GATE SPECIFICATIONS

(Will be finalized on final bids, submitted for building permit)

PHOTOS TO FOLLOW:

- Entrance and exit each measure approximately 26 feet, separated by a 19' area of foliage and the entrance pillar.
- The distance from each external pillar to the pavement is 17.5 feet comprised of matching fencing with possible swing gate for pedestrians and bicycles.
- The entrance gate is about 60 feet from Ruark; the exit approximately 30 feet.
- View of entrance from Ruark:
 - B represents 2 inward swinging 5' high electric gates.
 - B-C shows matching fence from gate to front of entrance.
 - C-D is the fence and gate from pavement to pillar.

DETAILS:

- Gates will both swing inward, due to positioning of power sources.
- Gates will be operated by homeowners and necessary personnel via long range remotes, basically the same as garage door openers.
- There will also be keypad consoles to enter 4-digit codes on both the entrance and exit.
- The gate we ultimately select will be equipped with emergency sensors so first responders can enter without delay.
- Delivery services and school buses can receive remotes or special codes as they prefer. Final gate specs will be subject to review by City Staff, Fire and Police.

GATE POSITIONING RUARK ENTRANCE

View from Ruark, center island at left



View from Cades Trail

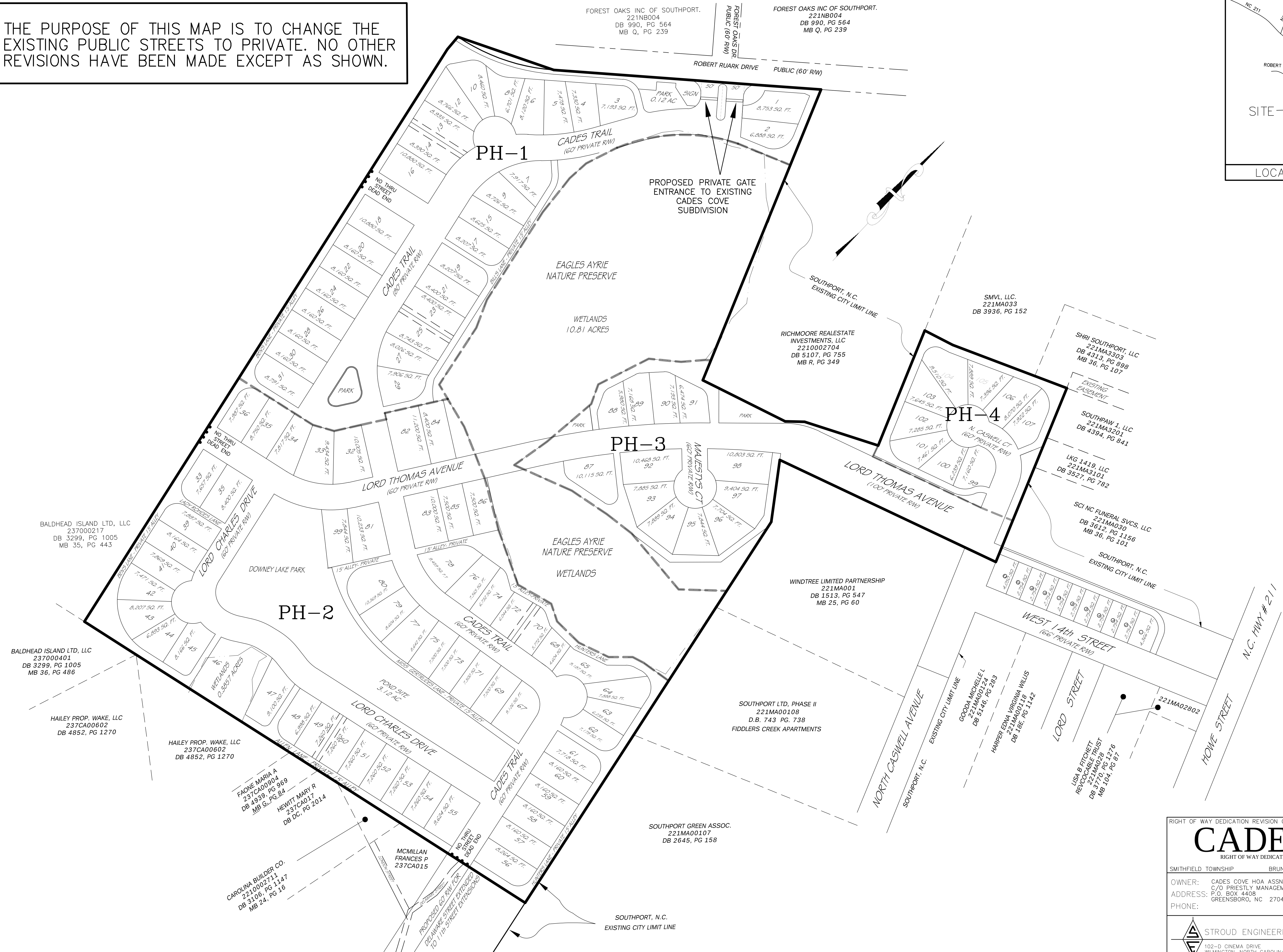
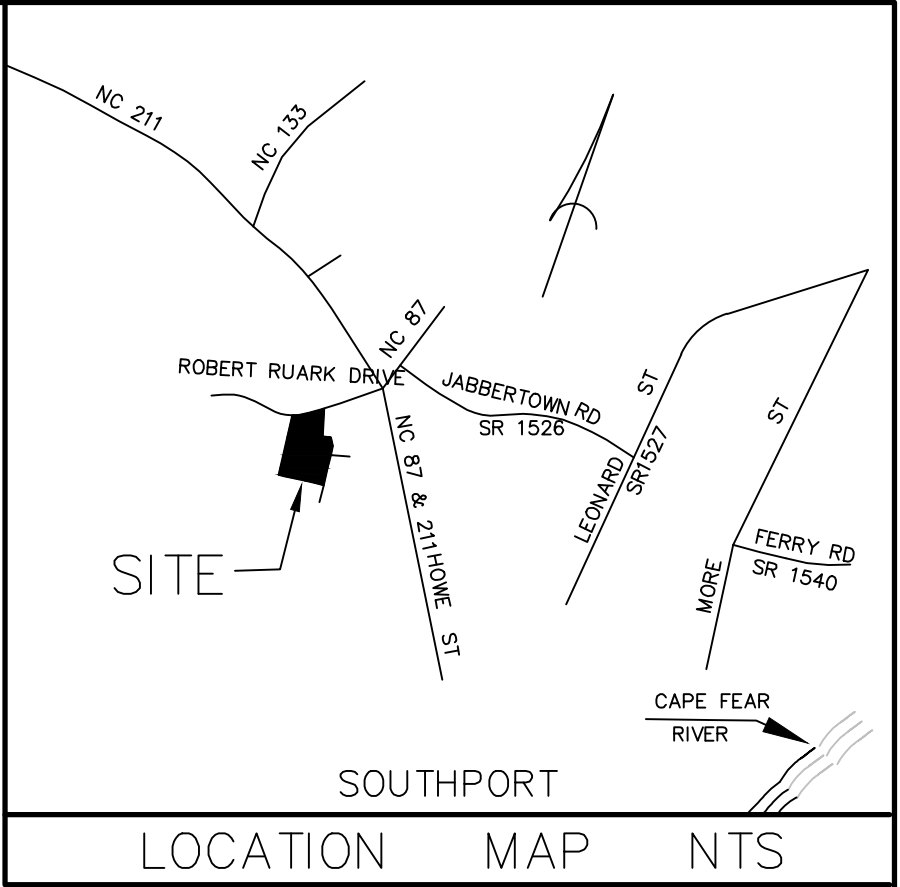
(center island at right, then exit)



EXIT ON TO RUARK FROM CADES TRAIL



THE PURPOSE OF THIS MAP IS TO CHANGE THE
EXISTING PUBLIC STREETS TO PRIVATE. NO OTHER
REVISIONS HAVE BEEN MADE EXCEPT AS SHOWN.



RIGHT OF WAY DEDICATION REVISION CONCEPT EXHIBIT CADES COVE RIGHT OF WAY DEDICATION REVISION CONCEPT EXHIBIT		
SMITHFIELD TOWNSHIP	BRUNSWICK COUNTY	NORTH CAROLINA
OWNER: CADES COVE HOA ASSN. INC. C/O PRIESTLY MANAGEMENT ADDRESS: P.O. BOX 4408 GREENSBORO, NC 2704-4408 PHONE:	DESIGNED: TLL DRAWN: TLL APPROVED: JHF DATE: 6/7/2024 SCALE: 1" = 100' SHEET 1 OF 1	
 STROUD ENGINEERING, P.A. 102-D CINEMA DRIVE WILMINGTON, NORTH CAROLINA 28403 (910) 815-0775 (910) 815-0593 FAX <i>C-0647</i>		



Cades Cove – Condition of Streets

The streets in Cades Cove meet or exceed the standard found in Southport streets. In 2018, the City Manager and City Planner (Bruce Oakley and Thomas Lloyd at the time) indicated that the streets in our Phase III and IV (Majesty's Court, Lord Thomas and No. Caswell Court) were acceptable to the City should the City decide to accept the streets (which they did not).

As mentioned in our PUD amendment submitted in October 2023, Cardinal Builder's posted bond with the City of Southport in 2013 was for \$365,000. That bond was returned and replaced with a \$175,000 bond (from a different financial backer) for reasons unknown. This occurred without a stormwater inspection as seemingly suggested in Southport's UDO and without streets completed or fully paved. Cardinal Builders abandoned Cades Cove not long after the bond was reduced from \$365k to \$175k.

The remaining bond balance was used largely for stormwater and sinkhole related expenses, not paving. All expenses were approved by the City Planner.

In 2018, CCHOA secured a \$400,000 line of credit in order to finish the infrastructure items not completed when the developer abandoned Cades Cove. Over half of this money went to stormwater related issues, largely because of Hurricane Florence damage (sinkholes, replacement of the stormwater outflow pipe from Downey Lake toward the Cottage Creek outflow, alley repaving).

Once the stormwater damage was repaired, we spent over \$150,000 to pave Cades Trail from the Robert Ruark entrance to the 4-way stop at Lord Thomas. Our Board believes the quality of paving of the section of Cades Trail from the Ruark entrance to Lord Thomas is superior to most of the streets in the City, with the likely exception of the recent paving of Howe Street. Insufficient funds remained to pave the balance of Cades Trail or Lord Charles.

After these expenses, all subsequent Boards believed that we should not be held accountable to pave the balance of the streets as a) Southport returned \$190,000 in bond to the developer who abandoned us and b) we have no control over the wear and tear of our streets.

In conclusion, Cades Cove has shown great resolve in maintaining and enhancing the quality of our neighborhood. We look forward to finishing paving the balance of our Phase II section once Southport gives us the right to control the wear and tear on our streets. It will be at the same quality level of the rest of the neighborhood.

May 2024



Cades Cove (CCHOA) – Financial Accountability

Cades Cove homeowners assumed responsibility from our developers in 2016, just prior to Cottage Builders abandoning this development, unfinished. Among our first orders of business was to commence creation of a Reserve Study that looked at our future infrastructure needs, including finishing what the developer did not, as well as maintaining our first-class neighborhood well into the future.

Our first Reserve Study development was led by William Veno, a recently retired Cades Cove resident who spent his career in economic forecasting and analytics, largely in the energy sector. He holds master's degrees from both Dartmouth and Columbia. He was assisted by two other residents, one a retired Colonel from the U.S. Army Corps of Engineers and the other an analytics and engineering expert who worked for both Lockheed Martin and the National Bureau of Standards.

Mr. Veno continues to oversee and maintain the Reserve Study's analytical tools and the assessment of their implications for CCHOA over the next 20 years, hand-in-hand with our Infrastructure Committee.

Additionally, our initial Board of Directors commissioned an independent, third-party Transition Study by Raleigh-based Criterium-Giles Engineers who have conducted many of these studies for homeowners' associations across North Carolina. The Giles Study confirmed the forecasts by Mr. Veno and our Board.

CCHOA created and manages both Operating and Reserve budgets and bank accounts. Both are funded by monthly assessments (dues) paid by our 99 homeowners as well as fees when a house sells in Cades Cove. We also have occasional special assessments. Our current monthly dues are \$177/household allocated as follows: Operating \$108, Reserve \$18, Loan Service \$51.

In 2018, CCHOA secured a \$400,000 line of credit from North State Bank. Our accounts receivable was used as collateral. The HOA has successfully been paying down the LOC and will be completely paid off in May 2026. Our annualized payment is just over \$61,000. While future Boards may decide differently, the current strategic plan is that those funds, post-May 2026, will be directed to building up our Reserves.

Should the Aldermen approve our privatization initiative, it is likely that the costs of gating and the final paving of our Phase II will be funded largely through a special assessment among residents until the anticipated 2026 increase in our reserve funds. We will tighten up the funding requirements once final design and competitive bids are received for these two initiatives.

June 2024



MEMORANDUM

To: Sue Hodgins, Chair and Members of the Planning Board

From: Maureen Meehan, Planning Services Director

Re: Bed and Breakfast Standards Review for Events – Text Amendment

Date: October 17, 2024

At their August 20, 2024 regular meeting, the Board of Aldermen requested that Staff work with the Planning Board to consider the addition of development standards for weddings, birthdays, and other similar events occurring at bed and breakfasts. The use of bed and breakfasts for events is common throughout the state. The question is, where and how are these types of events appropriate for bed and breakfast establishments in Southport?

The UDO defines a bed and breakfast as a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises. Further, the following standards are required for all bed and breakfasts:

Section 3.8.C. Bed and Breakfast has the following three (3) supplemental standards, where permitted:

1. Sanitation. Compliance with rules governing the sanitation of bed and breakfast homes, section 2200 of the North Carolina Administrative Code, Title 10, Department of Human Resources.
2. Management Plan. The application for a bed and breakfast home should include a management plan.
3. An on-site manager shall be required to have permanent residence at any permitted bed and breakfast establishment.

While there are no formal event standards for bed and breakfasts, other establishments in the city have been afforded the ability to host functions as outlined in their required management plan. This procedure doesn't set a precedence since it is tied to a special use permit and conditions for each application is different. On the other hand, there is no standard to be set for the intensity/size of event, which is challenging. There are jurisdictions that do not allow special events at their bed and breakfasts, some that allow a certain number of events or limit the size of events, and those that do allow them with very specific standards. Some that do not have specific event standards offer the opportunity to apply for a special event permit. A listing of other jurisdiction's ordinance or permit language is attached to this memo.

The city can consider language from other jurisdictions, but ultimately, there should be unique language specific to Southport. The character and needs of the city need to be considered. There

may be cases where events at bed and breakfasts are appropriate and cases when they may not be appropriate.

Questions to be considered:

1. Is it appropriate for events to be held at bed and breakfast establishments? What neighborhood characteristics need to be present for events to be appropriate/inappropriate?
2. If events are appropriate, what standards should be considered?
 - a. Size
 - b. Number of events per year/month
 - c. Parking
 - d. Noise permits
 - e. Time
 - f. Special event permit per occurrence
 - g. Other factors?
3. Is a special event permit more appropriate for each separate occasion, rather than a blanket approval?

Given the complexity of this request, it may be appropriate for a review committee to be formed that can report to the full Planning Board for final discussion.

Attachments

Proposed Amendment Options

Other Jurisdiction Standards

AMENDMENT OPTIONS FOR BED & BREAKFASTS BEING USED FOR EVENTS

Proposed Land Use

Section 3.5 TABLE OF PERMITTED AND SPECIAL USES

A. USE TABLE

The following uses are listed as permitted by right (P), special (S), or permitted by right with an additional use standard (PS), or special with an additional use standard (SS) in each zoning district where allowed. The Use Table (3.1) is separated by Accessory USES, Residential Uses, and Nonresidential Uses.

B. PROHIBITED USES...

Table 3.1: Table of Uses		Districts P= Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard											Use Standard	
Uses	ICS	R-10	R-20	MF	MH	PUD	O-1	CBD	BD	HC	LI	HI	OS	Section #
BED & BREAKFAST	721191	SS	SS	SS	SS	SS	SS	SS	SS	SS				3.8.C
ELECTRONIC GAMING OPERATIONS										SS				3.8.K
EVENT CENTER		SS	SS	SS	SS	SS	SS	PS	PS	PS				3.8.L
EXTERMINATING SERVICES	561710							PS	PS	P	P	P		3.8.M

Section 3.8 NONRESIDENTIAL USE STANDARDS

C. BED AND BREAKFAST

Where permitted, the following shall apply:

1. Sanitation. Compliance with rules governing the sanitation of bed and breakfast homes, section 2200 of the North Carolina Administrative Code, Title 10, Department of Human Resources.

2. Management Plan. The application for a bed and breakfast home should include a management plan.
3. An on-site manager shall be required to have permanent residence at any permitted bed and breakfast establishment.

K. ELECTRONIC GAMING OPERATIONS

Where permitted, the following shall apply...

L. EVENT CENTER

Where permitted, the following shall apply:

1. Event Centers shall be limited to indoor operations only, except that outdoor operations may be allowed in those districts approved by a Special Use Permit.
2. Event Centers shall be limited to nonresidential districts only except for those districts that are approved by a *Special Use Permit*.
3. Alcohol sales may be included as an accessory use to the service and /or sale of alcoholic beverages for on-site consumption to the guests of a private event subject to the issuance of permits issued by the ABC Commission of North Carolina.
4. Any lighting, whether temporary or permanent, shall be situated in such a manner that adjacent properties are not adversely affected. No direct light shall be cast upon adjacent properties or public areas including streets, alleys, sidewalks, or parks. All lighting must meet the standards found in Article 5 of the City Ordinance.
5. The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the City of Southport Fire code.
6. When adjacent to residential districts, outdoor setbacks must meet a minimum setback distance of 15 feet.
7. The event center shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.
8. When permitted in residential districts, event centers will endeavor to maintain the nature of the district by ensuring that:
 - a. The event coordinator will obtain a *Temporary Permit /Zoning Permit* for each occasion.
 - b. Events will be limited to per month/ no more than year.
 - c. The event coordinator shall notify adjacent neighbors by certified mail of the proposed event no less than 30 days prior to the occasion.

- d. The event coordinator will be on site throughout the course of the occasion.
- e. Occasions will be prohibited on Sundays.
- f. Lighting will not spill into adjacent properties.
- g. No event in residential districts shall play, operate, or cause to be played or operated any amplified or non-amplified musical instrument or sound reproductive device in a manner that causes a noise disturbance on any neighboring premises or public area from 10:00 p.m – 7:00 a.m. on Monday through Thursday nights and 11:00 p.m. to 7:00 a.m on Friday and Saturday nights.
- h. Trash and debris receptacles will be collected within one week of the event.

M. EXTERMINATING SERVICES

Where permitted, the use shall be comprised of administrative offices only, no chemical storage or service vehicles.

SECTION 8.3 Definitions of Basic Terms

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance. Specific definitions relating to floodplain...

Essential Site Improvements. Any construction of site development feature required by local, state, or federal regulations, ordinances, or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site.

Event Center. A commercial establishment, either indoors or outdoors, with the primary purpose of providing space for meetings, gatherings, reunions, weddings, private parties, and other similar gatherings. Includes wedding and event venues, bed and breakfasts, and other uses not included as part of community centers; lodges, fraternal, or social organizations; or religious assemblies.

Existing Land Use Conditions. The land use conditions existing at the time the design plans are submitted for approval, including previously approved upstream developments.

Event Centers as a New Land Use:

- Allows a site-specific use without the need for each event to be permitted.
- Event Centers may have unintended consequences when applied as an ancillary land use.
- May require zoning map amendments.
- Requires Quasi-Judicial review by the Board of Adjustment – specific conditions related directly to the proposed use can be part of the conditional approval process.
- May require site plan review for commercial developments that have already gone through the process for their current operation

Proposed Temporary Land Use Permit

Per G.S. 160D-403 -Administrative Development Approvals and Determinations

(c) Duration of Development Approval - *Unless a different period is specified by this Chapter or other specific applicable law, including for a development agreement, a development approval issued pursuant to this Chapter expires one year after the date of issuance if the work authorized by the development approval has not been substantial commenced. Local development regulations may provide for development approvals of shorter duration for temporary land uses, special events, temporary signs, and similar development. Local development regulations may also provide for development approvals of longer duration for specified types of development approvals.*

-State statutes allow local governments to develop a temporary use permit.

Proposed definition of Temporary Use Permit (TUP) - An official administrative authorization issued by the city to permit a limited and provisional land use of a space and or activity within a space that is not directly related to the permitted by right or special use assigned to a property.

Temporary Use Permits for Special Events:

- TUP's enable existing land uses the ability to host events that do not directly relate to that principle use such as weddings, graduation parties, and other secular celebrations.
- TUP's can be issued on a solely administrative level by the UDO Administrator vs Quasi-Judicial review and approval. Firm conditions can be added to each permit as appropriate for each event.
- The amount and duration of a TUP can vary. For instance, a standard TUP can be issued per event for a frequency needed to suit the specific need. If an event is to last on more than one day, only one permit could accommodate the event in its entirety.
- Standards and process need to be formulated and adopted by the city.

The following are definitions and standards from a small sample from other jurisdictions.

City of Wilmington, NC

The only functions permitted are the renting of guest rooms and the serving of meals to guests; food and drink are not served to the public for pay, and the price of breakfast is included with the room rate. Small events are allowed within the B&B.

Town of Wake Forest, NC

Events – In addition to the normal functions, the B&B may have 6 private parties, receptions, or similar activities per year with the issuance of a special use permit.

City of Washington, NC

Bed and Breakfast (also formerly known as Tourist Homes) means an owner-occupied single-family dwelling offering overnight accommodations for transient guests, for a period of less than one (1) week. The occupancy is limited to twelve (12) guests per night, and the character of the dwelling must be maintained. Signs shall be in compliance with Chapter 40, Article XVI of the City Code. The business cannot sell merchandise other than meals on the premises or employ more than one (1) part-time dedicated staff beyond the owner(s). Private indoor only event services can be held exclusively for overnight occupancy guests, with an allowance of one (1) additional person per guest, up to a maximum of twenty-four (24) people. Outdoor events are not allowed.

City of Morehead City, NC

14-50 - Event Venue, Residential

14-50.1A residential event venue must be contained on a parcel or contiguous parcels under unified control totaling no less than 2.18 acres (or one city block) in area.

14-50.2Parking for an event shall be contained on site and shall not cause overflow onto streets.

14-50.3Events may be permitted a maximum of four (4) times per year on the property.

14-50.4Temporary lighting, if any, shall be established in a manner such that adjacent properties are not adversely impacted.

14-50.5No event venue shall play, operate, or cause to be played or operated any amplified or non-amplified musical instrument or sound reproductive device in a manner that causes a noise disturbance on any neighboring premises or public area from 11:00 p.m. to 7:00 a.m.

14-50.6Restroom facilities shall be provided on site.

14-50.7The event venue shall provide sufficient on-site trash receptacles and shall ensure that windblown trash or other debris does not accumulate anywhere on or off the site.

14-50.8There shall be no on-site advertisement of the event venue.

14-50.9A zoning permit must be obtained through the Planning and Inspections Department each time there is an event on site.

City of Asheville, NC

10) Bed and breakfast inns.

a. Use districts: All districts as noted in section 7-8-1(d) Table of Permitted Uses

b. Bed and breakfast inns shall be located a minimum of 500 feet from other bed and breakfast inns, bed and breakfast homestays, and boardinghouses. In calculating the 500-foot distance between bed and breakfast inns or homestays, measurements shall be taken from the closest

property line of the existing bed and breakfast inn or homestay lot or boardinghouse lot to the closest property line of the lot of the proposed bed and breakfast inn. Existing, legally established bed and breakfast inns that do not meet this separation requirement of 500 feet are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.

c. The owner/manager shall reside on the property.

d. The minimum lot area for a bed and breakfast inn shall be 20,000 square feet.

e. The maximum number of guest rooms provided by the bed and breakfast inn in a residential district shall be eight.

f. Accessory structures and outdoor activities. Accessory structures may be utilized for guest accommodation purposes as part of a bed and breakfast inn use. The number of guest bedrooms in the accessory structure (s) cannot exceed the number of guest bedrooms in the principal structure. Such accessory structures shall have or shall be constructed to have architectural compatibility with the principal structure. Accessory structures used to accommodate the guests of bed and breakfast inn uses are not subject to the floor area limitations for accessory structures but shall not exceed 35 percent of the gross floor area of the principal structure and shall comply with the setback requirements for accessory structures unless such setback requirements are modified through the application of the flexible development standards provisions of this Code. Passive recreation-related outdoor activities such as tea-time are allowed outside the principal structure or any accessory structure(s), but all other activities and functions designed to serve and entertain guests shall take place only within the principal structure.

g. The length of stay of guests shall not exceed 14 days.

h. No home of less than 3,500 heated square feet, and less than 30 years old shall be used for a bed and breakfast inn.

i. Off-street parking shall be provided as required by subsection 7-11-2(c) of this chapter. Parking shall be located on the same lot on which the bed and breakfast inn is located, at the rear of the lot and screened with vegetation from adjacent properties and from the street.

j. Signage shall be limited to a single sign, not to exceed eight square feet, with a maximum height of four feet. The sign may be located in the front yard and indirectly lighted.

k. Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties.

l. Activities and functions at the bed and breakfast inn shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment. In addition to the functions for overnight guests, the bed and breakfast inn may have four social gatherings per year. No commercial activities other than providing lodging for registered guests shall be permitted.

m. Comply with N.C. State Building Code requirements.

Related Articles

Here are some related articles that may give an idea of who was involved in the process, how it was done or shed light on other concerns for why it was not done.

1. [Final plans for wedding venue left at altar for now \(Delaware\)](#)
 - **Summary:** The article discusses the plans of Mansion Farm Inn's owners, who aimed to convert the property into a wedding venue. Sussex County Council limited them to hosting three events per year, citing **parking issues and safety concerns**. Their application for a conditional use permit to hold up to 10 weddings annually was denied, due to a non-compliant parking plan. The owners plan to reapply with improved arrangements, including **off-site parking and shuttle services**.
 2. [City of Post Falls dashes family's hopes to turn \\$8.5M home into bed and breakfast \(Idaho\)](#)
 - **Summary:** Owners of a mansion in the City of Post Falls applied for a special use permit that would have allowed the mansion to be classified as a B&B or wedding venue. Neighbors expressed concerns with **traffic and noise**. Landowners looked into converting a one-acre parcel into a parking lot to accommodate approximately 100 to 120 vehicles. However, neighbors still worry about the impact the B&B/wedding venue would have on the neighborhood (such as the roads). Proposed solutions to neighbors' concerns were **adding a parking lot to the home design, onsite parking for attendees, and giving notice to neighbors before events took place**.
-
1. ["Board approves bed and breakfast with some restrictions" \(Vicksburg, Mississippi\)](#)
 - **Summary:** The Vicksburg Board of Mayor and Aldermen approved a special exception allowing owner of The Stained Glass Manor, as a bed and breakfast and event venue in a residential zone. Conditions include that for events other than room rentals, there must be adequate **parking**, and offsite parking if needed. **If the owner is not at an event, there will be a property manager whose contact information will be given to the city zoning administration and the police chief.** All events must be **managed** as to not disturb the neighborhood. No time restrictions were set, aligning with other B&Bs in the city. Some neighborhood concerns remain unaddressed, including ending events by 10 pm..
 2. ["Bed-and-breakfast coming to North Main Street" \(as a Bed and Breakfast operation only\) - \(Edwardsville, Illinois\)](#)
 - **Summary:** The Edwardsville City Council approved a special use permit for a B&B (4 bedroom) at 223 N. Kansas St, two east of Main Street. The B&B can open with the conditions that applicants will use a **background check software, decibel monitoring software, and external security cameras** to monitor guests and property activity to limit nuisance potentials. Applicants will provide four off-street **parking** slots for guests and reduce one bedroom.
 3. [The Hardy House Approved for B&B Status - \(Brookhaven, MS\)](#)
 - **Summary:** The Brookhaven Planning Commission approved the Hardy House with special use status, to operate as a B&B. Allowing small events with up to 30 guests. The approval came with conditions to **ensure sufficient parking** to prevent disruption to the neighborhood. Concerns were raised about drainage issues, which will need to be

addressed. The owner plans to host showers and luncheons at the historic home, with restrictions such as a 10pm limit on outside music.

Examples of Bed and Breakfast + Private Venue/Event Space

Morehead Manor Bed and Breakfast

914 Vickers Ave
Durham, NC 27701



Elmwood 1820 Bed and Breakfast Inn

731 W Main St, Washington, NC 27889

Residential

Washington LUP



North Lodge Bed and Breakfast

84 Oakland Road
Asheville, NC, 28801

Asheville Comprehensive Plan



Arrowhead Inn Bed and Breakfast

106 Mason Road

Durham, NC 27712



Aerie Bed and Breakfast

509 Pollock Street

New Bern, NC, 28562

(Commercial, next to Residential Neighborhood)

New Bern Land Use plan



Elizabeth Leigh Inn, Bed and Breakfast

908 5th Avenue West

Hendersonville, NC, 28739

Hendersonville Comprehensive Plan,



2024 PLANNING BOARD ATTENDANCE

<u>NAME</u>	Jan.	Feb.	March	April	May	June	July	August	Sept. Cancelled	Oct.	Nov.	Dec.			Total Absences
Sue Hodgins Chair	P	P	P	P	P	P	P	P	C						
Will Hewett Vice-Chair	P	P	P	P	P	P	P	P	C						
Fred Fiss	P	P	P	P	P	P	P	P	C						
Christopher Jones (ETJ)	A	P	P	A	A	P	P	A	C						4
Scott Jones (ETJ)	P	P	P	P	P	P	P	A	C						1
Donnie Joyner (ETJ)	P	P	P	P	P	P	R	R	C						
Dick Sloan	P	P	P	P	A	A	A	R	C						3
Roy Pender	P	P	P	P	P	A	P	P	C						1
Kevin Locklin	P	P	P	P	P	P	P	P	C						

PLANNING BOARD MEMBER LIST 2024-2025

MEMBER	ADDRESS	PHONE	APPOINTED	EXPIRATION	
Sue Hodgin, Chair sue.hodgin@southportnc.org	608 Cottage Point Way	(910) 477-1808	February 10, 2022	June 2025	IN
Will Hewett, Vice-Chair will.hewett@southportnc.org	129 Cape Fear Dr	(910) 520-3291	August 11, 2022	June 2025	IN
Fred Fiss fred.fiss@southportnc.org	216 N. Atlantic Ave	(910) 269-6901	June 13, 2024	June 2026	IN
Roy Pender roy.pender@southportnc.org	4415 Willow Moss Way	(910) 477-6057	April 13, 2023	June 2026	IN
Kevin Locklin kevin.locklin@southportnc.org	209 N. Lord St.	(540) 272-0808	April 13, 2023	June 2025 (Completing the term)	City Alt
Vacant					
Vacant					
Vacant					
Vacant Alternate					
Mo Meehan mmeehan@cityofsouthport.com	1029 N. Howe St	(910) 457-7900 X 1043	Development Services Director		
Wendell Biddle wbiddle@cityofsouthport.com	1029 N. Howe St		City Planner		
Tanya Shannon tshannon@cityofsouthport.com	1029 N. Howe St	(910) 457-7929	Staff Deputy Clerk		
Rebecca Kelley rkelly@cityofsouthport.com		(910) 269-9940	Board of Aldermen Liaison		
Frank Lai flai@cityofsouthport.com		(910) 269-9971	Board of Aldermen Liaison		