



**CITY OF SOUTHPORT
SPECIAL BOARD OF ADJUSTMENT MEETING**

January 7th, 2025
Indian Trail Meeting Hall
113 W. Moore Street
4:30 p.m.

ETHICS STATEMENT:

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

A. Call to Order

B. Pledge of Allegiance

C. Explanation of Quasi-Judicial Process

1. Quasi-Judicial Process

D. New Business

1. Special Use Permit Application - 6249 Lookout Point Dr - ADU - [Wendell Biddle]

E. Approval of Minutes

1. Minutes of the October 22, 2024 Meeting
2. Minutes of the November 26, 2024 Meeting

F. Other Business

G. Adjourn

**STAFF REPORT FOR SUP-24-12
SPECIAL USE APPLICATION – ACCESSORY DWELLING UNIT**

APPLICATION SUMMARY	
Hearing Date	January 7, 2025 Board of Adjustment
Applicant	Cameron Smith of Cameron Smith Construction
Property Owner	Amy & David Tedder
Property Address	6249 Lookout Pt. Drive
Parcel ID:	238BD002
Parcel Acreage	.41 acres or ~17,860 SF
Zoning District	PUD

SPECIAL USE PROPOSAL

Cameron Smith, applicant, on behalf of property owners Amy and David Tedder, is requesting a Special Use Permit to construct an accessory dwelling unit.

PROPERTY LOCATION AND DESCRIPTION

The subject property is located at 6249 Lookout Pt. Drive and can be further identified by Brunswick County Parcel ID 238BD002. This is a .41-acre site located within The Landing; a Planned Unit Development (PUD) Jurisdiction established in the City of Southport. The property is approximately 500 feet west of the Cape Fear River and is within the AE and Shaded X Special Flood Hazard Areas.



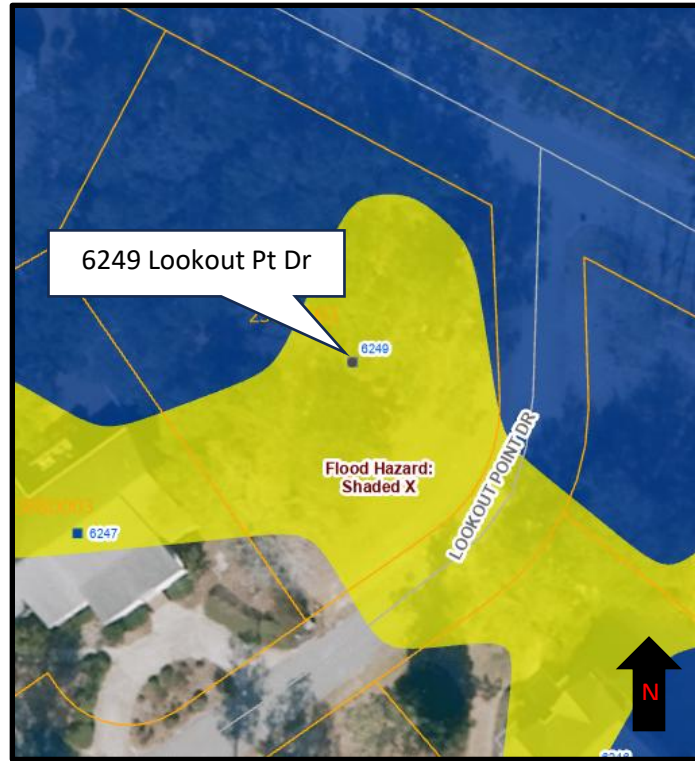
Aerial Image of Subject Property and Surrounding Community



Google Street View of 6249 Lookout Point Drive



Aerial Image of Parcel

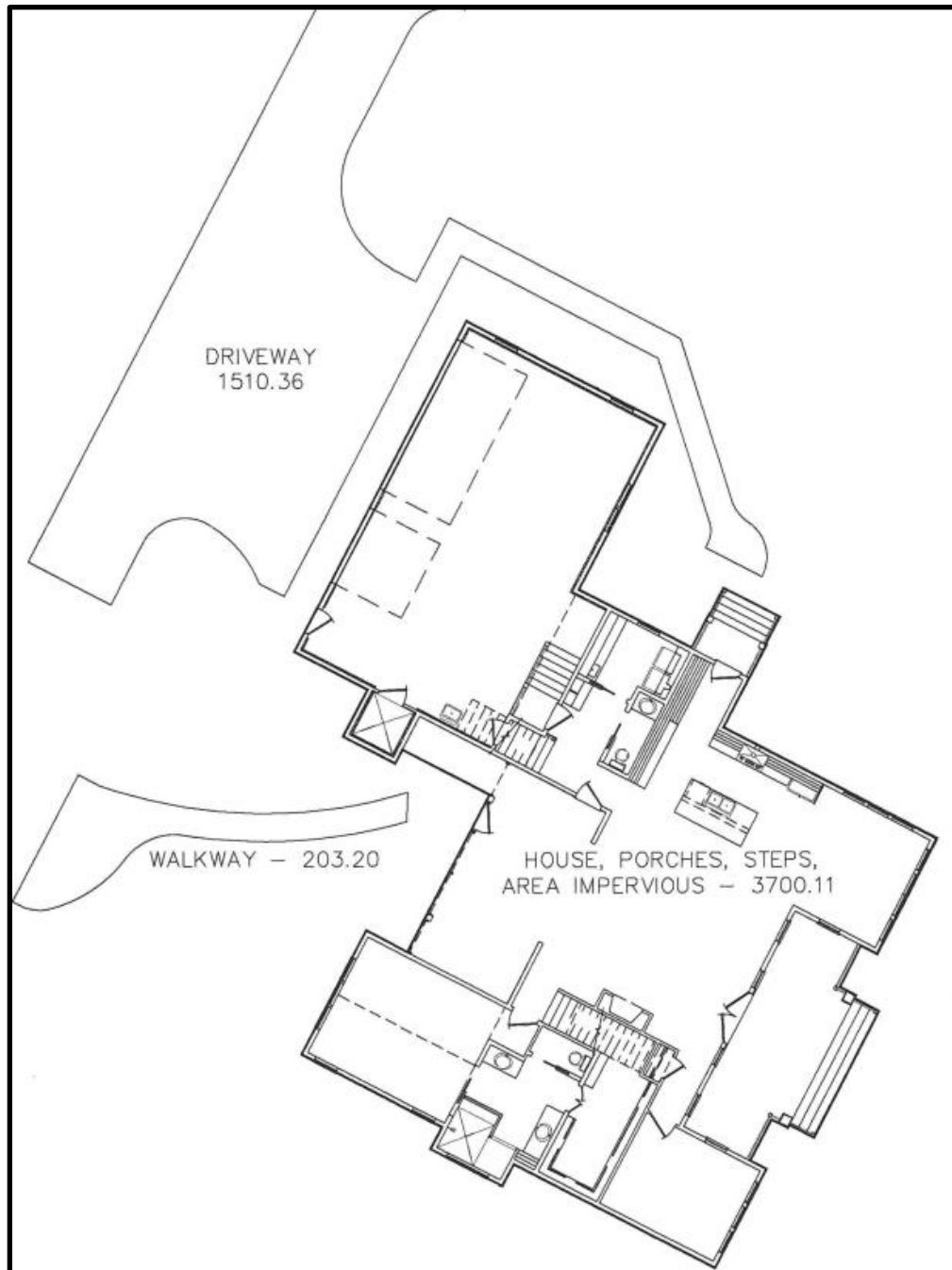


6249 Lookout Point Drive SFHA

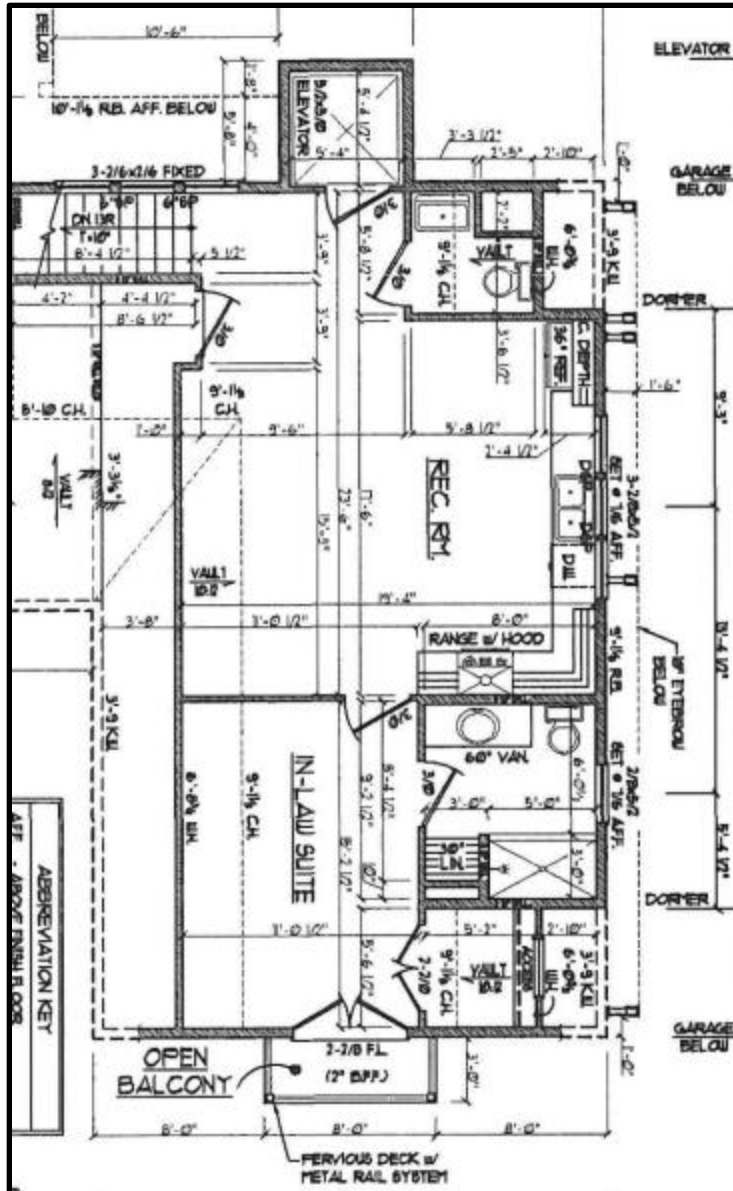


Zoning Image of Parcel

SPECIAL USE DESCRIPTION



Proposed Site Plan of Single-Family Residence



Proposed ADU - Upper Level of Detached Garage

The proposed accessory dwelling unit (ADU) will be the upper level of a newly constructed attached garage. The total square footage is 798 square feet, and the unit meets the minimum side and rear setbacks for the PUD zone (Side 10' and Rear 25'). The unit, as designed, will include a living area, bedroom, kitchenette, private sanitary facilities, and recreation room. Parking is provided on the existing driveway.

Below are the supplemental standards for accessory dwelling units found in Section 3.6.C of the UDO, with narrative showing how the proposal is compliant.

Where permitted, the following shall apply:

1. An accessory dwelling may be within, attached, or separate from the principal residential structure.

The proposed dwelling unit will be attached to the principal residential structure by way of the garage.

2. The principal use of the lot shall be a detached single-family dwelling built to the North Carolina State Building Code standards.

The principal use of the lot is for a single-family dwelling unit. The home is in the building permit stage and will be built to the standards established in the NC State Building Code.

3. No more than one (1) accessory dwelling shall be permitted on a single deeded lot in conjunction with the principal residential structure.

There are no other accessory dwelling units on the property.

4. The accessory dwelling unit shall be owned by the same person as the principal residential structure.

The accessory dwelling will be owned by the same person as the primary structure.

5. The accessory dwelling shall not be served by a driveway separate from that serving the principal residential structure.

There is only one driveway on the property that will serve the residents of the primary structure and the accessory dwelling unit.

6. There shall be a separate parking space for the accessory dwelling unit subject to the off-street parking requirements of Section 3.14.

There is parking available on the existing driveway.

7. The accessory dwelling shall not exceed 800 SF.

The proposed accessory dwelling is 798 SF.

8. Detached garages with a second-floor accessory residential dwelling may not exceed a ground-level building footprint area of 530 square feet and shall be constructed behind the front building line, except as allowed for riverfront lots, provided they are located no closer than five (5) feet to any adjoining property line.

The garage is attached.

The application, survey, and building drawings are attached to this report.

STAFF SUMMARY

The applicant requests a special use permit for a 798 SF accessory dwelling unit on a PUD zoned residential lot.

Staff find that the application is complete, and the applicant meets all the residential accessory dwelling unit standards in the UDO.

SPECIAL USE PROCESS

The special use permit request you will be hearing is a quasi-judicial decision, so it must be conducted in a way that ensures procedural and substantive due process. Anyone wanting to provide testimony must be sworn in. As a quasi-judicial hearing, the decision makers must be fair and impartial, and you must base your decision only on the competent evidence you receive. If anyone has a direct or potential financial interest in this proposed project, they should recuse themselves. A majority vote is required for a special use permit. Conditions can be applied that will ensure that the use in its proposed location will be harmonious with the area in which it is proposed and with the spirit of the UDO. All specific conditions shall run with the land and shall be binding on the original applicant for the special use permit, the heirs, successors, and assigns. Each case is decided on a case-by-case basis. The decision must be based on the specific site and not the owner or other locations they may own. The Board of Adjustment is to look at the circumstances of the property, not the circumstances of the property owner.

BOARD OF ADJUSTMENT: FINDING OF FACTS

The Board of Adjustment shall approve, modify, or deny the application for a special use permit. In approving a special use permit, the Board of Adjustment, with due regard to the nature and state of all adjacent structures and uses in the district, shall make written findings that the following motions will be fulfilled.

The Chairman will now guide the Board through the following motions, which have been distributed in advance of the hearing:

Motion 1:

_____ The use **will** materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

_____ The use **will not** materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact: _____

Motion 2:

_____ The use **meets** all required conditions and specifications;

_____ The use **does not meet** all required conditions and specifications;

[Note: It must be denied if the application does not meet conditions and specifications.]

Finding of Fact: _____

Motion 3:

_____ The use **will** adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity;

_____ The use **will not** adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity;

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact: _____

Motion 4:

_____ The location and character of the use, if developed according to the plan as submitted and approved, **will** be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan;

_____ The location and character of the use, if developed according to the plan as submitted and approved **will not** be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan;

[The Board should have some factual explanation for its decision on this motion.]

Finding of Fact: _____

Motion 5: Based on the findings of fact and the evidence presented, the Board of Adjustment:

☐ Recommends denial of the special use application based on the following:

☐ Recommends approval of the special use application with conditions, including the following:

-
- ☐ Recommends approval of the special use application with no conditions.

The final decision of the Board will be reduced to writing. A copy will be recorded with the Register of Deeds for Brunswick County.

Attachments:

Application

Survey

Building Drawings



**CITY OF SOUTHPORT
BOARD OF ADJUSTMENT
REGULAR MEETING**
113 W. MOORE STREET
October 22, 2024
4:30 PM

Minutes

Present: Pete Haislip, Jason Robbins, Harley Lemons, Loten Masker, Josh Cline McGee

Staff Present: Maureen Meehan, Planning Services Director
Wendell Biddle, City Planner
Noah Saldo, City Clerk

A. Chairman Haislip called the meeting to order at 4:30 p.m.

B. Chairman Haislip led the attendees in the Pledge of Allegiance

C. Explanation of Quasi-Judicial Process

1. Quasi-Judicial Process

Chairman Haislip provided an overview of the quasi-judicial process for the public.

D. New Business

1. *Variance Request: 101 N Atlantic Ave* [Wendell Biddle]

The meeting focused on a variance request concerning the rear lot setback for 101 North Atlantic Avenue. Hailey Arvidson from Kelly Construction, discussed the necessity for the variance to allow the construction of a new laundry room and full bath for the applicant, Mr. Brian Kelley. Various presenters explained the lot's history and presented sketches showing the existing and proposed site plans.

Mr. Biddle articulated the variance necessity due to the lot being legally non-conforming, unable to meet current R10 zoning standards. The applicant proposed reducing the setback from 12 feet to 4 feet to accommodate additional construction.

Questions arose regarding a non-conforming accessory dwelling located in the corner of the lot.

Mr. Siddell clarified that the accessory dwelling would be demolished, but the existing fence would remain.

Mr. McGee raised questions about the setback calculations. Mr. Siddell explained how the setbacks were determined and noted that the proposed remodel should not impact the sideline setback. Mr. Siddell also indicated that while he had not specifically explored the matter, he believed the structure would not interfere with the fire separation line between buildings.

Mr. Robbins expressed concerns regarding fire safety and the impact of reduced setbacks.

Ms. Meehan was sworn in and presented findings from the special use permit of an adjacent property. She stated that the neighboring house is set back over 26 feet from the property line, as measured from the property line to the corner of the home.

Ms. Arvidson was sworn in and explained that the current laundry room is located in the accessory structure being referenced. She clarified that the proposed addition would not encroach as far as the existing structure.

A discussion arose regarding the possibility of a pool on the property. Mr. Siddell clarified that the pool is not part of this application and would require a separate application process.

Mr. Robbins and Mr. McGee both questioned the design of the proposed addition, with Mr. McGee stating he did not see a hardship since the structure could potentially be reoriented to comply with setback requirements. Ms. Arvidson addressed the concerns, stating that reorienting the design would create aesthetic and functional challenges, including limited access to the exterior and egress issues. She explained that the McPhersons' hardship arises from having to exit the home in inclement weather to access their laundry room.

Mr. McPherson was sworn in and noted that the existing fence was installed approximately 5-6 years ago. Questions were raised regarding the door leading to the neighboring yard. Ms. Arvidson explained that the exterior door is a safety feature to provide an alternative egress route in case of fire. While not a life safety expert, she emphasized that the architect designs such features to comply with safety codes. The discussion revisited the possibility of reorienting the design. Ms. Arvidson reiterated that concerns about egress and life safety issues from potential fires made the current design the most efficient and appropriate option. A comment was made by Mr. Masker suggesting that the applicant should have explored alternative options with City staff. Ms. Arvidson responded that the application process requires the demonstration of hardship, which was satisfied by showing that the McPhersons must currently leave their home to access the laundry room.

A discussion took place regarding whether the applicant would be able to resubmit the project if it were denied. Mr. Siddell clarified that the issue pertains to the variance, not the design itself. He noted that, according to the architect, redesigning the project is not feasible, which is the basis for the hardship claim.

Mr. McPherson thanked the board members for their time and stated that he is ready for a decision so that he can move forward in some manner.

Motion 1: "Unnecessary hardship **would** result from a strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property"

Mr. Masker made the motion, Mr. Lemons seconded with Mr. Lemons, Mr. Masker, and Chairman Haislip voting Yes. Mr. McGee and Mr. Robbins voting No. **Motion passed 3-2**

Motion 2: "The hardship **does not** result from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance"

Harley Results motion die for lack second

Mr. McGee made the motion, seconded by Mr. Masker with Mr. Lemons voting No. **Motion passed 3-1**

Motion 3: "The hardship **did not** result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that might justify a variance shall not be considered as a self-created hardship"

Mr. Masker made the motion, seconded by Mr. Lemons. Mr. Lemons, Mr. Masker, and Chairman Haislip voting Yes, Mr. McGee and Mr. Robbins voting No. **Motion passed 3-2**

Motion 4: "The requested variance is **consistent** with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice achieved."

Mr. Lemons made the Motion, Seconded by Mr. Robbins with Chairman Haislip, Mr. Lemons, and Mr. Masker voting Yes. Mr. Robbins and Mr. McGee voting No. **Motion passed 3-2**

Motion 5: Based on the findings of fact and the evidence presented, the Board of Adjustment **Denies the variance request based on one or more of the findings of facts not present.**

Mr. Robbins made the motion with Mr. McGee seconding the motion, with Mr. Lemons voting No. **Motion passed 3-1**

E. Approval of Minutes

1. Minutes of the August 27, 2024 Board of Adjustment meeting

Mr. Lemons made a motion to approve the August 27, 2024 Board of Adjustment Minutes. Mr. McGee seconded the motion. **Unanimous vote. Motion Carried**

F. Adjourn

Chairman Haislip declared the meeting adjourned at 5:44 p.m.



CITY OF SOUTHPORT
ZONING BOARD OF ADJUSTMENT
113 W. MOORE STREET
November 26, 2024
4:30 PM

Minutes

Present: Pete Haislip, Jason Robbins, Josh Cline-McGee, Loten Masker

Absent: Harley Lemons

Staff Present: Maureen Meehan, City Planner
Noah Saldo, City Clerk

A. Chairman Haislip called the meeting to order at 4:30 p.m.

B. Chairman Haislip led the attendees in the Pledge of Allegiance

C. Explanation of Quasi-Judicial Process

1. Quasi-Judicial Process

Chairman Haislip provided an overview of the quasi-judicial process for the public

D. New Business

1. Special Use Permit Application-209 E Moore St.

Ms. Meehan discusses the special use permit request for events at the Carriage House Bed and Breakfast, owned by John Manning and Amy Coggins. The applicants had previously been granted approval to use their existing single-family home as a bed and breakfast in July. They now sought approval to host events such as weddings, birthdays, and other gatherings at the property. However, the initial approval did not include event standards, and there was a lack of detail on what types of events they intended to host. Therefore, the board asked for a secondary special use permit to specifically address the conditions for these events.

The property is zoned R-10 and is located near a central business district and a post office, with single-family residential properties to the left and rear. The applicants provided a survey showing the parking layout for the bed and breakfast, as well as a yard space

between 2,500 and 3,000 square feet that could be used for events.

The applicants emphasized that their bed and breakfast would remain the primary use of the property, with events being secondary. They justified the request by pointing out the proximity to non-residential uses, such as the post office, and believed that hosting events would not conflict with the neighborhood. They outlined two types of events they wish to host: small functions, with up to 30 guests lasting no more than 4 hours, and larger private events, with up to 150 guests lasting a full day, including setup and teardown.

For small events, non-overnight guests would be allowed, and the events would be held in the common areas of the property when they are not in use by the bed and breakfast guests. For larger events, the entire facility would need to be reserved for at least two nights. These larger events would primarily take place in the rear yard of the property, which is where they plan to host the larger gatherings.

The applicants provided a management plan for these events. There would always be an innkeeper or manager on-site, and temporary staff would be hired when necessary. Food would be catered, and there would be no on-site cooking. For events with fewer than 75 guests, on-site restrooms would be sufficient, but for larger events, portable restroom facilities would be required. No outside alcohol would be allowed, and guests would need to park on the public street. Noise ordinances would be followed, and the facility would secure a noise permit for each event. Additionally, the applicants outlined that any event would be contingent upon following these conditions.

Ms. Meehan explains staff reviewed the application, noting that the UDO (Unified Development Ordinance) allows the administrator to approve uses not explicitly listed, provided they are similar in intensity to permitted uses. While a bed and breakfast is considered a low-intensity use, adding event space would increase the intensity and could lead to conflicts with the surrounding residential area. Ms. Meehan states that the board would need to determine if the proposed events were comparable in intensity to other permitted uses in the R-10 district, such as churches, educational facilities, or private recreational facilities.

Ms. Meehan asked the board to consider various factors, including the density and intensity of the proposed use, the potential impact on adjacent land uses, parking, buffers, noise, light, and the frequency of events before making a decision. The floor was then opened for questions from the board or the applicants.

Discussion arises between Mr. Haislip and Mr. Masker about the distribution and use of alcohol.

Amy Coggins, property owner, points out the property and its proximity to other non-residential uses. Ms. Coggins mentions the possibility of rezoning and the consideration of the church. Ms. Coggins points out that the neighborhood is not quiet, as might be expected from the "R 10" area. It has various active amenities, including a community center, tennis courts, and a playground that is frequently used by children. The area experiences significant noise from 18-wheelers, post office trucks, and other sources. While one block over the environment is quieter, the overall area is still not completely peaceful. Despite the noise, the speaker appreciates the vibrant atmosphere of the neighborhood.

Mr. McGee questions about the carriage house. Ms. Coggins notes that the structure requires significant interior renovation due to termite damage but emphasizes that no expansion or footprint is being added to the building.

Mr. Masker inquires about the policy regarding outside alcohol, which is confirmed as a rule that no alcohol can be brought onto the premises. Ms. Coggins explains this policy is in place to allow bartenders the ability to cut off guests if necessary.

Ms. Coggins states that there are five parking spots, which Ms. Meehan confirms that there are actually six: Two for each innkeeper themselves and one for each room.

City Clerk, Noah Saldo, is sworn in and reads a letter from Paul Swenson opposing the special use permit, expressing concerns about noise, parking, and the impact on property values. The board discusses the acceptance of the letter as evidence and the need for notarization. Mr. Robbins moves to accept the letter as evidence, and the motion is seconded by Mr. Masker and approved.

Ms. Coggins explains that they were unaware that events would not be allowed at their property, as the UDO (Unified Development Ordinance) did not explicitly exclude such events when they purchased the property. They acknowledge the issue of loud bands but argue that such noise is acceptable for a personal residence.

Ms. Meehan provides context, mentioning that other Bed and Breakfast establishments in the city, such as La Polena, have hosted events, and that La Polena's management plan allows for such activities. She notes that past events were held at the end of Bay Street at the Lois Janes Bed and Breakfast before it ceased operations. Ms. Meehan further clarifies that La Polena's event hosting was granted through a conditional use permit, which was reviewed by the planning board and the board of adjustments.

When asked about the limitations of this permit, Ms. Meehan explains that La Polena's plan includes offering breakfast, hors d'oeuvres, and small private social events for holidays and special occasions, but these events are not open to the public and are only for private individuals. This was approved on January 24, 2017. She also notes that the reason she did not include this specific case in her analysis was that event hosting is not allowed in residential zoning districts, so she had to focus on uses permitted within the R-10 zoning district.

Mr. Masker raises a concern about the lack of clear specifications or conditions in the proposal, suggesting that comparisons to similar businesses or events that have been permitted in the same zoning area could help frame the decision. He specifically refers to one-time permits for events at other Bed and Breakfasts, like Lois Janes's establishment, which may have been granted on a case-by-case basis.

Mr. McGee expresses concern about the lack of a buffer between commercial and residential areas, highlighting that the neighbor had already voiced opposition to loud events like a Led Zeppelin concert. He also mentions the capacity of the community center, noting that it can hold around 125 people, and after estimating the space required for such an event, he finds that a venue accommodating 150 people would likely need a much larger facility, which raises concerns for him.

Mr. Masker disagrees with Mr. Robbin's point about the specifications of the permit,

referencing Section D of the UDO, which he believes gives the board the authority to impose conditions such as limiting the number of people or setting hours of operation without the need for rezoning or additional hearings. He reads from Section D, emphasizing that the board must ensure the proposed use is similar in character and intensity to other uses allowed within the zoning district. He argues that this gives the board the authority to make decisions on the proposal and shape its terms.

Mr. Gillespie acknowledges Mr. Masker's point but raises an issue with the UDO's interpretation over time. He explains that if the chart doesn't incorporate specific uses, then those uses are prohibited by default. He suggests that, while the UDO may not officially allow for the proposed use, the board could consider relevant factors and apply business judgment to make a decision, even if it's not strictly in line with the UDO's previous interpretations.

Mr. Robbins agrees with Mr. Gillespie's concept of using the UDO as a framework but acknowledges that Ray's point about the unlisted uses is crucial. He agrees that, while the UDO does not explicitly list the proposed use, the unlisted uses section can provide guidance. However, he clarifies that the board must still operate within the framework of the code, and it's acceptable to use relevant factors when making a decision.

Chair Haislip asks if there are any further questions before closing the public hearing and moving to the motion section of the meeting.

Motion 1: Mr. Robbins made a motion that the use will materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved. Seconded by Mr. Cline-McGee. **Unanimous Vote.**

Motion 2: Mr. Robbins made a motion that the use **does not** meet all required conditions and specifications UDO specifically Section 3.4A, seconded by Mr. Masker. **Unanimous Vote.**

Motion 3: Mr. Masker made a motion that the use will adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity, particularly UDO Section 3.4A, Mr. Cline-McGee seconded. **Unanimous Vote.**

Motion 4: Mr. Robbins made a motion that the location and character of the use, if developed according to the plan submitted and approved, **will not** be in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan, seconded by Mr. Masker. **Unanimous Vote.**

Motion 5: Mr. Robbins made a motion that based on the findings of fact and the evidence presented, the Board of Adjustments Recommends **Denial** of the special use application based on the reasoning of motion 4. Seconded by Mr. Masker. **Unanimous vote**

2. Discussion on Board of Adjustment Procedures, Particularly Variance Decisions
The board discusses how to address situations where they are approached by citizens in public regarding different cases.

E. Adjourn

A motion to adjourn the meeting was made by Mr. Masker and seconded by Mr. McGee. The meeting was adjourned at 5:50 p.m.

X

Pete Haislip
Chair

X

Tori Deviney
Deputy City Clerk