



**CITY OF SOUTHPORT
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
113 W. MOORE STREET
January 27, 2026
4:30 PM**

AGENDA

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. Approval of Agenda**
- D. Approval of Minutes**
 - 1. September 8, 2025, Board of Adjustment Meeting Minutes
 - 2. December 4, 2025, Board of Adjustment Meeting Minutes
- E. Explanation of Quasi-Judicial Process**
- F. Explanation of Proceedings**
- G. New Business**
 - 1. SUP-26-02 - 109 S. Atlantic Avenue
 - 2. AP-25-05 - 410 E Bay St Administrative Appeal
 - 3. AP-25-04 - S Caswell and W Bay Street
- H. Other Business**
 - 1. 2026 Board of Adjustment Regular Meeting Schedule
 - 2. Discussion Concerning Rules and Procedure on Agenda Prep Time and Dispersal
- I. Adjourn**



**City of Southport
Board of Adjustment Regular Meeting
Indian Trail Meeting Hall
113 W MOORE ST
Southport NC 28461
09/08/2025
4:30 pm
MINUTES**

Present Members: Chair Pete Haislip, Vice Chair Jason Robbins, Tuck Masker, John Allen, Chris Eckert, Rodney Ross, Harley Lemons, Steve Doshier – Alternate

Staff Present: Wendell Biddle, Planner; Ray DiGuseppe, Board of Adjustment Attorney; ChyAnn Ketchum, Public Information Officer; Tori Deviney, City Clerk

Absent: None

A. Call to Order

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

B. Pledge of Allegiance

Chair Haislip led members in the recitation of the Pledge

C. Approval of Agenda

A motion was made by Mr. Lemons and seconded by Vice Chair Robbins to approve the agenda.

The motion carries unanimously.

Chair Haislip asked for a motion to approve the appointment of Steve Doshier as Alternate on the Board of Adjustment

A motion was made by Mr. Masker and Seconded by Mr. Ross to approve Steve Doshier as a Board Alternate.

The motion carries unanimously.

D. Approval of Minutes

1. April 22, 2025, Board of Adjustment Meeting Minutes
2. July 22, 2025, Board of Adjustment Meeting Minutes

A motion was made by Mr. Masker and seconded by Mr. Ross to approve the Minutes.

The motion carries unanimously

E. Explanation of Quasi-Judicial Process

Chair Haislip shared the process of the Quasi-Judicial Hearing and asked for Board comment. There were none stated.

F. Other Business

1. SUP-25-04: Special Use Permit – 107A E 8th St

Chair Haislip explained that the applicant, Mr. Nicholas Chisom, of 1005 Bay Street, Supply, had submitted a Special Use Permit (SUP) request to operate a tattoo and body-piercing establishment at 107A East 8th Street. This land use no longer exists in the City's Unified Development Ordinance (UDO) and therefore requires classification under the most comparable existing use category. Before reviewing the details of the request, he provided context on the regulatory changes that created the issue.

City Planner Biddle reminded the Board that in 2024 the City of Southport relinquished its Extra-Territorial Jurisdiction (ETJ) to Brunswick County. As a result, three zoning districts, Heavy Industrial (HI); Light Industrial (LI); and Manufactured Housing (MH); were eliminated; and with them 12 land uses that had previously been permitted, including tattoo and piercing establishments.

Prior to the ETJ relinquishment, tattoo and piercing establishments had only been allowed in the Heavy Industrial district and only via Special Use Permit, with no

specific supplemental standards. Therefore, even under the former regulations, an SUP would still have been required.

Because the land use category no longer exists, staff were required to determine the most appropriate comparable use for review. Under the UDO, the closest classification is “Business, Commercial, or Other Non-Residential Use Not Elsewhere Classified,” which is a special use in the Business District (BD). Biddle emphasized that tattoo and body piercing are not protected land uses, and the City is under no statutory obligation to accommodate them as a matter of right.

Vice Chair Robbins asked about the process; and inquired about a text amendment that would need review following the relinquishment of the ETJ.

City Planner Biddle shared the process standard and the process of a text amendment; and how it relates to the Tattoo and Piercing Studio.

Mr. Lemons asked to have the slides containing the eliminated zoning districts from the ETJ shown again; and expressed concerns in the language among differences in the charts.

Chair Haislip shared that the charts represent the difference between the districts before and after the relinquishment of ETJ.

Mr. Lemons expressed concern regarding future zoning of businesses; and inquired about the process currently being considered by the Board of Aldermen, should the Board of Adjustment approve the request, and the subsequent process should the Board of Aldermen strike it down.

City Planner Biddle shared the details of the process to ensure the Board had clarity of what was being requested in the proposal; and shared the process before the Board of Aldermen.

Vice Chair Robbins asked if the Special Use Permit was issued for the land or just the business.

City Planner Biddle shared the limitations of the Special Use Permit and spoke to the property as it would be zoned for business.

Board Attorney DiGuseppe spoke to the law covered by a Special Use Permit and provided clarity to what an approval vote would ensure concerning the property, land, and business use; and addressed concerns about future owners operating a Tattoo and Piercing Studio in that location.

Mr. Lemons asked if there was another way other than to either approve or deny the request for the Special Use Permit.

Board Attorney DiGuseppe spoke to the laws concerning the permit.

Chair Haislip asked about cease and desist rules in future violations of the permit; and sought clarity if in the case business owners chose who chose not to cease and desist.

City Planner Biddle shared his recommendations and spoke to the permitting rules.

Board Attorney DiGuseppe addressed specific concerns regarding violations and code ordinance; and noted that the guidelines that would need to be determined to ensure the law was followed.

City Planner Biddle read the rule to the Board.

Mr. Ross asked if the permit would end once the applicant vacates the property.

Chair Haislip asked about the rules concerning business signage.

City Planner Biddle shared the permitting rules concerning signage.

Mr. Lemons expressed concerns about the process and noted that it was a different process than what had been in place before the relinquishment of the ETJ; and inquired if separate permits would be required to add signage to the property.

Chair Haislip noted that signage was not being considered by the Board, and not subject to a decision today.

Mr. Lemons asked if there was a way to prolong the decision until the Board of Aldermen acted on the matter.

Board Attorney DiGuiseppe noted that the Board of Adjustment needed to act on the application.

City Planner Biddle noted that the applicant had invested a substantial amount of money to open the business; and discussed motion 5, concerning compliance with the Comprehensive Plan; and asked the Board to move forward.

Mr. Ross asked if the applicant did not realize they needed a Special Use Permit.

City Planner Biddle noted the applicant was unaware; and shared that the process typically works properly, but the zoning portion of the permit was not recognized earlier in the process.

Chair Haislip noted that the applicant tried to follow the rules in good faith; and asked if there were any other questions.

Mr. Masker asked if Staff's recommendation had been presented with the findings.

City Planner Biddle shared that it had been included in the documents the Board received.

Chair Haislip introduced the applicant and asked him to say a few words.

Chair Haislip swore in the applicant, Nicolas Chisom.

Mr. Chisom shared more background on the Tattoo and Piercing Studio; and noted that the Studio would be located within other adult-oriented businesses; and shared the public outpouring in support of the Studio; and addressed the quality and safety of the work, including following all state safety standards; and noted that he hoped the business would add creative expression and encourage economic growth; and shared his journey toward reaching his goal of opening the Studio; and that he has both the support of family and other business owners in the community; and emphasized his belief that the Studio will be a long-term establishment in Southport.

Chair Haislip inquired about the hours of operation.

Mr. Chisom noted that the hours would be by appointment; and noted that it would not be a place of increased noise disturbances, and no alcohol would be allowed on the premises; and addressed concerns regarding the business signage noting that the landlord has need of an updated sign and that he offered to pay for the updates to accommodate his own sign.

Chair Haislip opened the floor to Public Comment.

a. Public Comment

Mr. Chisom noted that he had brought his family and business acquaintances and shared that they would all speak on his and the Studio's behalf.

Chair Haislip asked if there were any more comments from the Board; and if there were opponents that would like to speak.

City Clerk Tori Deviney noted that she received a public comment via email.

Board Attorney DiGuiseppe noted that the Board had received several letters in opposition; but since they were not present, and per the procedure, the Board would only consider those impacted by the business are permitted to speak.

Chair Haislip spoke to the rules of the Quasi-Judicial hearing and emphasized the need that legal proceedings are followed.

Mr. Lemons asked if the applicant's petition needed to be addressed.

The Board swore-in William Mack, owner of Halo Heating and Air.

Mr. Mack shared his relationship with the applicant; and spoke about the process of opening a business in Southport, and the difficulties associated with the process; and shared the relationships that he had made with City Staff; and spoke about the changing climate of the city.

The Board swore-in the landlord of the Studio, Southport Resident, Randy Fullwood.

Mr. Fullwood shared the work the applicant has done to the property; and expressed appreciation to the tenant for his contributions.

The Board swore-in Emily Humphries, Southport Resident.

Ms. Humphries spoke to the City process regarding the development of Southport but noted the relinquishment of the ETJ and changes in the UDO; and that Tattoo and Piercings Studios were established as Heavy Industrial Zone; and expressed concerns for why the Studio is necessary when the location is not a Heavy Industrial Zone.

The Board swore-in Andrea Mulligan, Southport Resident.

Ms. Mulligan addressed concerns about parking; and noted that the addition of the Studio would increase noise and traffic in the area; and stated that the clientele to those already existing establishments do not respect the residents in that area.

The Board swore-in Krystal Beardsley, local bank branch manager.

Ms. Beardsley noted that she had known Mr. Chisom for years and spoke to the contents of his and his family's character; the growth of the community; and the preservation and encouragement of the City's youth.

Chair Haislip asked if there were any additional speakers.

Mr. Ross sought more information about the process the applicant underwent, specifically what the applicant receives as a checklist to ensure the proper process is followed.

City Planner Biddle assured Mr. Ross they do receive a complete checklist outlining the process and procedure.

Mr. Mack shared that City Staff did not share the process during the permitting process.

City Planner Biddle sought clarity on Mr. Ross's inquiry; and spoke to the process in total, through to fire inspection; and spoke to the change of use and the permitting that is encompassed under that process.

Mr. Eckert sought clarity for what was requested by the applicant; and if the request was classified under the UDO and asked him to elaborate.

City Planner Biddle shared that the SUP the applicant had filed for is covered under UDO 3.8.6D that covers land use; and noted that it was not classified in the UDO; and shared what was included in the ordinance.

Board Attorney DiGiuseppe spoke to the State Laws concerning UDO, ETJ, and what is permissible under the law; and the impacts on local code following the relinquishment of the ETJ; and addressed the parameters delineating classified and non-classified UDO; and clarified the rules concerning the Tattoo and Piercing Studio.

Chair Haislip asked Fire Marshal Madison Drew to speak to the item.

Fire Marshall Drew clarified that City Planner Biddle was correct in his outline of the process; and addressed the caveats in the requirements; and shared a background of the fire inspection; and explained that the scope of work may not have risen to the level that would require a building permit, which could be why not everyone applied for one, as Mr. Mack previously inquired on.

Chair Haislip closed the public hearing portion of the Quasi-Judicial Hearing; and opened the floor to Board comments.

Chair Haislip asked for a motion to approve the Special Use Permit - SUP-25-04.

b. Motion and Findings

Motion 1:

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

Finding of fact: The Studio fits in with similar business within the area.

A motion was made by Mr. Eckert and seconded by Mr. Ross.

The motion carries unanimously

Motion 2:

The use **meets** all required conditions and specifications.

Finding fact: Meets the required conditions.

A motion was made by Mr. Masker and seconded by Mr. Ekert.

The motion carries unanimously

Motion 3:

The use **will not** adversely affect the use of physical attributes of joining or abutting properties.

Finding of fact: the adjoining property is the landowners and the other is a parking lot.

A motion was made by Mr. Eckert and seconded by Vice Chair Robbins.

The motion carries unanimously.

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.

Finding of fact: It fits well within the area.

A motion was made by Mr. Eckert and seconded by Mr. Ross.

The motion carries unanimously.

Motion 5:

Based on the findings of fact and the evidence presented, the Board of Adjustment recommends **approval** of the special use application with conditions including:

The Special Use Permit shall remain valid only during the tenancy of the current applicant for the business purpose described in the application, and within the specific premises identified.

A motion was made by Mr. Masker and seconded by Vice Chair Robbins to approve the findings of facts and evidence presented for the Special Use Permit for SUP-25-04.

The motion carries unanimously.

G. Adjourn

A motion to adjourn was made by Mr. Robbins and seconded by Mr. Eckert.

The motion carries unanimously.

The meeting adjourned at 6:10 p.m.

X

Pete Haislip
Chair

X

Tori Deviney
City Clerk



**CITY OF SOUTHPORT
BOARD OF ADJUSTMENT
REGULAR MEETING
113 W MOORE ST SOUTHPORT, NC 28461
December 4, 2025, 4:30 PM
Minutes**

Present Members: Chair Pete Haislip, Vice Chair Jason Robbins, Tuck Masker, Harley Lemons, Rodney Ross, John Allen, Chris Eckert

Staff Present: Ray DiGiuseppe, Board of Adjustment Attorney; Maureen Meehan, Planning Services Director; Wendell Biddle, City Planner; Scott Baillargeon, Deputy City Clerk

Board Liaison: Alderman Mark Spencer

Absent: None

A. Call to Order

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

Chair Haislip introduced the Deputy Clerk Scott Baillargeon.

B. Pledge of Allegiance

Chair Haislip led members in the recitation of the Pledge

C. Explanation of Quasi-Judicial Process

Chair Haislip shared the proceedings of the Quasi-Judicial Process.

Mr. Masker noted the addition of the wording in Motion 5, “in general compliance with the 2050 Comprehensive Plan”; and noted that he was unfamiliar with the 2050 Comprehensive Plan; and expressed concern for voting on the Special Use Case (SPU) to be considered tonight.

Chair Haislip asked City Planner Biddle if the Board could assume that the Special Use Permit meets the standard set in the Comprehensive Plan; and asked Mr. Biddle to share background on residential planning through the lens of the 2050 Comprehensive Plan regarding Accessory Dwelling Units (ADU).

City Planner Biddle spoke to the 2025 Comprehensive Plan noting that approving the Special Use Permit on the agenda would not be a factor.

Chair Haislip asked the Board if an adjustment to the motion might be necessary.

Mr. Masker noted adding “applicable sections thereof” in reference to the Comprehensive Plan.

Planning Services Director Meehan spoke to the 2025 Comprehensive Plan and shared that the City would be reviewing future land use plans and policies; and noted that it would be compatible with the comprehensive plan; and emphasized that Staff would keep the Board informed going forward.

Chair Haislip explained the process of Special Use Permit and read the Quasi-Judicial Hearing proceedings set for tonight; and asked the Board if there were any conflicts of interest.

The Board shared there were none.

D. New Business

a. Special Use Permit SUP-25-05 - 729 N. Atlantic

Chair swears in City Planner Wendell Biddle

City Planner Biddle spoke to the Special Use Permit, SUP-25-05, requesting a detached Accessory Dwelling Unit (ADU); and shared the application that was submitted by the property owner, Mr. William FitzGerald; and stated that the lot was subject to the standards ensuring it:

- Is zoned R-10, which allows ADU’s by way of Special Use Permit.
- Is located at the corner of N. Atlantic Avenue and E. 8th Street.
- Is approximately 6,500 square feet in area.
- This image is taken from N. Atlantic Avenue

He shared several images of the proposed building site of the prospective ADU; parcels taken from the Brunswick County GIS map; and noted that both images are of the lot prior to the development of a single-family residence; and the lot is adjacent to commercial and residential properties; and shared that the parcel is zoned R-10 and it is adjacent to O&I to the north, BD to the n. west, west, and s. west, and R-10 to the immediate south and east; and discussed the applicant’s site plan; noting the proposed 420 sq. ft. structure as detached and to the rear of the lot; and shared that the structure would meet the minimum 5’ rear and side setbacks required; and specifics about the site:

- To access the detached garage/ADU, the front entrance will be accessible from E. 8th Street

- Will require the removal of the 36" Live Oak
- Subsequent tree mitigation will be for a total of 9 inches. All trees are to be a minimum of 3" DBH and contain at least one Live Oak.
- The remaining 6" to be planted are to be canopy trees from UDO Table 3.5 or understory trees from Table 3.6.

And provided a rendering of the proposed structure's front elevation in relation to space; and shared that the structure's overall dimensions noting the ground level will serve as a 420 sq. ft. garage while the upper floor will serve as a 333 sq. ft. living space; and Table 3.1 of the Unified Development Ordinance (UDO) requirements of the Special Use Permit; and stated that the Special Use Permit seeks approval for an ADU that is 420 sq. ft. on the upper level of a detached garage and that Staff find the application to be complete and the applicant meets all the residential accessory dwelling unit standards established under the UDO; and discussed the issues regarding stormwater; and noted that the Board could add a condition on approval to install a rain garden to offset stormwater.

Mr. Ross asked about the standards concerning impervious drainage and asked that they be shared.

City Planner Biddle shared that the ADU falls short of the standard.

Mr. Masker asked if the fence was set on the property line.

City Planner Biddle confirmed that it did.

Mr. Ross asked if the alleyway was on the other side.

City Planner Biddle confirmed that it was.

Mr. Masker shared concerns about access to the rear side of the property.

City Planner Biddle provided the Board with an image of the property and noted that it would not require access.

Chair Haislip noted that tree mitigation will be managed by the building inspector.

City Planner Biddle confirmed that Chair Haislip was correct; and provided additional information about the landscaping plan.

City Planner Biddle shared additional slides and spoke to each; and again noted the dimensions of the overall structure, but was unable to provide the height of the structure itself; and showed the proposed layout of the ADU; and shared the Section standards of 3.6.C of the UDO; and the motions it meets in satisfactory conditions but noted motion 5:

- “Although the primary residence is served by a driveway from N. Atlantic Avenue, there is a roundabout driveway on E. 8th Street serves as parking for the vehicles associated with the property;”

was addressed by the City Engineer and suggested creating a condition regarding motion 5.

PROPOSERS

Chair Haislip swore in Mr. William FitzGerald

Mr. FitzGerald emphasized what City Planner Biddle shared and asked if there were any other questions.

Mr. Allen asked if the live oak could be saved or relocate the ADU to avoid removal of the tree.

Mr. FitzGerald shared that it was not possible.

Mr. Allen noted that Mr. FitzGerald is required to replace the trees removed.

City Planner Biddle shared the rules for tree removal and the plants that need to be replanted; and shared the trees that could be selected for replanting; and noted that caution is followed following the mitigation of trees.

Chair Haislip asked if the grade would be raised to accommodate the ADU.

Mr. FitzGerald shared that it would be built on the current grade.

Mr. Eckert asked if the applicant anticipated any mitigation for stormwater.

Mr. FitzGerald shared that the soil is porous and there has not been any runoff from the Tiki Bar; and noted that the Tiki Bar stands at a higher elevation than the proposed ADU location and assured the Board that the ground stays dry.

Chair Haislip asked if there were any more questions.

Mr. Masker noted the driveways on N. Atlantic Ave and E. 8th St.; and that the ADU does not support a garage; and asked where the driveway to the ADU was going to be placed.

Mr. FitzGerald shared that he did not need a garage.

City Planner Biddle noted there would not be room for another entrance/garage; and Staff would not permit another driveway due to its location to the roundabout.

Chair Haislip asked if there were any more questions; there being none, he asked if there were any opponents that wished to speak.

OPPONENTS

Chair Haislip swore in Sheila Swain, the daughter of the residents, of 717 N Atlantic Avenue.

Ms. Swain spoke on behalf of her parents as power of attorney and noted that she opposed the ADU.

Mr. Allen asked where the house was in relation to the lot and the proposed ADU.

Ms. Swain shared a photo of the home in relation to the applicant's home; and read a prepared statement; and noted the burden on her parents by the neighbors and stated a financial loss.

Chair Haislip stopped Ms. Swain and shared that she would need to provide evidence to show financial loss.

Ms. Swain noted that she could provide evidence of financial loss; and spoke about her family's history on the lot; and noted they had not experienced flooding until the construction of the three homes adjacent to their property; and that they have pictures to prove the flooding.

Chair Haislip stopped Ms. Swain again and inquired if she could provide evidence of flooding.

Ms. Swain shared that she did have photos that showed evidence of flooding and disseminated them among the Board for review.

Chair Haislip noted that evidence backed by professional review would be required to prove the claim that the property has had standing water since the construction of the three homes adjacent; and noted that for the consideration of the proposed ADU, the Board needs to address only the facts of the case before them; and proof from Ms. Swain will need to be collected to show the ADU will flood the property.

Board Attorney DiGiuseppe emphasized the need to speak to the facts; and outlined the documents necessary that would need to be presented to the Board as facts to attest her claims; and spoke to having a professional brought in to make those factual determinations relating to the flooding on her parent's property who could prove that the addition of an ADU would exacerbate the flooding already occurring; and emphasized that the Board cannot accept the words of a layperson as it accounts to hearsay rather than factual evidence determined by a professional.

Ms. Swain shared that she had tried to obtain the records from the City of Southport but did not receive assistance; and inquired if she would need to acquire an engineer to facilitate a study of the flood water occurring on her parent's property.

Board Attorney DiGiuseppe affirmed an engineer would need to be obtained to provide factual evidence.

Chair Haislip noted that the City of Southport did its due diligence in approving the developments of the three homes adjacent to her parent's property.

Board Attorney DiGiuseppe spoke about the rules and the need to obtain professionals to conduct a study; and noted that claims presented to the Board of Adjustment cannot be based on conjecture; and emphasized that the Board's focus is to consider only the addition of an ADU.

Ms. Swain asked about what she could talk about, noting the five motions the Board would need to approve to approve before the addition of an ADU could be constructed; and inquired if the Board would permit her to share anecdotal rebuttals with each motion showing the issues that occur on her parent's property.

City Planner Biddle shared that the lot being considered for an additional ADU was non-conforming and the provisions allow for lots to be developed and was able to sustain an ADU.

Ms. Swain spoke again to the issues of parking along the right-of-way; and noted the UDO that requires separate driveways for units; and asked how parking would be allowed for the ADU.

City Planner Biddle shared that the lot over meets the standards for a driveway; and emphasized that parking would not be a problem; but shared that it would be the determination of the Board to decide.

Ms. Swain noted that it was located beside the Tiki Bar and spoke to the number of people who attended events at the Tiki Bar throughout the year that places parking in her parents' yard.

Chair Haislip shared that parking was not under consideration as it was beyond the scope of the Board's purview of approving an ADU on the adjacent property.

Ms. Swain spoke to the language of the UDO and noted that the placement of a 25-foot ADU would impact the rear-side view of her parents' yard; and noted that if it was a duplex, it should not be permitted.

City Planner Biddle noted that the ADU would not be a duplex; and shared the differences between them.

Ms. Swain spoke about the loss of impervious area coverage and emphasized concerns for stormwater runoff as being a contributor to potential flooding.

Board Attorney DiGiuseppe noted the need to present causal connections and that a professional would need to determine and provide testimony of the fact;

noting that anecdotal testimony would be irrelevant to Board of Adjustment hearing proceedings and therefore inadmissible.

City Planner Biddle noted that the ADU, if approved by the Board of Adjustment, would then need to be reviewed by further proceedings.

Chair Haislip shared that the Board appreciates her efforts but noted that City Staff had reviewed the request and studied the findings conducted by the City Engineer; and shared that the Board's responsibility was to judge the project on its merit.

Board Attorney DiGiuseppe addressed that her concerns were relevant factors to consider if there were causal conditions but emphasized that without professional testimony to present the types of evidence needed for those subjects of concern, the scope of the Board is limited.

Ms. Swain shared that it was her first meeting; and inquired about a less formal meeting that could have been held to address her concerns.

Board Attorney DiGiuseppe noted that her concerns are broader than just the ADU; and addressed the difficulty of dealing with stormwater issues.

Ms. Swain shared that she had previously asked the property owner to add gutters to the three homes adjacent to her parents' property and shared that Mr. FitzGerald had refused due to the costs associated.

Mr. Lemons spoke to the process of UDO hearings and inquired about non-conforming and conforming structures.

City Planner Biddle noted that the structure is conforming but the lot itself is non-conforming; and spoke to the process of the UDO to determine non-conforming and conforming structures; land use laws and setbacks.

Mr. Eckert asked about Line 5 concerning driveways and asked how the structure could be made usable for a garage with the existing driveway:

- UDO Section 3.6.C., Line 5. The accessory dwelling shall not be served by a driveway separated from that serving the principal residential structure.

City Planner Biddle spoke to the UDO and shared his view of the proposal.

Mr. Lemons stated that he believed City Planner Biddle response was opinion and not factual.

City Planner Biddle noted a tertiary driveway would not be approved.

Discussion among the Board ensued concerning the UDO Section 3.6.C., Line 5, as written in relation to the proposed ADU; the future addition of a driveway; and addressed additional details concerning stormwater runoff.

Chair Haislip expressed concern that a gravel driveway could be created after the approval of the ADU; and asked Mr. Biddle about how the addition of the gravel driveway could be approved.

City Planner Biddle shared that he was unable to speak to that but noted that the addition of a gravel driveway would be in violation of the ordinance.

Mr. Robbins shared that there had been several cases over the years and expert testimony was required; and the Board does not have an adequate way of advising those in opposition; and noted concerns raised regarding stormwater and rainwater runoff; and that he was not prepared to act on this case.

Chair Haislip shared that Mr. Biddle had suggested adding a condition concerning stormwater at the beginning of his presentation; and asked Mr. Biddle to present his condition to the Board for review.

City Planner Biddle spoke to the condition mentioned earlier and noted City Engineer Zilinek recommended approving the ADU with the condition that the applicant adds rainwater gutters on the ADU (not the residence); and the Board could add additional conditions to approve the structure.

Mr. Lemons noted that it would be appropriate to have City Engineer Zilinek present to speak in depth on these recommended conditions; and that the Board was not called to discuss stormwater; and emphasized the need to focus on just the proposal.

Mr. Robbins expressed agreement with Mr. Lemons; and shared a need to develop processes for cross examination to hear opposition.

Chair Haislip emphasized the project for the addition of an ADU was the focus and not stormwater; and asked Board Attorney DiGiuseppe for additional thoughts.

Board Attorney DiGiuseppe expressed the same concerns presented by Chair Haislip; and noted that with the Board's lack of expertise to speak conclusively to stormwater issues, the Board cannot predict the actual impacts of these issues; and noted that the proposal should include a statement from an engineer showing that surface waters, stormwaters, and the impacts of those issues were reviewed conclusively.

City Planner Biddle shared that the City Engineer is guided by the UDO and regulations and was unclear to the efficacy of the City Engineer to speak on behalf of these concerns.

Mr. Robbins shared that they had seen a counterpoint opinion that calls into question whether it is the right action to take.

Discussion ensued concerning tabling the decision until the City Engineer can be present to speak about the conditions suggested by City Planner Biddle; and the process for those in opposition going forward; and the conditions that stand before the Board as it results in a decision.

Chair Haislip noted that it was the City's job to either approve or deny the ADU, and asked Mr. FitzGerald back to the podium.

Mr. FitzGerald noted he did not own the house next door, but noted that he had built them; and that the Swains are four doors away from the proposed ADU; and that the ABC Store had been flooding for many years before the building of the three homes (as it sits behind the Swain's residence); and the land had not been elevated; and shared that what he is proposing is not near the Swains' residence.

Mr. Ross asked why there was a problem with stormwater runoff now that Mr. FitzGerald has proposed adding an ADU to the property.

Mr. FitzGerald emphasized that there is not a problem with water; and noted that it was from the ABC Store; and that his garage was at the back of the property; and that he would park cars in the driveway until further review with City Planner Biddle to discuss a potential driveway added.

Mr. Eckert noted that Mr. FitzGerald did then plan to seek a permit to add a driveway to the ADU.

City Planner Biddle spoke to the addition of the driveway and what would need to occur to allow a permit for the driveway.

Chair Haislip asked if there were any other questions from the Board.

Mr. Ross asked about the ABC Store and its distance from the Swain lot.

Discussion ensued regarding the proximity of the ABC Store to each property.

Chair Haislip recognized Ms. Swain to speak on the proximity of the ABC Store to her parents' lot.

Ms. Swain shared the history of the lot; the building of three homes on the adjacent lot; and the rainwater that accumulates on the lot due to the neighbor not installing rain gutters; and shared further concerns regarding water runoff.

Mr. Lemons noted a law that prohibits the dumping of water from one lot to another.

City Planner Biddle shared a map of the lots for orientation purposes.

Chair Haislip swore in Randle Fullwood, who owns the building across the street from the proposed ADU.

Mr. Fullwood shared concerns about parking as it continues to be a problem; and noted that the ADU will provide further parking issues.

Chair Haislip thanked Mr. Fullwood for his comments.

A motion was made by Mr. Robbins and seconded by Mr. Allen to table the hearing to allow time for all parties to prepare with expert testimony.

City Planner Biddle noted the questions concerning parking and item number five of the UDO; and asked the Board to address the ADU today to avoid the applicant incurring additional costs.

Mr. Lemons noted that the City Engineer should be present to facilitate questions.

City Planner Biddle noted that the proposal does not meet the threshold of stormwater mitigation.

Mr. Robbins noted that an expert needs to weigh in.

Mr. Masker asked if there was a section in the UDO that defines standing water; and noted it would be beneficial for the Board to understand it in its entirety for clarity.

Mr. FitzGerald shared that the proposal of the ADU is not related to stormwater.

Chair Haislip reiterated the motion on the floor and asked Mr. Robbins to restate the motion for clarity.

Mr. Robbins reiterated his previous motion, and it was seconded by Mr. Allen to table the hearing until the next meeting to allow time for all parties to prepare with expert testimony.

The motion carries unanimously

Chair Haislip asked for the date of the next Board of Adjustment meeting.

Planning Services Director Meehan shared that the next meeting was scheduled for January 27, 2026.

E. Approval of Minutes

1. September 8, 2025, Board of Adjustment Regular Meeting Minutes
2. September 23, 2025, Board of Adjustment Regular Meeting Minutes

Chair Haislip asked for a motion to approve the meeting minutes.

Mr. Masker expressed concerns with September 8, 2025, Board of Adjustment Regular Meeting Minutes; and noted that he would email the Deputy City Clerk to discuss edits.

The Board agreed to the request for Mr. Masker to work with the Deputy Clerk regarding the minutes.

A motion was made by Mr. Robbins and seconded by Mr. Allen to approve September 23, 2025, Board of Adjustment Regular Meeting Minutes.

The motion carries unanimously

F. Other Business

Planning Services Director Meehan spoke about the SUP 416 Bay St.; and asked Board Attorney DiGiuseppe to share an update.

Board Attorney DiGiuseppe spoke to the constitutional arguments and noted the Board of Adjustment cannot adjudicate on these matters; and shared that a motion to dismiss was pending, and the court date for that motion was set for January, and shared that if the court grants a dismissal then it will be reverted back to the Board of Adjustment's decision as binding; and shared the process for going forward.

Mr. Allen asked if they could appeal beyond the superior courts.

Board Attorney DiGiuseppe said they could if the motion to dismiss is granted, and the applicant wanted to challenge they could; but the case would need to be evaluated.

Discussion ensued among the Board concerning the SUP case; and discussed the difficulties that were experienced with the case presented tonight.

Mr. Robbins shared that some of the material in the packet is unreadable and needs to be clearer for review; and asked that City Staff work to ensure and provide legible documents for the Board to read and review.

Mr. Lemons requested that a copy of the Board of Adjustment roster be provided with the packet.

Planning Services Director Meehan stated that she would provide a copy of the roster in the packet for future meetings.

G. Adjourn

Chair Haislip asked for a motion to adjourn.

A motion was made by Mr. Allen and seconded by Mr. Robbins to adjourn.

The motion carries unanimously

The meeting adjourned at 6:10 p.m.

X

Pete Haislip
Chair

X

Scott Baillargeon
Deputy Clerk

DRAFT



Special Use 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: Richard Bandera- Agent
Mailing Address: 409 North Burrington Ave City: Southport
State: NC Zip Code: 28461 Phone: 910-599-2252
Email: banderaarch@earthlink.net

Property Owner's Name: Lucia and Terry Lindsey
Address of Owner: 520 Rutile Dr. City: Ponte Vedra
State: FL Zip Code: 32082 Phone: 904-631-7944
Email: lucialindsey@att.net terryjlindsey@att.net

Address of the property: 109 South Atlantic Ave City: Southport
State: NC Zip Code: 28461 Zoning District of Property: R-10
Overall Acreage: 0.22 acres Minimum Area Requirement for Zoning District: 10,000 SF
Special Use Permit Request: Accessory Dwelling
Zoning of Adjacent Lots: R-10

Design Professional: Richard Bandera , Architect License #: 9299
 Mailing Address: 409 North Burrington Ave City: Southport
 State: NC Zip Code: 28461
 Phone: 910- 599-2252 Email: banderaarch@earthlink.net

Per Section 2.7.A of the UDO, special use permits may be issued by the UDO Administrator, after approval by the Board of Adjustment. The petition for a special use permit and accompanying plans shall be submitted to the UDO Administrator.

Application Materials and Submittal:

1. One (1) digital copy and 12 hard copies of the special use permit site plan shall be submitted with all such applications.
2. The special use permit site plan shall be prepared by and sealed by a licensed land surveyor, landscape architect, or engineer registered to practice in the state of North Carolina, and shall include all of the required information as provided in Appendix A: Submission Requirements.

Richard Bandera, Agent

12.12.2025

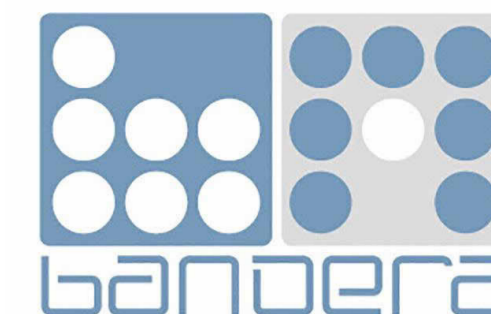
Signature (Owner or Authorized Applicant)

Date

APPROVED:

UDO Administrator

Date



BANDERA ARCHITECTURE

Office Address:
409 North Burlington Avenue
Southport, NC
28461

CONTACT:

TELE: 910.454.4513

CELL: 910.599.2252

banderaarch@earthlink.net

REV: DATE:

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REV: DATE:

REV: DATE:

REV: DATE:

109 S. ATLANTIC AVE.
SOUTHPORT, NC
28461

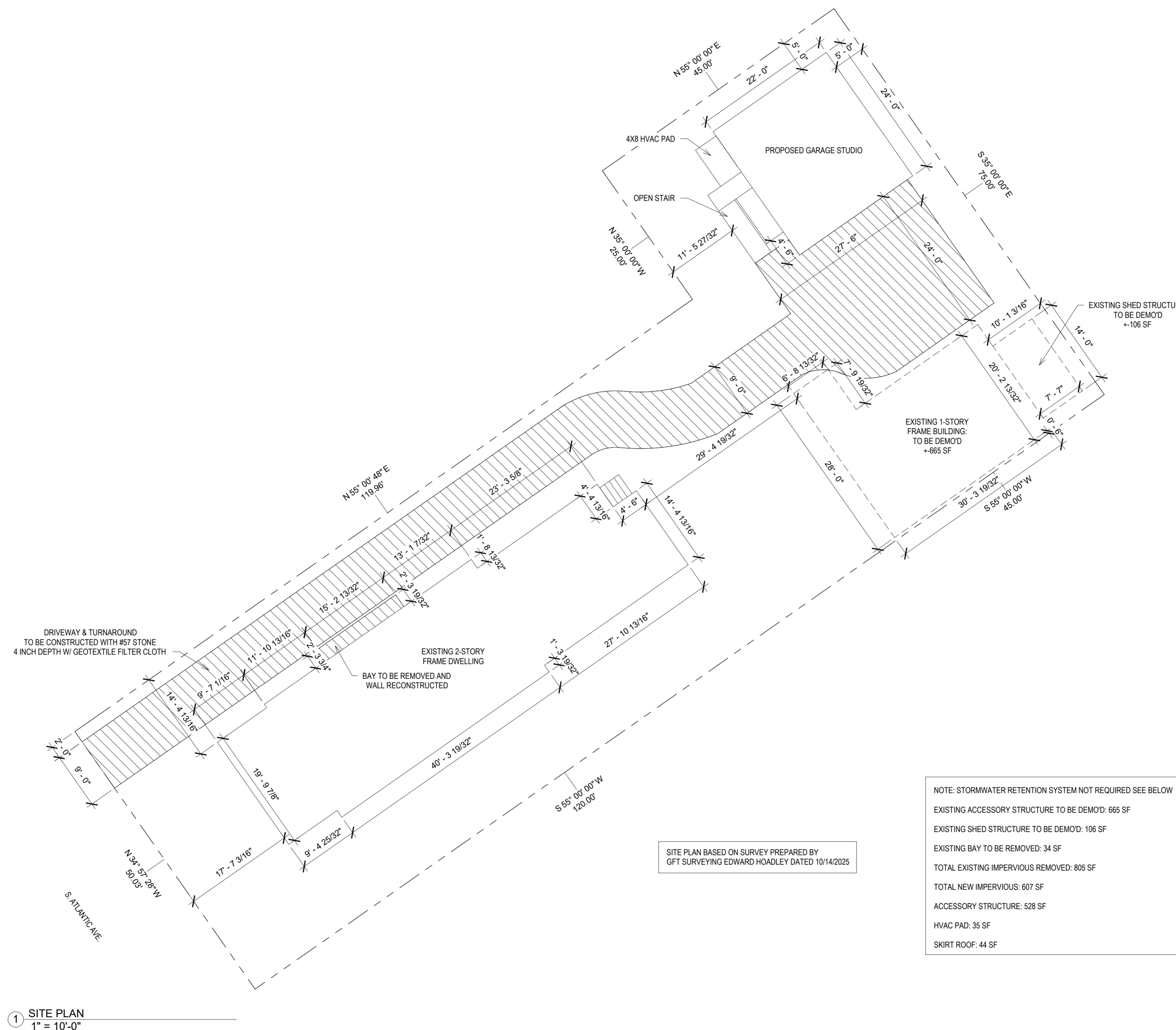
**SPECIAL USE PERMIT
APPLICATION**

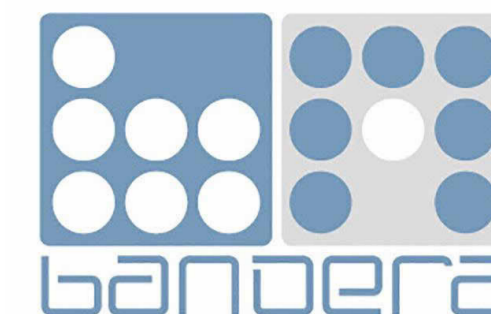
Date: 12.11.2025

SITE PLAN

C1

SHEET NO.





BANDERA ARCHITECTURE

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409 North Burlington Avenue
Southport, NC
28461

CONTACT:

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REV: DATE:

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109 S. ATLANTIC AVE.
SOUTHPORT, NC
28461

**SPECIAL USE PERMIT
APPLICATION**

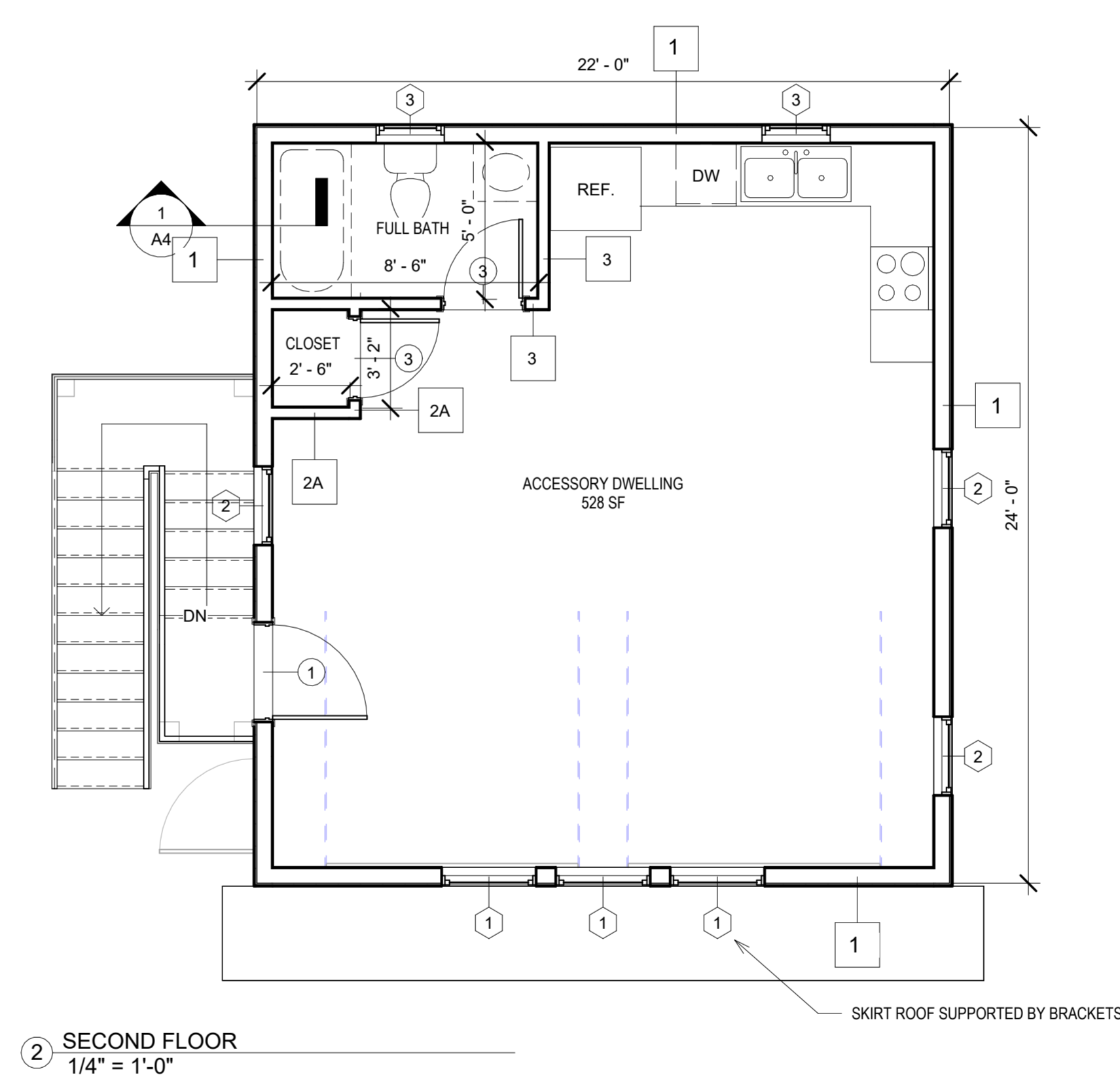
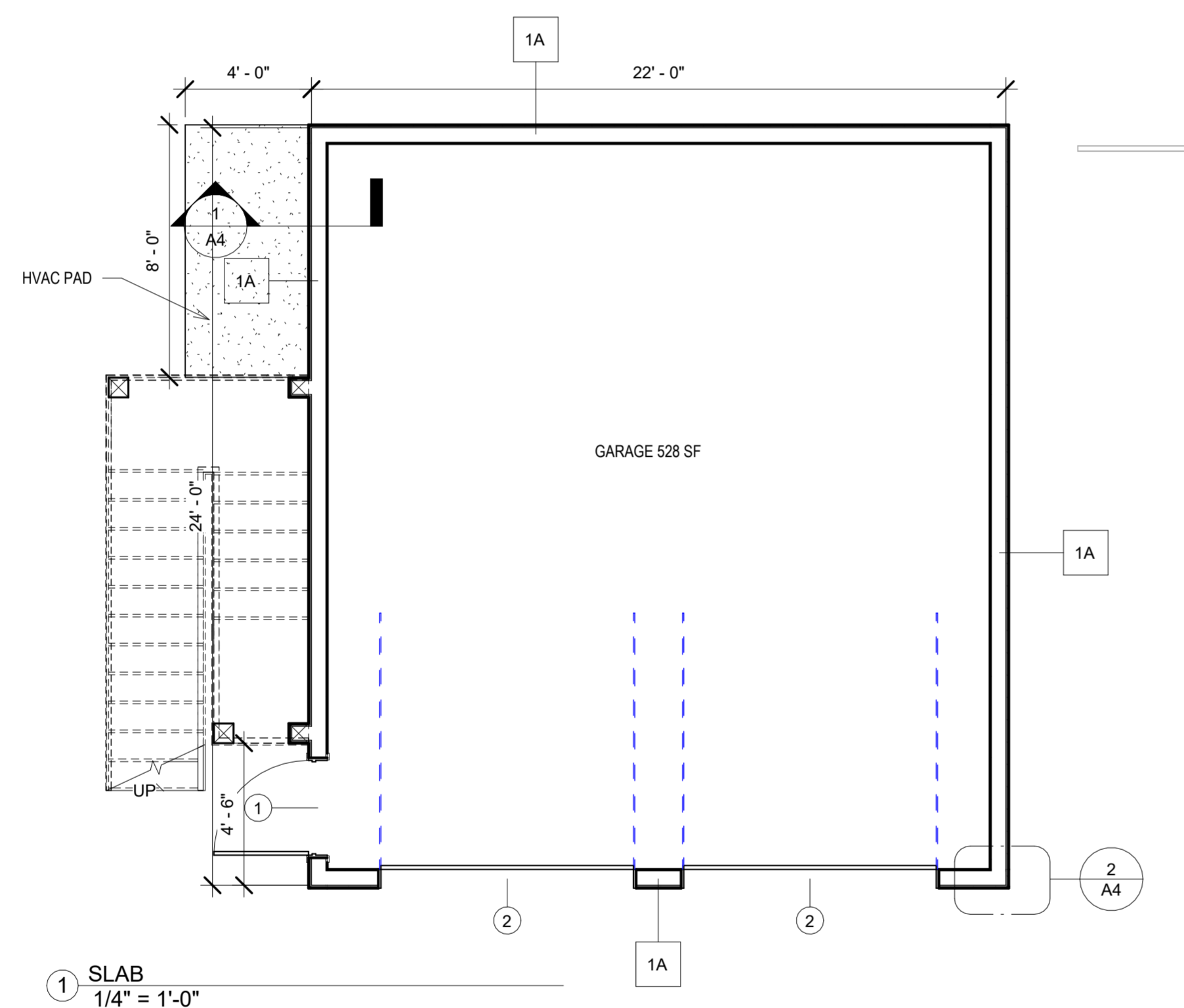
Date: 12.11.2025

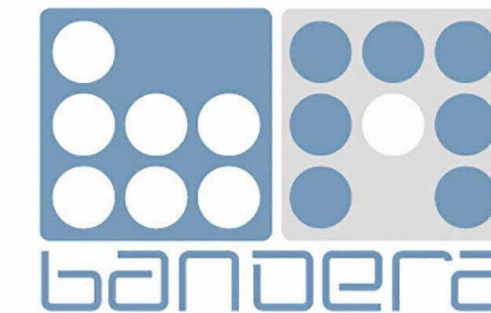
FLOOR PLANS

A1

SHEET NO.

www.audodesk.com/esit





BANDERA ARCHITECTURE

Office Address:
409 North Burlington Avenue
Southport, NC
28461

CONTACT:

TELE: 910.454.4513

CELL: 910.599.2252

banderaarch@earthlink.net

REV: DATE:

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REV: DATE:

109 S. ATLANTIC AVE.
SOUTHPORT, NC
28461

**SPECIAL USE PERMIT
APPLICATION**

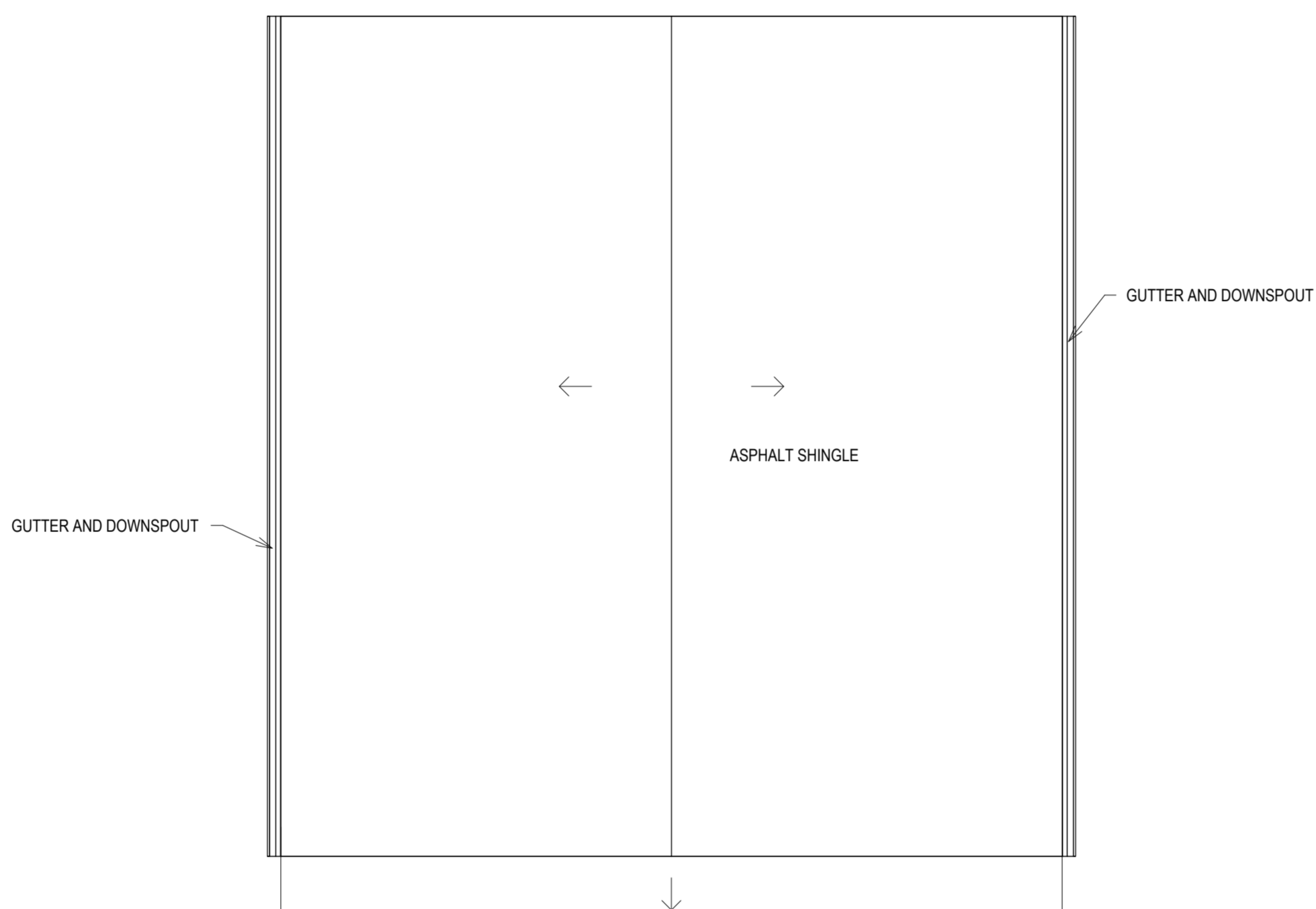
Date: 12.11.2025

ROOF PLAN

A2

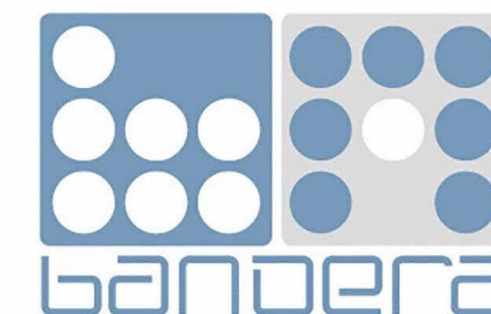
SHEET NO.

www.audodesk.com/revit



TYPICAL ROOFING NOTES:
 ROOFING SYSTEM SHALL MEET IBHS FORTIFIED ROOFING REQUIREMENTS
 ASPHALT SHINGLE
 UNDERLAYMENT: MIDSTATES QUICK STICK HT:
 EXTRA WIDE ALUMINUM DRIP EDGES
 "NEVER LEAK" PIPE BOOTS WHERE APPLICABLE
 PROVIDE ROOF WARRANTY PER FORTIFIED ROOFING REQUIREMENTS.

① **ROOF PLAN**
 1/4" = 1'-0"



BANDERA ARCHITECTURE

Office Address:
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Southport, NC
28461

CONTACT:

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CELL: 910.599.2252

banderaarch@earthlink.net

REV: DATE:

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REV: DATE:

109 S. ATLANTIC AVE.
SOUTHPORT, NC
28461

**SPECIAL USE PERMIT
APPLICATION**

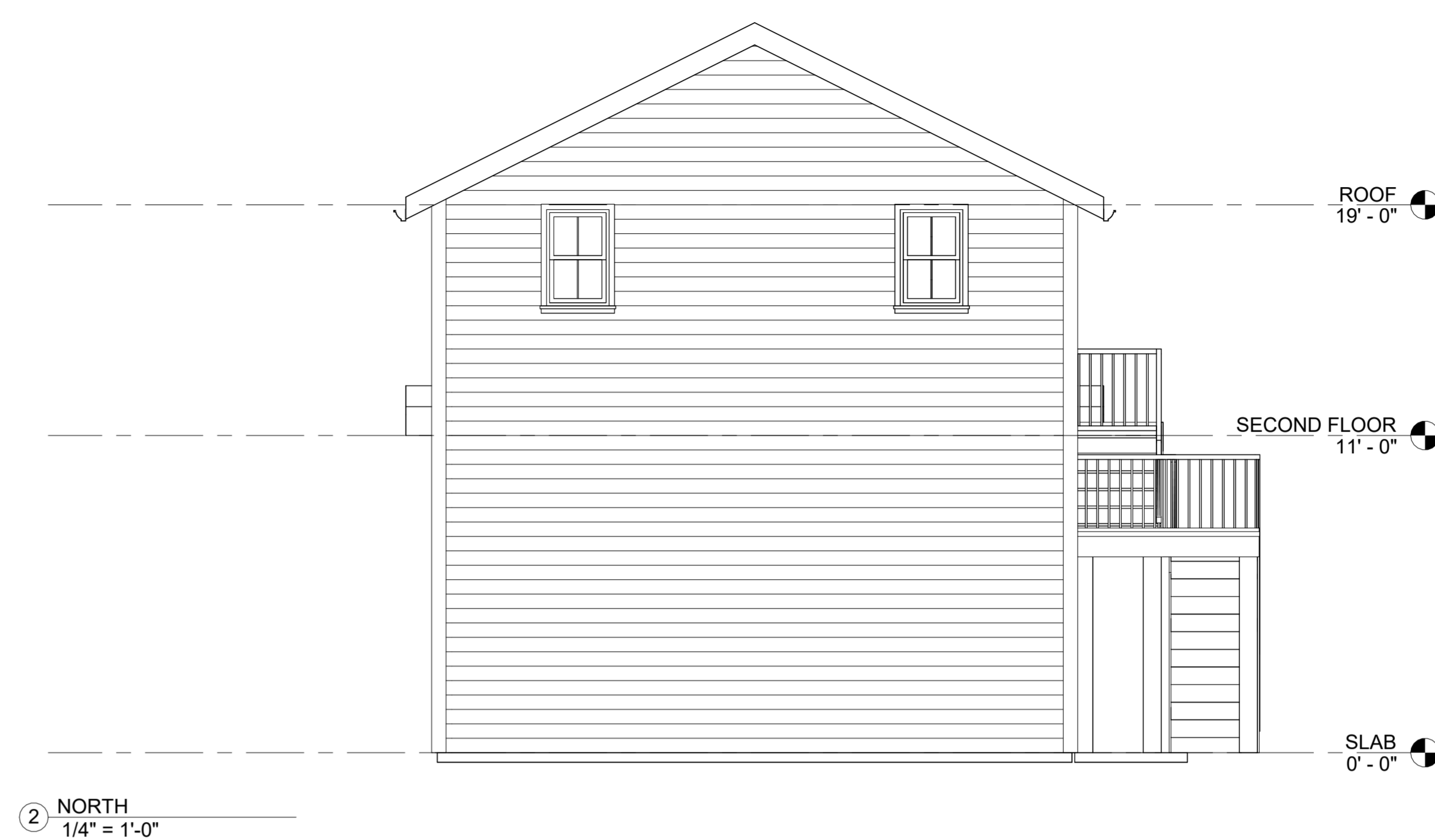
Date: 12.11.2025

ELEVATIONS

A3

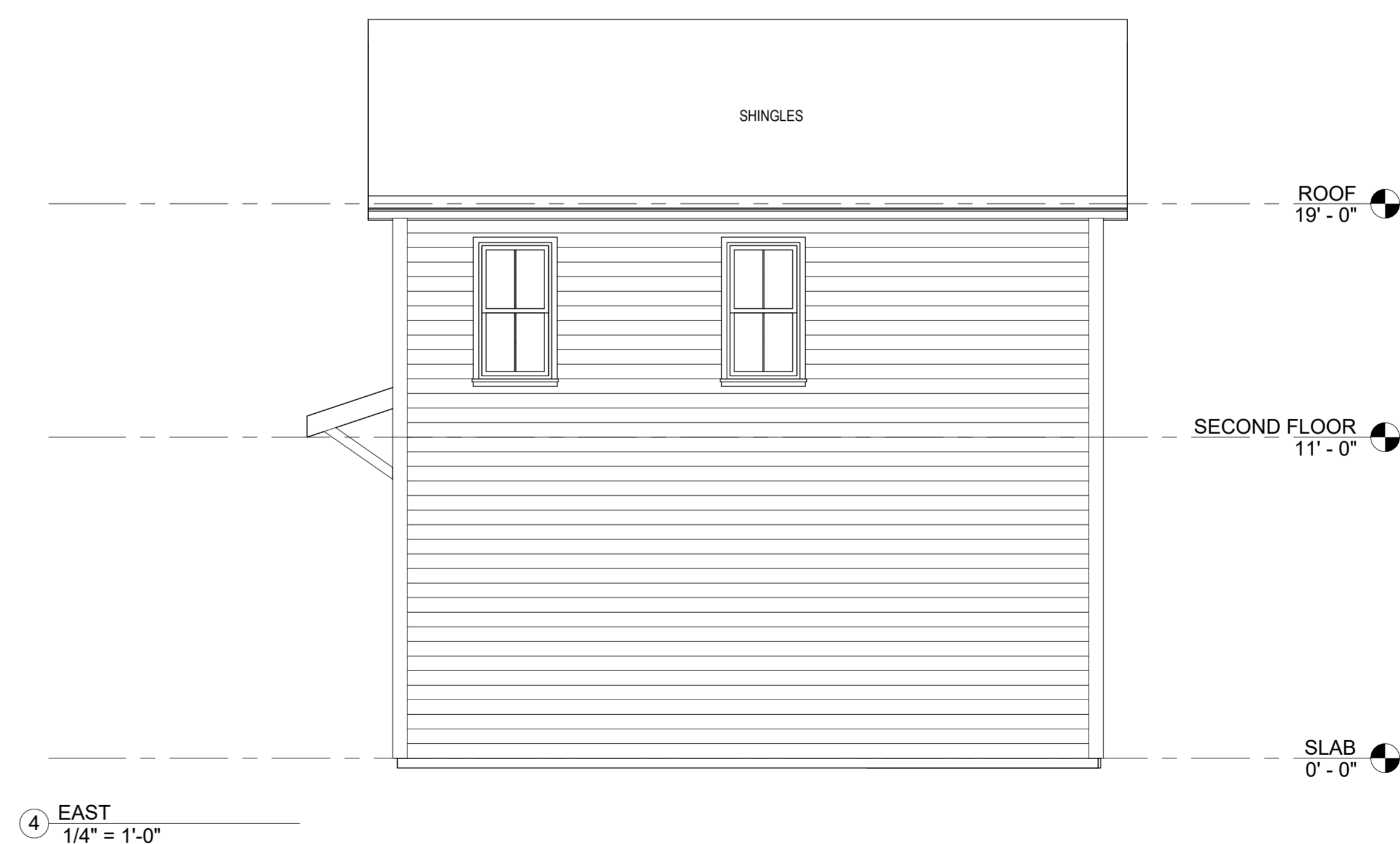
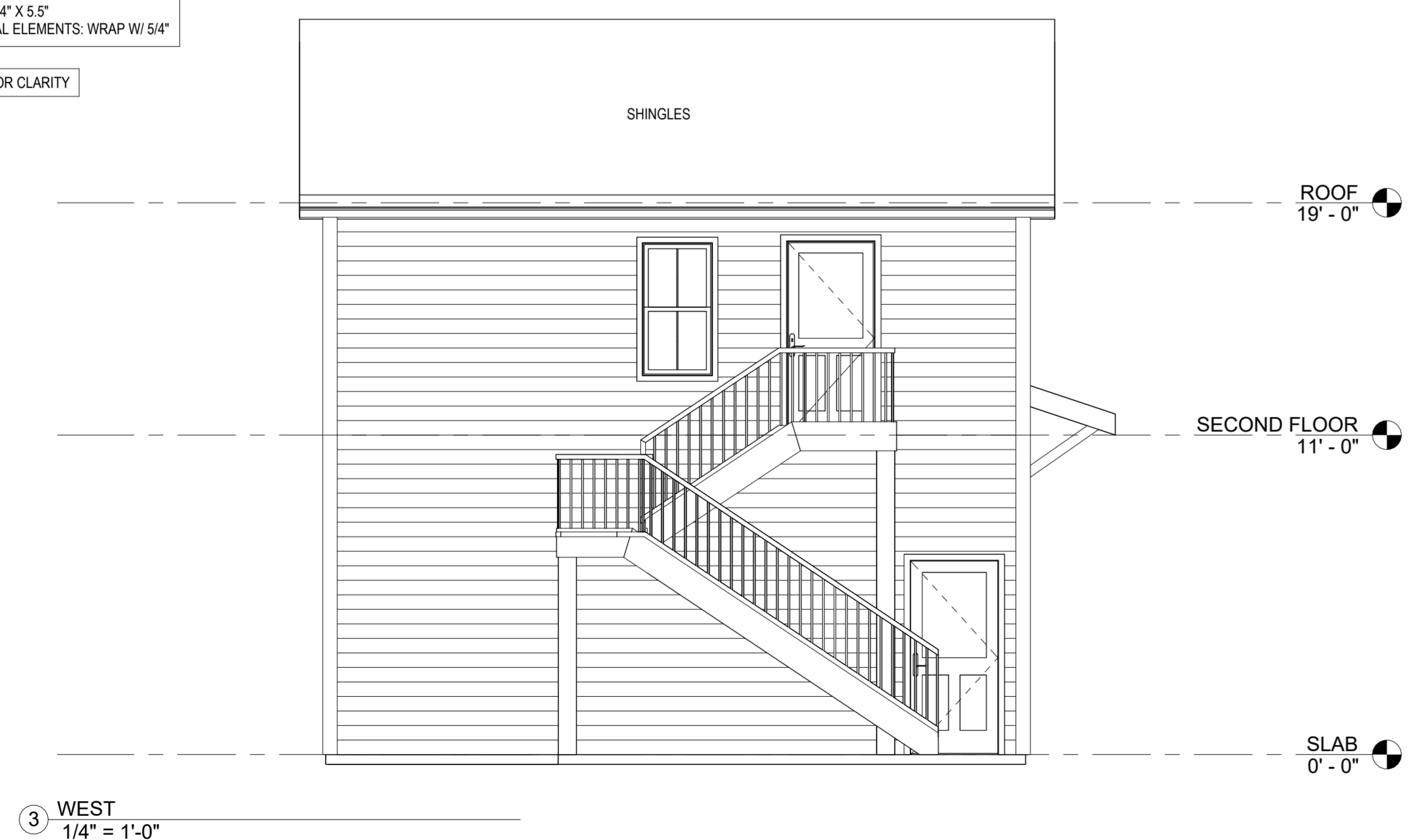
SHEET NO.

www.audodesk.com/esit



TYPICAL EXTERIOR TRIM 5/4" SMOOTH HARDTRIM
PRIMED AND PAINTED IN SIZES NOTED BELOW:
CORNER BOARD: 5/4" X 5.5"
SOFFIT: HARDIE SOFFIT BOARD
FASCIA: 5/4" X 7.25"
WATERTABLE: 5/4" X 9.25"
MULLIONS BETWEEN WINDOWS: 5/4" X RIP TO FIT
WINDOW AND DOOR SURROUND: 5/4" X 5.5"
EXPOSED UNTREATED STRUCTURAL ELEMENTS: WRAP W/ 5/4"

DOWNSPOUTS NOT SHOWN FOR FOR CLARITY



**STAFF REPORT FOR SPECIAL USE PERMIT
SUP-26-02 – ACCESSORY DWELLING UNIT**

APPLICATION SUMMARY	
Hearing Date	January 27, 2026 Board of Adjustment
Applicant	Richard Bandera
Property Owner	Lucia & Terry Lindsey
Property Address	109 S. Atlantic Avenue
Parcel ID:	238IB012
Parcel Acreage	0.22 Acres
Zoning District	R-10

SPECIAL USE PROPOSAL

Mr. Bandera, applicant, is requesting a Special Use Permit to construct an Accessory Dwelling Unit (ADU) on behalf of Mrs. Lucia and Mr. Terry Lindsey, property owners.

PROPERTY LOCATION AND DESCRIPTION

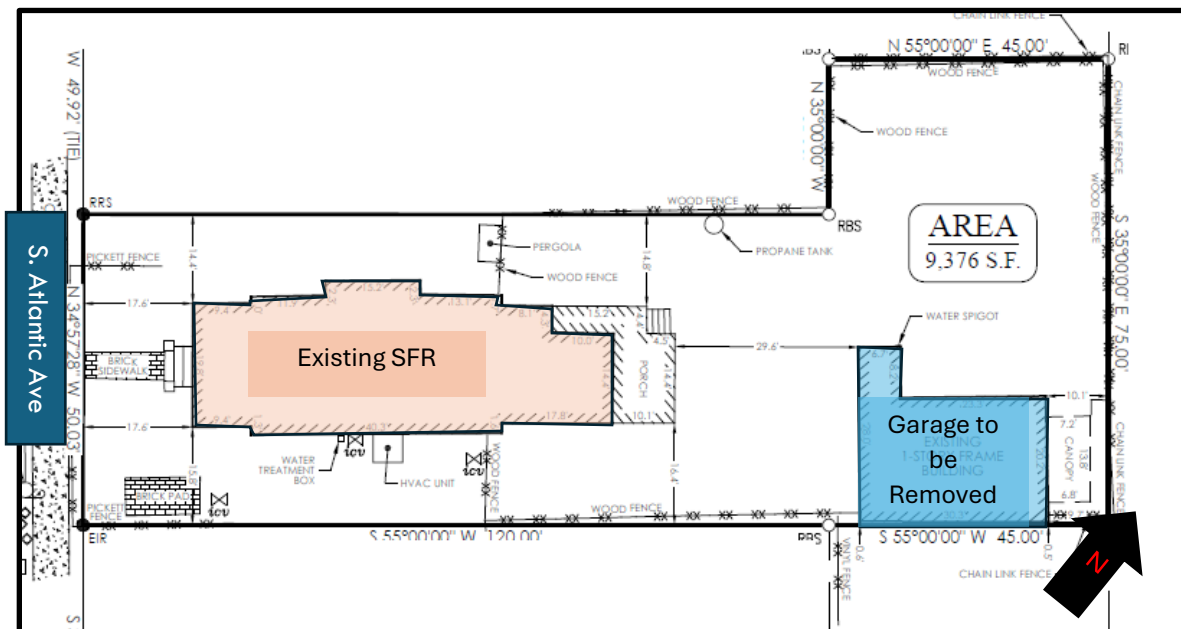
The subject property is located at 109 S. Atlantic Avenue and can be further identified by Brunswick County Parcel ID 238IB012. This is a .22-acre site located within the R-10 residential zoning district.



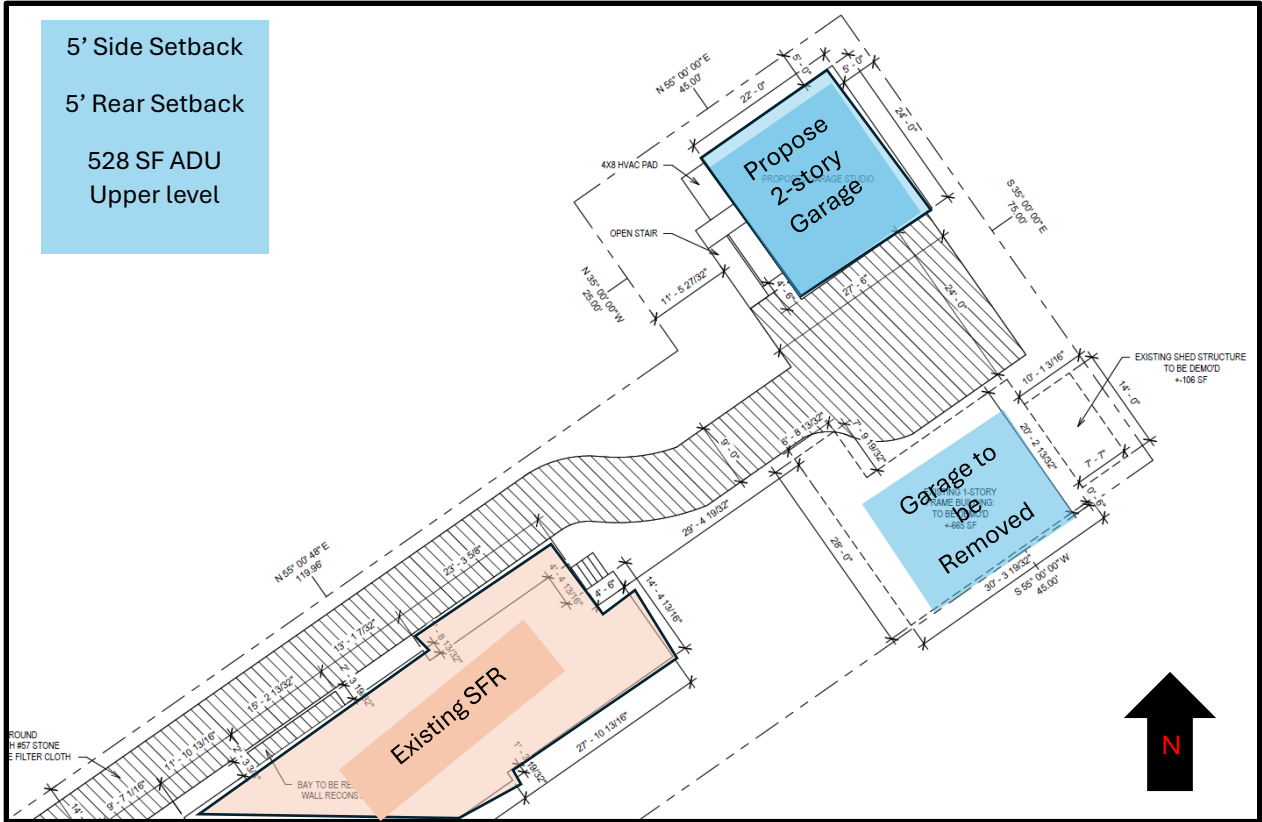
Aerial Imagery of Subject Property



Zoning Image of Parcel and Adjacent Lots



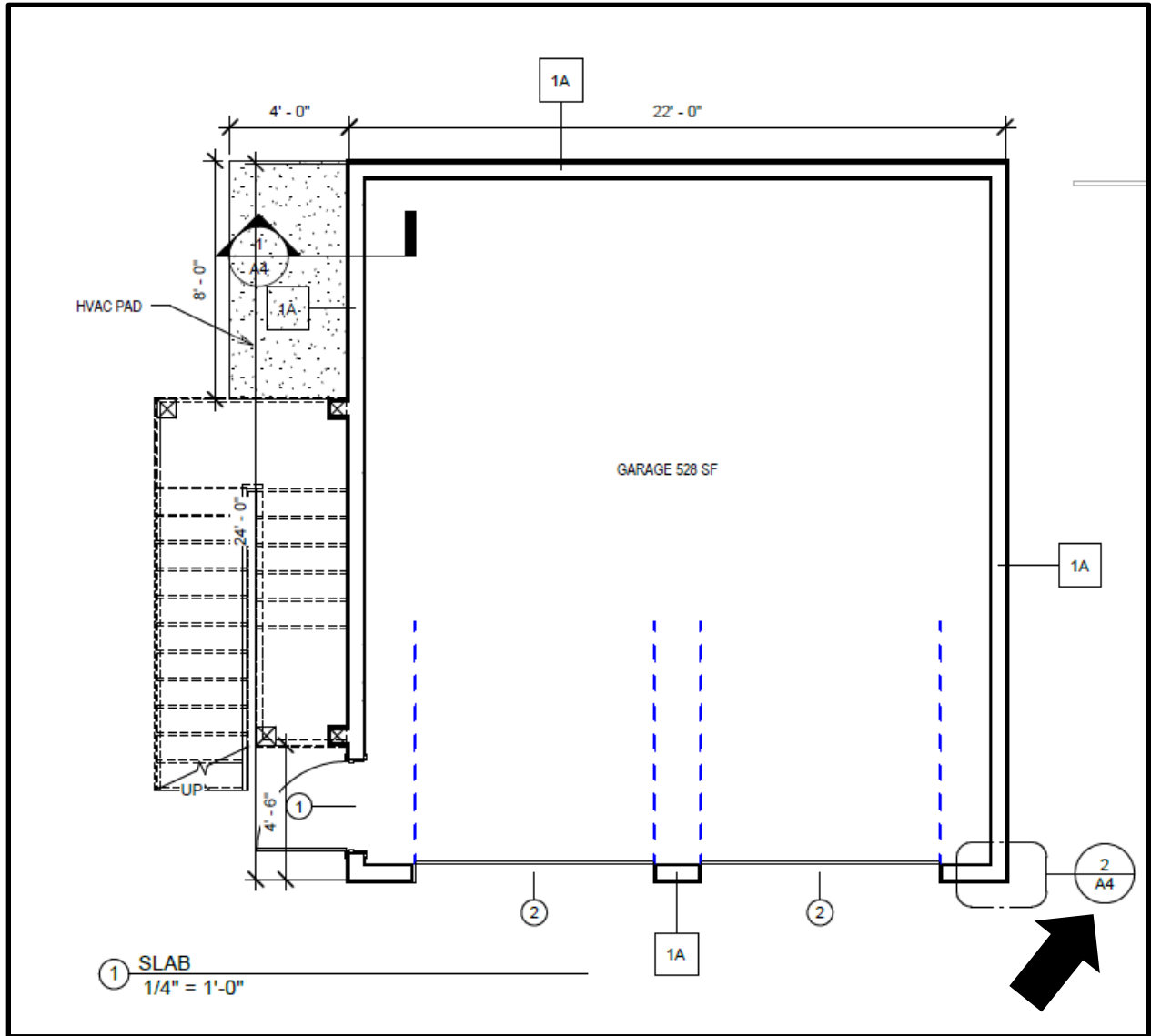
Plat of Existing Structures on Subject Lot



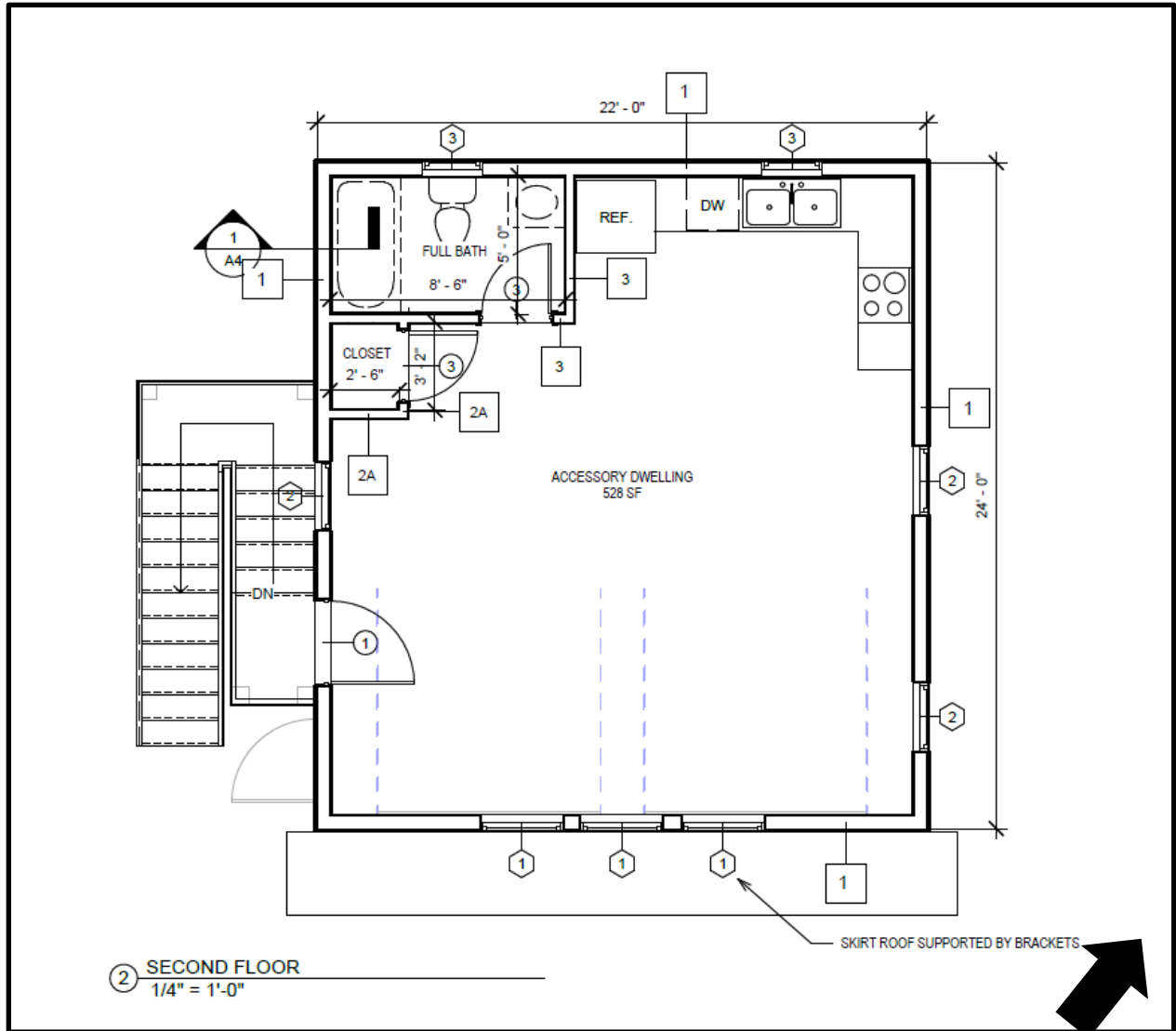
Site Plan of Proposed Structure



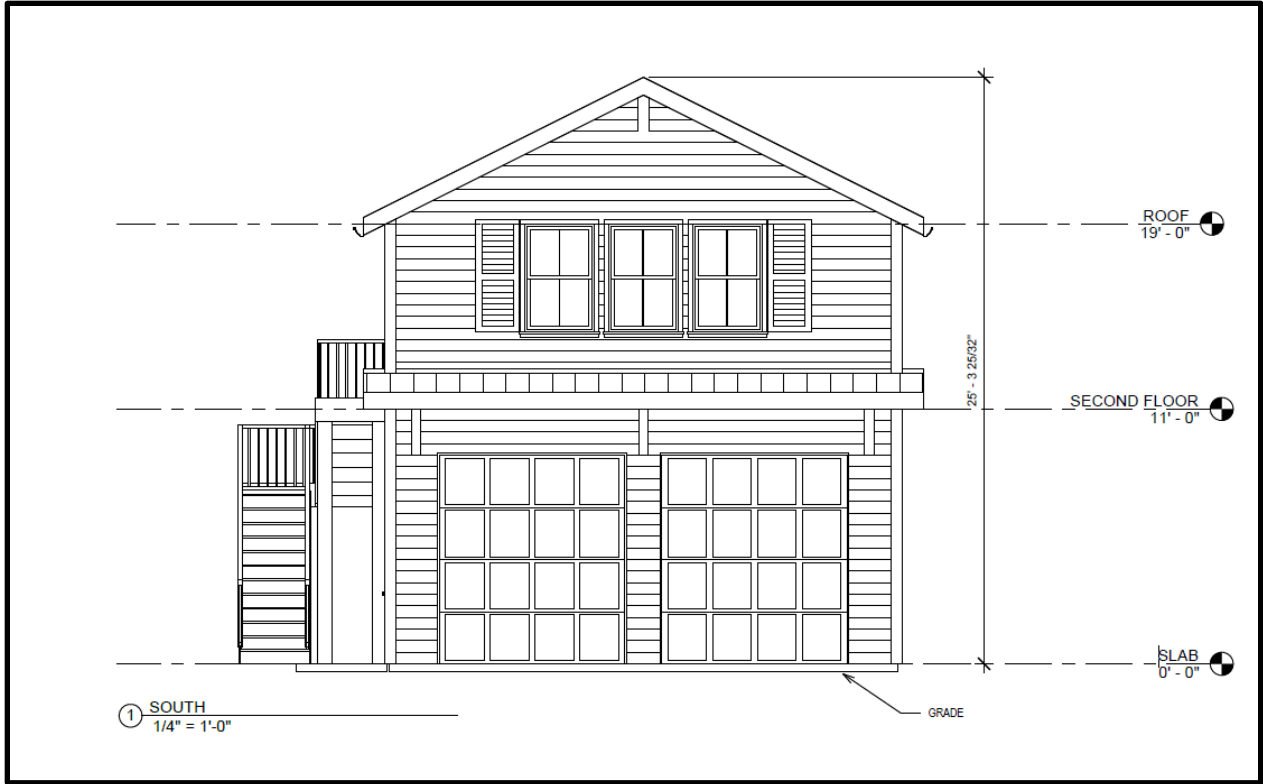
109 S. Atlantic Avenue Street View



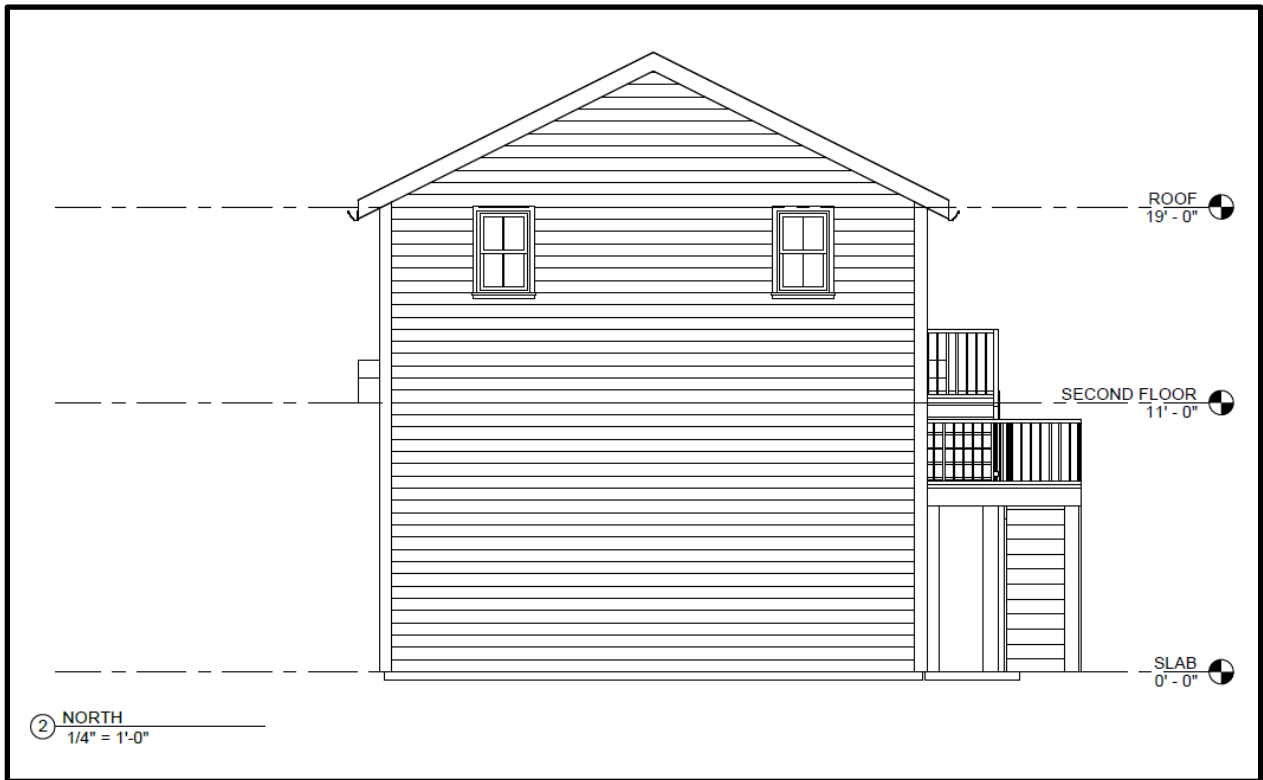
First Floor Plan for Proposed Structure



Second Floor of Proposed ADU



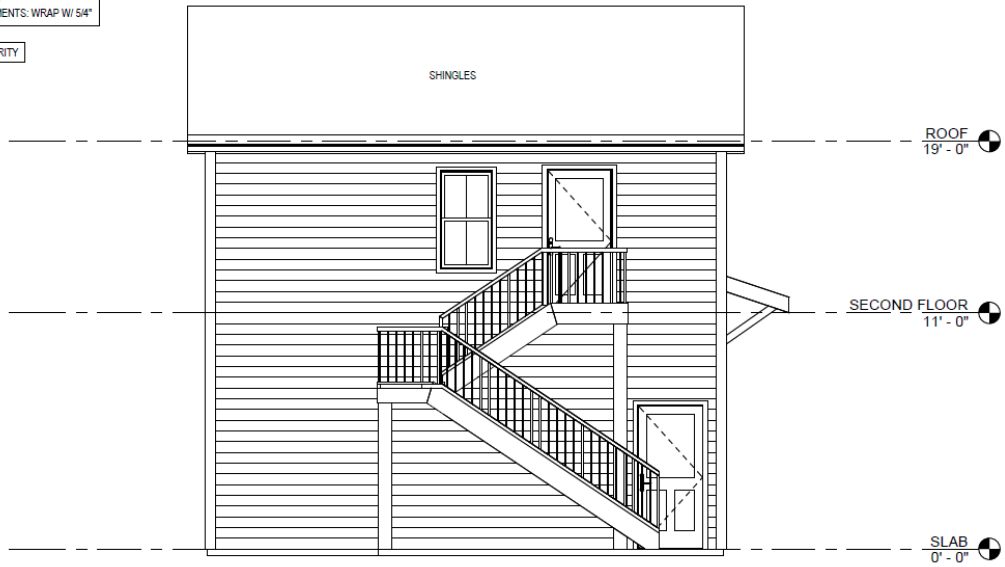
Proposed ADU



Proposed ADU

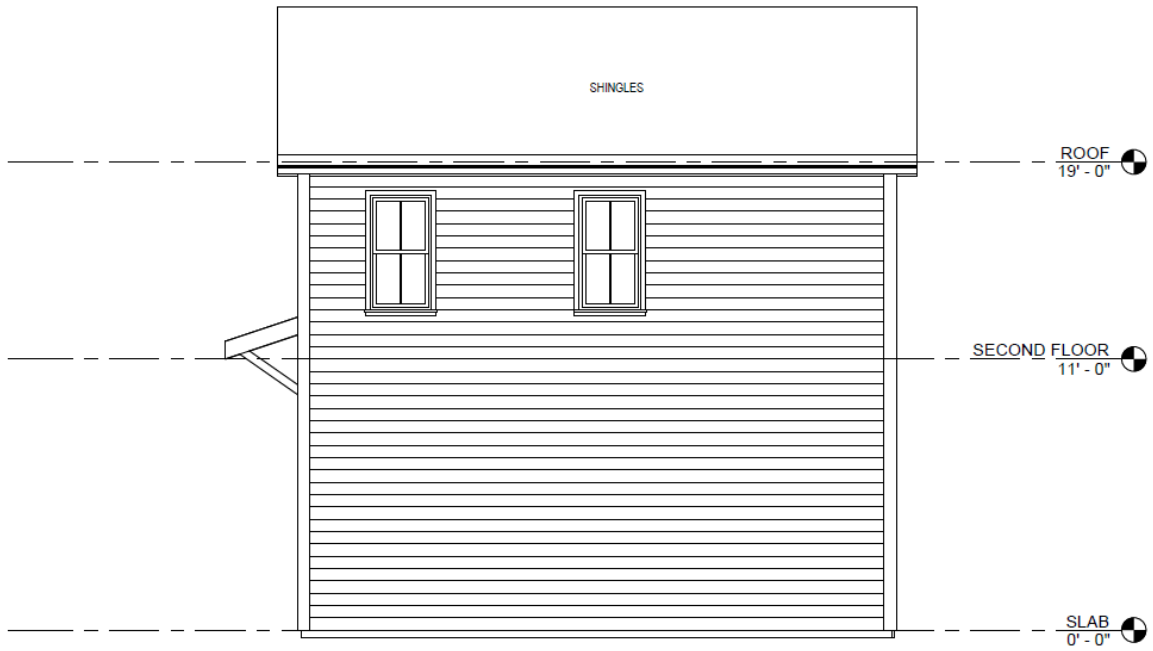
TYPICAL EXTERIOR TRIM 5/4" SMOOTH HARDITRIM
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 WINDOW AND DOOR SURROUND: 5/4" X 5.5"
 EXPOSED UNTREATED STRUCTURAL ELEMENTS: WRAP W/ 5/4"

DOWNSPOUTS NOT SHOWN FOR CLARITY



③ WEST
 1/4" = 1'-0"

Proposed ADU



④ EAST
 1/4" = 1'-0"

Proposed ADU

SPECIAL USE DESCRIPTION

The proposed accessory dwelling unit (ADU) will be a detached 528 square foot structure (24'-0" x 22'-0") with full living capabilities that include a bedroom, bathroom, kitchen, and living space. With a 5' side and a 5' rear setback, the ADU meets the accessory structure minimum setbacks established in UDO Section 3.6.C.8. Parking will be provided on the 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 detached from the principal residential structure.

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 a single-family dwelling unit. The primary structure is an existing single-family residence on S. Atlantic Avenue.

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.

The structure will be served by the same driveway that serves the single-family residence.

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 driveway.

7. The accessory dwelling shall not exceed 800 SF.

The proposed accessory dwelling is 528 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 accessory dwelling unit meets this standard.

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

STAFF SUMMARY

The applicant requests a special use permit for a 528 SF accessory dwelling unit in a residential, R-10, zoning district.

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

**STAFF REPORT - CASE #AP-25-05
 APPEAL OF DETERMINATION OF THE CODE ENFORCEMENT OFFICER**

APPLICATION SUMMARY

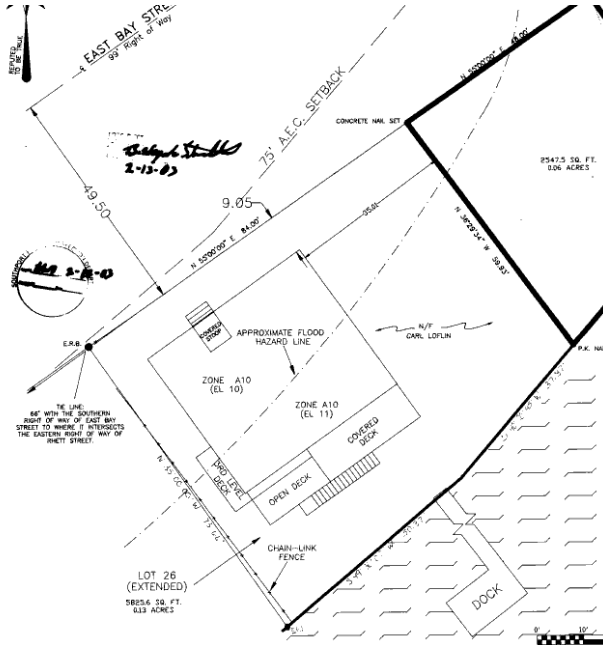
Hearing Date	January 27, 2026 Board of Adjustment
Applicant	Gregory Kleva
Property Owner	August G. and Clare C. Adams
Parcel ID:	238IB02301
Parcel Acreage	0.14 acres
Zoning District	R-10

APPEAL REQUEST

Gregory Kleva, applicant for property owners August and Clare Adams, is appealing an administrative development decision made by Derek Mabe, Code Enforcement Officer. The subject violation pertains to a fence located in the city's rights-of-way adjacent to 410 E. Bay Street, Southport, NC.

The applicants were first issued a written violation under Chapter 16 of the City Code of Ordinances in January 2025, with remedies to correct the violation. The most recent notice of finding of facts for the violation was issued to the applicants on September 11, 2025. To date, the violation still exists.

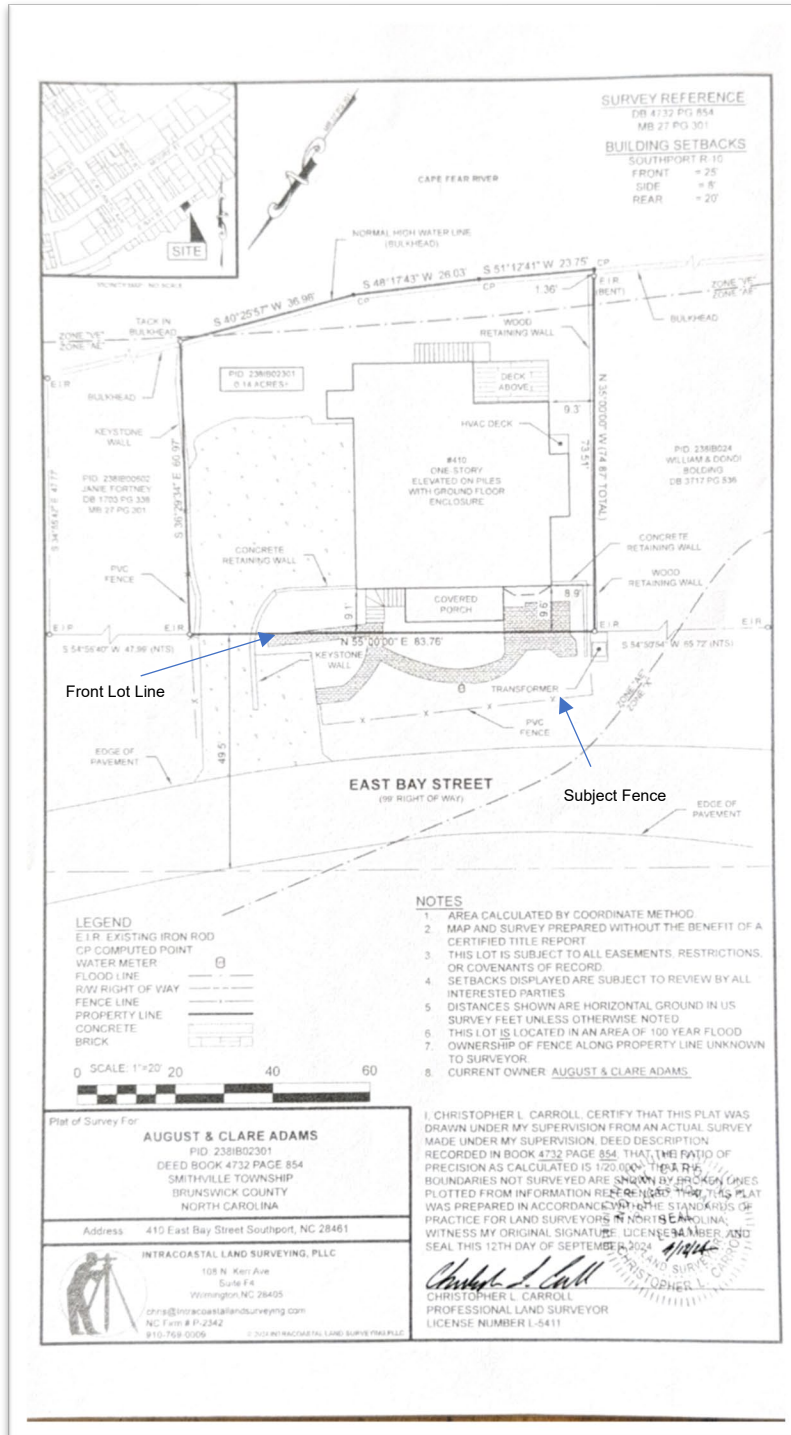
PROPERTY FEATURES AND HISTORY



Subject property is located at 410 E Bay Street and further described by parcel number 238IB02301. The property is an approximately 6,098 SF lot zoned R-10 adjacent to the Cape Fear River.

The rights-of-way width adjacent to the property is approximately forty-nine (49) feet from the street center line.

Portion of 2003 Survey (Exhibit A)



Survey Prepared for 410 E Bay Street September 2024. (Exhibit B)

The applicants became owners of the subject property in October of 2021 (see attached Deed as Exhibit C).

At the time of purchase, the subject fence exists within the ROW adjacent to 410 E. Bay Street. See the Brunswick County GIS map from 2021 showing the aerial view of the property below:



Further, a fence in the location of the existing fence, can be evidenced by the Brunswick County GIS aerial map from 2010, below:



APPEAL PROCEDURE

For an administrative decision to be appealed, the public official must have made an official determination written, final, and binding order, requirement, or determination (160D-405(d) & -102(10)).

An appeal of an administrative development decision must follow quasi-judicial procedures, as outlined at G.S. 160D-406. Among other things, notice must be mailed and posted on the property; witnesses must provide sworn testimony and factual evidence; and the board must base its decision upon competent, substantial, relevant evidence in the record. Politics and personal preference are not legitimate bases for the decision.

The board of adjustment makes its own independent assessment of what the terms of the ordinance mean and “shall have all the powers of the official who made the decision” being appeal from. While some consideration as to the professional judgement of the zoning administrator should be given, ultimately the question of what the ordinance means is a question of law for which the board must make its own decision. In making this determination the key goal should be giving full effect to the terms of the ordinance and the intent of the governing board that originally adopted it, not substituting the opinion of staff as to what the ordinance should say. The Board of Adjustment is an independent Board governed by the UDO.

The board must determine any contested facts and apply relevant legal standards. The board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may “make any order, requirement, decision, or determination that ought to be made.”

Appeals of administrative decisions are decided by a simple majority vote. The decision of the board of adjustment may be appealed to the superior court in certiorari pursuant to G.S. 160D-1402.

APPLICANT’S JUSTIFICATION FOR APPEAL

The following statements are submitted by the applicant for justification and explanation for the appeal. Full justification of the appeal is included in the formal Notice of Appeal dated October 7, 2025, attached to this staff report.

It is respectfully submitted that the current owners did not construct or build the fence subsequent to their purchase of the property. Quite the contrary. The fence that is the subject of the alleged violation existed and has been in the same location on the subject parcel of property for a period of over twenty (20) years, and well prior to the adoption of the Unified Development Ordinance of the City of Southport (UDO) in 2021.

Additionally, the subject fence is located in front of the subject property and is in plain view and sight from East Bay Street and has been that way for its entire

twenty plus year existence. Yet despite this, the City of Southport has taken no legal action to enforce the alleged violation for over twenty years.

It is the position of the current property owners and their assertion in this appeal that the City of Southport has unreasonably delayed asserting its rights against them for this alleged violation. Additionally, as previously mentioned and as evidence will show during the appeal, relevant evidence directly on point with the alleged violation is no longer available, resulting in prejudice against the property owners.

As such, it would be patently unfair to punish or penalize the current property owner for the alleged violation, and therefore the Order should be set aside and the violation dismissed.

STAFF REVIEW

Applicable code references for this case include Code of City Ordinance Chapter 16 Section 16-8 Obstruction of Public Rights-of-way and Unified Development Ordinance Section 3.17.D. Landscaping on Public Property.

Chapter 16 of the City's Code of Ordinances and UDO Sec. 3.17 language in in effect at the time of the initial violation in May of 2024 is outlined below, which is the same as the section that is now in effect, minus the references to new sections of the ordinance, that do not apply to this case. Copies of the relevant provisions of said ordinances are attached hereto as Exhibits D-1 and D-2).

Sec. 16-8 – Obstruction of public rights-of-way.

(a) Except as specifically set forth in subsection (b) herein or as authorized by a license issued by the board of aldermen, it shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation or other structure, material or substance above the horizontal plane of the existing ground. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with or hinders lawful parking within any public right-of-way.

Unified Development Ordinance Section 3.17.D. Landscaping on Public Property.

D. LANDSCAPING ON PUBLIC PROPERTY It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.

The following photos were taken on a site visit by the Code Enforcement Officer on May 1, 2024.



While the violation was first documented in May 2024, the first notice of violation was not sent until January 2025, regarding a fence located in the city's rights-of-way. The notice included instructions on how to correct the violation, which is to remove the fence. The following timeline provides details on the events that occurred between May 2024 and

Appeal 25-05 Staff Report BOAdj 01/27/26

September 11, 2025, when the final notice of violation in the form of Findings of Fact was sent to the property owners.

410 Bay Street Code Enforcement of a Rights-of-Way Timeline

- A fence in the City's rights-of-way was documented by photographs on May 1, 2024, and the CEO opened a new code enforcement case.
- The Board of Aldermen began discussion on the enforcement of encroachments within the City's rights-of-way and possible amendments to the City Code of Ordinances and UDO. Due to ongoing discussions, the case was put on hold to determine formal direction of encroachments within ROWs by the Board of Aldermen.
- On December 12, 2024, the Board of Aldermen approved amendments to Section 16-8, Obstruction of public rights-of-way, and Section 16-10, Existing Encroachments on rights-of-way, of the City Code of Ordinances. (See Exhibit I).
- This update to the Code of Ordinance by the Alderman on 12/12/24 also came with a directive to have all hardened encroachments within the rights-of-way be removed by June 12, 2025. Further, all open code enforcement cases open prior to December 12, 2024, will be enforced and will not be afforded the grace period for compliance. (See Exhibit J, relevant portions of 12/12/24 Board of Alderman meeting minutes).
- Because 410 E Bay Street violation was an open code enforcement case prior to 12/12/24, the property owners must now comply with the new ordinance and remove the fence located within public rights-of-way per the directives of the Board of Alderman. The fence was not removed at this time.
- Accordingly, the CEO, Derek Mabe, issued property owners A Notice of Violation letter dated 1/13/25 to remove the fence from the City's right-of-way within 15 days (See Exhibit E).
- Reinspection occurred on 3/27/25 with no progress made. A Notice of Hearing was sent on 5/22/25 scheduling a hearing on 6/5/25 (See Exhibit F). The property owner did not attend the 6/5/25 hearing.

- The grace period expired for all property owners on June 12, 2025, thus, all hardened structures not meeting the exceptions within the Code of Ordinances within the rights-of-way are required to be removed.
- A new hearing was scheduled for 8/21/25 (See Exhibit G) to accommodate the property owners, who were not available in June. The hearing was held without the property owners, and a Finding of Facts was prepared and sent on 9/11/25 (See Exhibit H) with direction to remove the fence.

In conclusion, the applicants' fence, being a hardened structure located in the City's right-of-way on E. Bay Street, constitutes a violation of the City Code of Ordinances and Unified Development Code. Therefore, City staff requests that the Board of Adjustment reaffirm the initial and final notice and Findings of Fact sent on 9/11/2025 ordering the applicants to remove the fence from the City's rights-of-way adjacent to 410 E Bay Street.

BOARD OF ADJUSTMENT: DECISION

- Affirms the staff determination based on the following:

- Modifies the staff determination, including the following:

- Reverses the staff determination based on the following:

The final decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.

Attachments Summary:

City's Exhibits:

Adams' 2003 Survey (Ex. A)

Adams' 2024 Survey (Ex. B)

Adams' property Deed (Ex. C)

City Code and UDO in effect at the time the case was opened (Ex. D-1 and D-2)

2004 UDO ROW Ordinance (D-3)

Code Enforcement Letters from CEO (Ex.'s E-H)

Updated Code amendment (Ex. I)

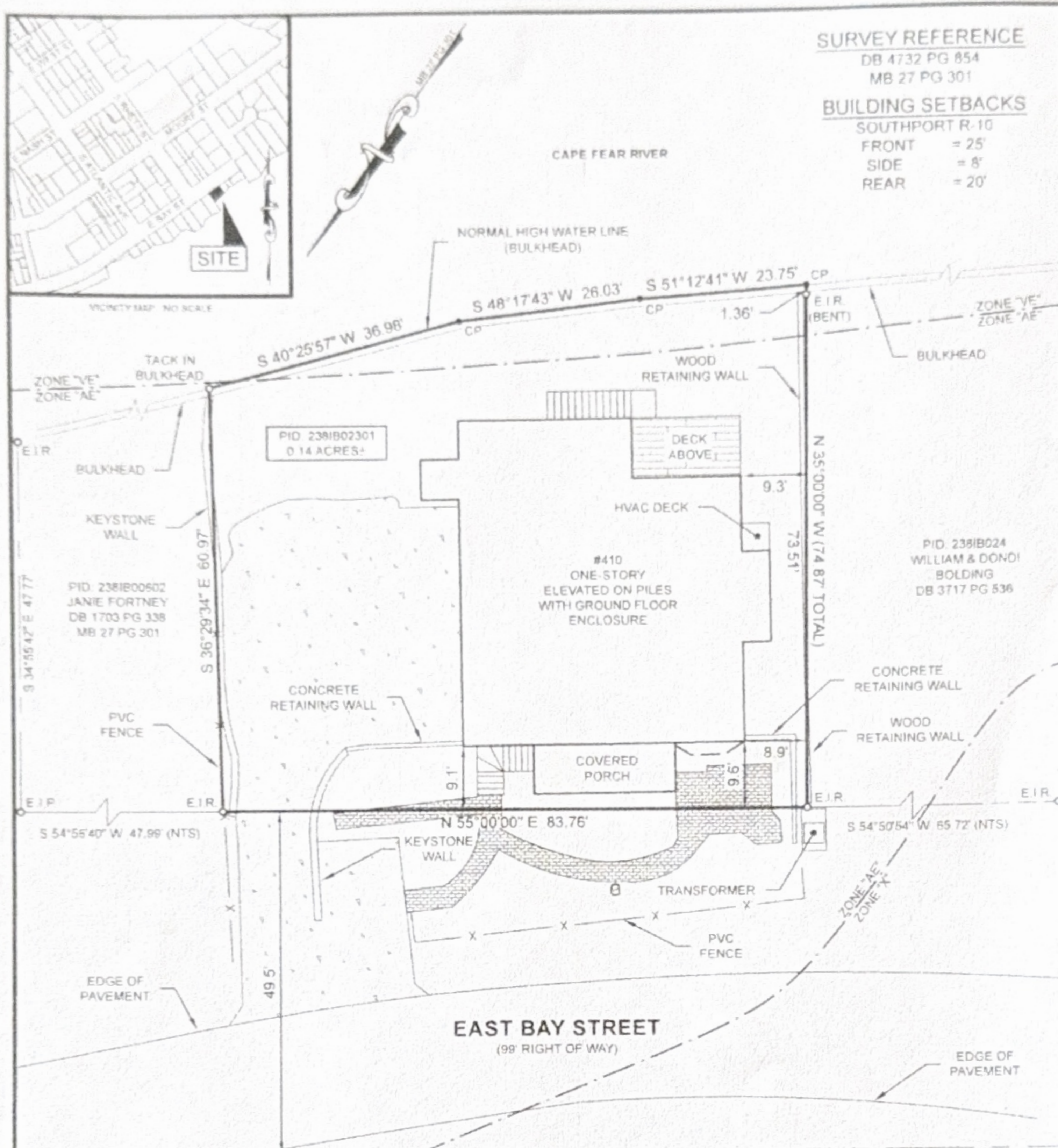
December 12, 2024, Alderman meeting minutes on Code Amendment (Ex. J)

Applicant

Notice of Appeal letter and application dated October 7, 2025, by Greg Kleva








Dora Loflin Affidavit dated January 21, 2026

(following City's Exhibits)




SURVEY REFERENCE
 DB 4732 PG 854
 MB 27 PG 301

BUILDING SETBACKS
 SOUTHPORT R-10
 FRONT = 25'
 SIDE = 8'
 REAR = 20'

LEGEND
 E.I.R. EXISTING IRON ROD
 CP COMPUTED POINT
 WATER METER 
 FLOOD LINE 
 R/W RIGHT OF WAY 
 FENCE LINE 
 PROPERTY LINE 
 CONCRETE 
 BRICK 

0 SCALE: 1"=20' 20 40 60



- NOTES**
1. AREA CALCULATED BY COORDINATE METHOD.
 2. MAP AND SURVEY PREPARED WITHOUT THE BENEFIT OF A CERTIFIED TITLE REPORT.
 3. THIS LOT IS SUBJECT TO ALL EASEMENTS, RESTRICTIONS, OR COVENANTS OF RECORD.
 4. SETBACKS DISPLAYED ARE SUBJECT TO REVIEW BY ALL INTERESTED PARTIES.
 5. DISTANCES SHOWN ARE HORIZONTAL GROUND IN US SURVEY FEET UNLESS OTHERWISE NOTED.
 6. THIS LOT IS LOCATED IN AN AREA OF 100 YEAR FLOOD ZONE.
 7. OWNERSHIP OF FENCE ALONG PROPERTY LINE UNKNOWN TO SURVEYOR.
 8. CURRENT OWNER AUGUST & CLARE ADAMS

Plat of Survey For
AUGUST & CLARE ADAMS
 PID: 2381B02301
 DEED BOOK 4732 PAGE 854
 SMITHVILLE TOWNSHIP
 BRUNSWICK COUNTY
 NORTH CAROLINA

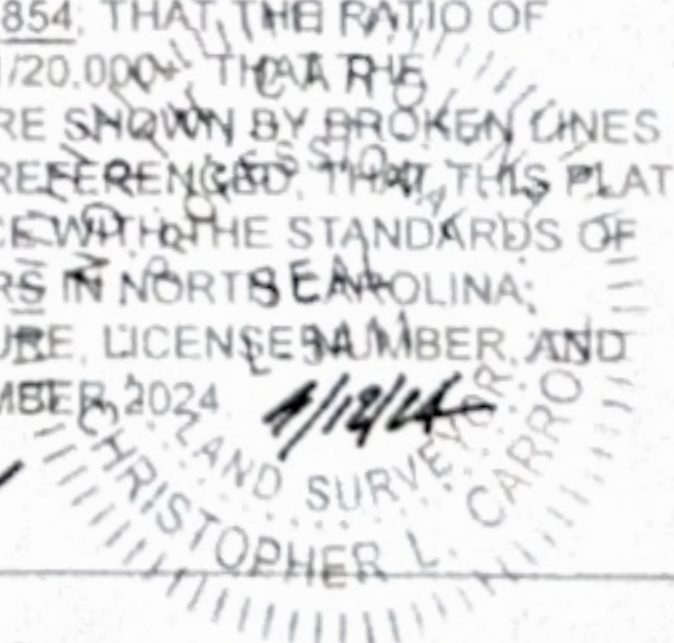
Address: 410 East Bay Street Southport, NC 28461

INTRACOASTAL LAND SURVEYING, PLLC
 108 N. Kerr Ave
 Suite F4
 Wilmington, NC 28405
 chris@intracoastallandsurveying.com
 NC Firm # P-2342
 910-769-0009



I, CHRISTOPHER L. CARROLL, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, DEED DESCRIPTION RECORDED IN BOOK 4732 PAGE 854, THAT THE RATIO OF PRECISION AS CALCULATED IS 1/20,000. THAT THE BOUNDARIES NOT SURVEYED ARE SHOWN BY BROKEN LINES PLOTTED FROM INFORMATION REFERENCED. THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE FOR LAND SURVEYORS IN NORTH CAROLINA. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 12TH DAY OF SEPTEMBER, 2024.

Christopher L. Carroll
 CHRISTOPHER L. CARROLL
 PROFESSIONAL LAND SURVEYOR
 LICENSE NUMBER L-5411





Brunswick County, NC Register of Deeds page 1 of 4

84732 P0854 10-26-2021 15:43:55.000
Brenda M. Clemmons PROP

Brenda M. Clemmons Register of Deeds
10-26-2021 15:43:55.000 Brunswick County, NC
NC REVENUE STAMP: \$2200.00 (#788298)

Return to: REP. Type: PROP
Total: 3900 Rec: 3900 Int: 0
Check \$: 3900 Ck #: 0887 Cash \$:
Fund: _____ 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.

Excise Tax: \$2,200.00

Parcel Identifier No: 238IB02301

Prepared by: James R. Prevatte, Jr., Attorney-at-Law (dys)
Return to: PREVATTE & PREVATTE, PLLC
601 N. Howe St., Southport, NC 28461

Brief Description for the Index: Lot 15 and 16, Bay St. .14 Ac. PL 27/301

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 2th day of October, 2021 by and between

GRANTOR

Dora Loflin, widower

306 S. Lake Park Blvd.
Carolina Beach, NC 28428

GRANTEE

August G. Adams and
wife, Clare C. Adams

410 East Bay Street
Southport, NC 28461

THIS INSTRUMENT PREPARED BY: JAMES R. PREVATTE, JR., a licensed North Carolina Attorney. Delinquent taxes, if any, to be paid by the closing attorney to the Brunswick County Tax Collector upon disbursement of closing proceeds.

The designation Grantors and Grantees as used herein shall include said parties, their heirs, successors, and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context.





WITNESSETH:

THAT said GRANTOR, for a valuable consideration paid by the GRANTEES, the receipt of which is hereby acknowledged, has and by these presents do grant, bargain, sell and convey to the Grantees in fee simple, those certain lots or parcels of land situated in Smithville Township, Brunswick County, North Carolina, and more particularly described as follows:

SEE EXHIBIT "A" attached hereto and incorporated herein by reference.

Reference is hereby made to a deed recorded in Book 771, Page 396, Brunswick County Register of Deeds.

If this box is checked, subject property is permanent residence of one or more Grantors .

TO HAVE AND TO HOLD the above-described tract or parcel of land, together with all privileges and appurtenances thereunto belonging, unto the said Grantees, their heirs and assigns, to the only use and behoof of Grantees and their said heirs and assigns, FOREVER.

AND said Grantor covenants to and with said Grantees that Grantor is seized of the property in fee simple and has the right to convey the same in fee simple; that the title is marketable and free and clear of all encumbrances, and that Grantor does hereby and will forever warrant and defend title to the same against the lawful claims of all persons whomsoever, except for the exceptions herein stated.

1. Ad valorem taxes for current and subsequent years;
2. Easements for utilities and rights-of-way in the chain of title;
3. Restrictive covenants of record.

IN TESTIMONY WHEREOF, said Grantors have hereunto set their hands and seals the year and date first above written.

 (SEAL)
Dora Loflin



STATE OF NORTH CAROLINA



B4732 P0856 10-26-2021 15:43:55 000
Brunswick County, NC Register of Deeds Brenda M. Clemmons PROP page 3 of 4

COUNTY OF BRUNSWICK

I, Tammy T. Turner, Notary Public for ^{New Hanover} Brunswick County, State of North Carolina, hereby certify that **DORA LOFLIN**, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes stated herein.

Witness my hand and official seal, this the 26th day of October, 2021.

(Affix Notary Stamp/Seal)

Tammy T. Turner
Notary Public

My commission expires: 12-13-2022





EXHIBIT "A"

BEGINNING at a point on the South side of Bay Street situated 66 feet East of the Southeast corner of Bay and Rhett Streets; run thence about South parallel with the Eastern line of Rhett Street to the channel of the Cape Fear River; thence about East along the channel of the Cape Fear River 132 feet; thence about North parallel with the Western line of Kingsley Street to the Southern line of Bay Street; thence about West along the Southern line of Bay Street 132 feet to the place and point of beginning.

******* There is excepted from this conveyance that property conveyed to Janie Risch Fortney, Trustee of the Janie Risch Fortney Revocable Trust, Dated October 9, 1991 as recorded in Book 1703 at Page 338 in the Brunswick County Registry. Legal Description below:**

"All of the 2547.5 square foot (0.06) lot fronting on East Bay Street as shown on a Map for Carl D. Loflin et ux and Dr. Sidney Fortney by Tide Water Surveying, P.A., recorded in Book 27 at Page 301, Brunswick County Registry." *****



Sec. 16-8. Obstruction of public rights-of-way.

- (a) Except as specifically set forth in subsection (b) herein or as authorized by a license issued by the board of aldermen, it shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation or other structure, material or substance above the horizontal plane of the existing ground. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with or hinders lawful parking within any public right-of-way.
- (b) Nothing herein shall prevent any business or other legal entity located in areas zoned CBD and BD from (i) placing objects which are not otherwise prohibited under the Southport Code of Ordinances on that portion of a sidewalk which is directly abutting the building occupied by such business or entity, provided that said items do not extend more than thirty-six (36) inches into the sidewalk and do not violate section 16-7 of the Code of Ordinances prohibiting the display of goods, or (ii) placing A-frame signs on a sidewalk or right-of-way where specifically allowed under the Southport Unified Development Ordinance. Notwithstanding this, however, no business or other entity may place or cause to be placed any object on a sidewalk so as to violate the provisions of the ADA regarding unobstructed clearance.

(Code 1974, § 5.31; Ord. of 12-11-03; Ord. of 9-9-10; Ord. of 10-11-12)

Landscaping and Buffers

A. Purpose

1. The governing body and advisory boards of the City of Southport recognize the importance of the contribution made to the community by the abundance of native trees and vegetation. It is this vegetation that gives the city an aesthetic appeal that contributes to its growth and economic prosperity. As economic growth occurs, the removal of this valued vegetation sometimes results, contributing to a depletion of a most valuable resource. The city feels it is necessary to both conserve and restore those valuable assets and declares the objective of this section to be as follows:
 - a) To provide visual and spatial buffering between adjoining and competing uses;
 - b) To enhance the beautification of the city;
 - c) To enhance property values and protect public and private investment;
 - d) To provide a habitat for living things that might not otherwise occur in an urban environment; and
 - e) To ensure that planting areas are distributed within developing sites in a manner which will provide shade, buffer noise, and filter glare.

B. Applicability

1. Landscape installation is required for all new construction non-residential and multi-family uses or a change in use or redevelopment where such change would result in the addition of 10 or more parking spaces. The following site areas are required to be addressed in accordance with the provisions of this section:
 - a) Street yards
 - b) Foundation planting
 - c) Parking facility landscaping
 - d) Bufferyards

C. General Provisions

1. All planted and retained living material, required to meet the provisions of this section, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within 60 days of the occurrence of such condition. If, in the opinion of the UDO Administrator, there are seasonal conditions which will not permit the timely replacement

- of the vegetation (e.g., too hot or too cool for successful replanting), this requirement may be administratively waived until a time certain.
2. All planted material subject to the provisions of this ordinance shall be of a native species and in accordance with the planting material list as provided in Tables 3.5 through 3.7.
 3. Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.
 4. Up to 15% of the area to be landscaped may be covered with surfaces specifically intended to afford intensive use and enjoyment by employees or the public (such as sidewalks, walking paths, bench and table pads, etc.).
 5. It is encouraged that stormwater management systems be integrated into landscaping areas.
 6. Prior to the issuance of a certificate of occupancy, the property owner shall submit a final planting plan to the UDO Administrator demonstrating compliance with this ordinance.

D. Landscaping on Public Property

It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground.

CITY OF SOUTHPORT

UNIFIED DEVELOPMENT ORDINANCE

**Adopted by the City of Southport
Board of Aldermen: June 10, 2004
Revised: November 11, 2009**

Prepared By:

**Holland Consulting Planners, Inc.
Wilmington, North Carolina**

The preparation of this document was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

Section 9-8: Improvements Bond

No final certificate of occupancy/compliance for a commercial, residential, or manufactured home park or planned building group will be issued until all required site improvements have been completed. In lieu of completion of required site improvements, the developer of the planned group may enter into a contract with the City of Southport providing for the installation of required improvements within a designated period of time. Performance of said contract shall be secured by a cash or surety bond which will cover the total estimated cost of the improvements as determined by the City of Southport; provided, however, that said bond may be waived by the City Board of Aldermen within its discretion.

Section 9-9: Obstruction of Public Rights-of-Way

It shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk, or other public right-of-way within the City any wall, fence, gate, brick, stone, wood, rock, vegetation, or other structure, material, or substance above the horizontal plane of the existing ground. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with, or hinders lawful parking within any public right-of-way.

Section 9-10: Existing Encroachments on Rights-of-Way

In the event that the Southport code enforcement officer determines that there exists any encroachment, obstacle, vegetation, or other condition within a public right-of-way which interferes with the free passage of persons or vehicles within said right-of-way, or which interferes with or hinders lawful parking within said right-of-way, or which otherwise creates a hazard to the public, said code enforcement officer shall attempt to identify the person(s) responsible for said obstacle or encroachment. Upon identification, the code enforcement officer shall notify in writing said responsible person(s) who shall have 14 days from the date of notification to remove said encroachment or condition. In the event that the responsible party fails to remove said obstacle or encroachment within the time allowed, the City shall promptly remove said obstacle or encroachment and shall charge the cost of said removal to the party responsible for said obstacle, encroachment, or condition. In the event that the code enforcement officer is not able to identify the responsible party, or if the condition or

encroachment creates an imminent and immediate danger to the public, the City may summarily remove said encroachment or other condition within the right-of-way without notice.

**COURTESY LETTER / 1ST NOTICE OF VIOLATION**

Case Number: 202405007

AUGUST G ADAMS ETUX
CLARE C ADAMS
410 E BAY ST
SOUTHPORT NC 28461

JANUARY 13, 2025

The City of Southport, NC Code Enforcement Inspector has reason to believe that your property may be in violation of the City Ordinance. This letter is to inform you that the structure and/or property located at **410 E Bay St**, appears in violation of the City of Southport Minimum Housing/Nuisance Code of Ordinance. On **05/02/24**, the Code Enforcement Inspector observed the following violation(s): **Zoning Violation - Existing Encroachments on Right of Way Violation: Chapter 16-10 to wit:**

- **Right of Way Encroachment Violation- White fence has been installed within the right of way.**

As the owner/occupant of the property, **you have 15 days to correct the violations** or the City will take further steps to enforce the requirements of the Code of Ordinances, which may include levying civil penalties and seeking a court order from the Brunswick County Courts requiring you to correct the violation. If the City determines the any of the violations constitute a public nuisance, the city may also summarily abate the nuisance and bill you for the cost of abatement pursuant to the Southport Code of Ordinances.

To correct the violation, you must do the following: **Remove the white fence from the front of the property as it is not permitted to be installed within the right of way.**

Please note that if any of the work described above requires Zoning, Building and/or Demolition Permits, they must be obtained from Southport Building Inspections office. All required inspections must be completed within the timeframe listed above.

Your assigned inspector is **DEREK MABE**. If you have any questions, please do not hesitate to contact him at (336)569-9988 or email him at mabe@AllianceCodeEnforcement.com.

Prepared by: D. Tilley
Administrative Support



COMPLAINT - NOTICE OF HEARING

Case Number: 202405007

August G. Adams ETUX
Clare C. Adams
410 E. Bay Street
Southport, NC 28461

May 22, 2025

The City of Southport, NC Code Enforcement Inspector has reason to believe that the structure and/or property located at **410 E. Bay Street** is in violation of the City of Southport Code of Minimum Housing and/or Nuisance Ordinance because:

The Code Enforcement Inspector conducted a preliminary inspection on **May 2, 2024**, and sent the first Notice of Violation on **January 13, 2025**. Based on that investigation, the Officer found violations of: **Zoning Violation - Existing Encroachments on Right of Way Violation: Chapter 16-10 to wit:**

- **Right of Way Encroachment Violation- White fence has been installed within the right of way.**

To abate, you must complete the following: **Remove the white fence from the front of the property as it is not permitted to be installed within the right of way.**

A Hearing will be held on **June 5, 2025, at 12:45 pm**, at Southport City Hall, located at 1029 N. Howe Street Southport, NC 28461, before the Code Enforcement Inspector. The owner; mortgage holder, if any; occupant, if any; and any other parties in interest are entitled to be heard in person or through an attorney and to present arguments and evidence pertaining to the matter. Following the hearing and depending on the violation, the Officer may issue such order to repair, close, vacate, remove, or demolish the house as appears appropriate and/or require cleanup and/or removal of violating conditions and/or items. **If the violation stated above is remediated prior to the hearing, the hearing will be cancelled.**

Your assigned inspector is **DEREK MABE**. If you have any questions, please do not hesitate to call him at (336) 569-9988 or email him at Mabe@AllianceCodeEnforcement.com.

Prepared by A. Sizemore
Administrative Analyst



COMPLAINT - NOTICE OF HEARING

Case Number: 202405007

August G. Adams ETUX
Clare C. Adams
410 E. Bay Street
Southport, NC 28461

July 18, 2025

The City of Southport, NC Code Enforcement Inspector has reason to believe that the structure and/or property located at **410 E. Bay Street** is in violation of the City of Southport Code of Minimum Housing and/or Nuisance Ordinance because:

The Code Enforcement Inspector conducted a preliminary inspection on **May 2, 2024**, and sent the first Notice of Violation on **January 13, 2025**. Based on that investigation, the Officer found violations of: **Zoning Violation - Existing Encroachments on Right of Way Violation: Chapter 16-10 to wit:**

- **Right of Way Encroachment Violation- White fence has been installed within the right of way.**

To abate, you must complete the following: **Remove the white fence from the front of the property as it is not permitted to be installed within the right of way.**

A Hearing will be held on **August 21, 2025, at 11:00 am**, at Southport City Hall, located at 1029 N. Howe Street Southport, NC 28461, before the Code Enforcement Inspector. The owner; mortgage holder, if any; occupant, if any; and any other parties in interest are entitled to be heard in person or through an attorney and to present arguments and evidence pertaining to the matter. Following the hearing and depending on the violation, the Officer may issue such order to repair, close, vacate, remove, or demolish the house as appears appropriate and/or require cleanup and/or removal of violating conditions and/or items. **If the violation stated above is remediated prior to the hearing, the hearing will be cancelled.**

Your assigned inspector is **DEREK MABE**. If you have any questions, please do not hesitate to call him at (336) 569-9988 or email him at Mabe@AllianceCodeEnforcement.com.

Prepared by A. Sizemore
Administrative Analyst



FINDING OF FACT / FINAL ORDER

Case Number: 202405007

August G. Adams ETUX
Clare C. Adams
410 E. Bay Street
Southport, NC 28461

September 11, 2025

On August **21, 2025**, the City of Southport, NC Code Enforcement Inspector held a hearing to consider the condition of the structure on the property located at **410 E Bay Street**. Based on the evidence presented, I make the following Findings of Fact:

- 1. All persons presenting evidence at the hearing ~~were~~/were not sworn in.
- 2. The City staff ~~did not~~ present written and/or oral evidence regarding the condition of the structure.
- 3. The owner and/or mortgage holder of the property ~~was~~/was not present and ~~was~~/was not represented by counsel.
- 4. Not Applicable.
The occupant of the building ~~was~~/was not present and ~~was~~/was not represented by counsel.
- 5. The owner and/or occupant, or their attorneys, ~~did~~/did not present written and/or oral evidence.
- 6. The building is/~~is not~~ currently occupied.
- 7. Based on the evidence presented, the Inspector finds that the following violations exist: **Right of Way Encroachment Violation- White fence has been installed within the right of way.**
- 8. Based on the evidence presented, the Inspector finds that the structure is/~~is not~~ an imminent danger to life or other property.
- 9. These conditions are violations of the following provisions of the City of Southport Code of Ordinance Chapter(s): **Zoning Violation - Existing Encroachments on Right of Way Violation: Chapter 16-10**
- 10. Not Applicable.

If repairs are allowed, continued occupancy during the time allowed for repair ~~will~~/will not present a significant threat of bodily harm. In making this Finding of Fact, the Officer has taken into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.



11. I make the following additional Findings of Fact: **Case was opened on May 2, 2024, and a Notice of Violation was sent on January 13, 2025. Hearings were held on June 5, 2025 and August 21, 2025, and the property owner did not appear. The property remains in Violation.**

MINIMUM HOUSING - Based on these Findings of Fact, I hereby determine that the structure can/~~cannot~~ be repaired, altered, or improved to comply with the requirements of the City of Southport Minimum Housing Code and all applicable requirements of the North Carolina State Building Code for less than fifty percent (50%) of its value. **The structure is, therefore declared to be DETERIORATED/DILAPIDATED. The owner is hereby ordered to do the following:**

Deteriorated Structure

- ~~Repair the structure within _____ days. Failure to make timely repairs as directed by this Order shall subject the dwelling to condemnation, which shall include the posting of a placard indicating that the dwelling is unfit for human habitation; and/or~~
- ~~Vacate and close the structure within _____ days.~~

Dilapidated Structure

- ~~Repair the structure within _____ days. Failure to make timely repairs as directed by this Order shall subject the dwelling to condemnation, which shall include the posting of a placard indicating that the dwelling is unfit for human habitation;~~
- ~~Vacate and close the structure within _____ days; and/or~~
- ~~Remove or demolish the structure within _____ days.~~

NUISANCE VIOLATION – Based of these Findings of Fact, I hereby determine that the violations can/~~cannot~~ be brought into compliance with the City of Southport Code of Ordinance.

X Bring the violation into compliance within 15 days. Failure to do so may result in further action taken by the Town.

Extra notes regarding the Order: **Violation must be brought into compliance by September 26, 2025.**



Please note that you must obtain the proper building/zoning permits from the City of Southport before any demolition or major repair work can begin, and all required inspections must be completed within the timeframe listed above.

Your assigned inspector is **Logan Boaz**. If you have any questions, please contact him by phone at (743) 257-0331 or email him at lboaz@alliancecodeenforcement.com

Prepared by A. Sizemore
Administrative Analyst



AN ORDINANCE AMENDING CHAPTER 16. OF THE SOUTHPORT CODE OF ORDINANCES

BE IT ORDAINED, by the Board of Aldermen of the City of Southport that Chapter 16, of the Code of Ordinances entitled "STREETS AND SIDEWALKS" Sections 16-8 through 16-11 is hereby amended to remove, replace, and add the following:

Sec. 16-8. Obstruction of public rights-of-way.

(a) Except as specifically set forth in subsections (b), (c), (d), and (e) herein or as authorized by a license issued by the board of aldermen, it shall be unlawful for any person to place or cause to be placed on any public street, road, alley, sidewalk or other public right-of-way within the city any wall, fence, gate, brick, stone, wood, rock, vegetation or other structure, material or substance above the horizontal plane of the existing ground. The installation of turf grasses on grade is allowed within the right-of-way. In addition, it shall be unlawful for any person to take any action whatsoever within any public right-of-way which creates a hazardous condition or safety hazard or which otherwise interferes with or obstructs in any manner the passage of persons or vehicles upon or within said public rights-of-way or which obstructs, interferes with or hinders lawful parking within any public right-of-way.

(b) In residentially zoned areas without off-street parking requirements, property owners shall be permitted to improve up to two (2) parking spaces no more than twenty (20) feet total in width within the right-of-way in front of their property. ~~Dimensional standards of~~ These parking spaces shall follow the provisions for driveways as described in the Unified Development Ordinance (Section 3.12.B.1). Surfacing materials for these parking spaces shall be limited to one of the following: turf grass, ~~brick,~~ pervious pavers, and pervious number 57 driveway slate gravel with wood borders no more than 2 inches above grade, ~~or concrete.~~ ~~Allowable non-pervious surfacing materials (brick, pavers, or concrete) may only be used in an area that is a minimum of 50 feet from a City Tree.~~ The UDO Administrator may waive the requirement of a wood border if it is not appropriate due to existing conditions. Parking spaces constructed by a property owner within right-of-way shall remain open for public parking and shall not be reserved for the property whose owner constructed the spaces. Such parking shall require the review and written approval of the ~~Development Services Director~~ UDO Administrator, Public Services Director, and Fire Marshal. The City reserves the right to remove these parking areas for any reason in accordance with Section 16-10. Parking surfaces existing prior to the adoption date of this ordinance shall be permitted to remain so long as the encroachments do not create a hazardous condition or safety hazard to the public.

(c) Nothing herein shall prevent any business or other legal entity located in areas zoned CBD and BD from (i) placing objects which are not otherwise prohibited under the Southport Code of Ordinances on that portion of a sidewalk which is directly abutting the

building occupied by such business or entity, provided that said items do not extend more than thirty-six (36) inches into the sidewalk and do not violate section 16-7 of the Code of Ordinances prohibiting the display of goods, or (ii) placing A-frame signs on a sidewalk or right-of-way where specifically allowed under the Southport Unified Development Ordinance. Notwithstanding this, however, no business or other entity may place or cause to be placed any object on a sidewalk so as to violate the provisions of the ADA regarding unobstructed clearance.

(d) Vegetation or other protective measures consistent with current arboricultural best management practices (ANSI A300 standards) and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan shall be permitted to be placed within a ten (10) feet foot radius of the base of a City tree by an adjoining property owner, or by the City, for the purpose of limiting damage to the tree by nearby parked vehicles.

Such action shall require review and written approval by the ~~Development Services Director~~ UDO Administrator, the Public Services Director, and the Fire Marshal.

(e) Nothing herein shall prevent the City to install drainage or safety structures for protection of private property.

Sec. 16-9. Construction near sidewalk.

Before building or remodeling any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.
(Code 1974, § 5.32)

Sec. 16-10. Existing encroachments on rights-of-way.

a) In the event that the Southport Code Enforcement Officer determines that there exists any encroachment, obstacle, vegetation, wares, goods or other condition within a public right-of way or sidewalk in violation of section 16-7 or section 16-8 of this Code or which interferes with the free passage of persons or vehicles within said right-of-way or sidewalk, or which otherwise creates a hazard to the public, said code enforcement officer shall attempt to identify the person(s) responsible for said obstacle or encroachment. This includes hardscapes, decorative rock walls, fountains, and similar items. Upon identification, the code enforcement officer shall notify in writing said responsible person(s) who shall have seventy-two (72) hours from the date of notification to remove nonpermanent installations of said encroachment or condition. Permanent installations shall be removed within 90 days from the date of notification of said encroachment. In the event that the responsible party fails to remove said obstacle or encroachment within the time allowed, and in addition to other remedies as allowed by law, the city may promptly remove said obstacle or encroachment and shall charge the cost of said removal to the party responsible for said obstacle, encroachment, or condition. In the event that the code enforcement officer is not able to identify the responsible party, or if the condition or encroachment creates an imminent and immediate danger to the public, the city may summarily remove said encroachment or other condition within the right-of-way without

EXHIBIT I

notice. Following removal, any future encroachment must be done in accordance with the provisions of all applicable ordinances.

b) Vegetative Encroachments

- I. Vegetative right-of-way encroachments existing prior to the adoption date of this ordinance shall be permitted to remain so long as the encroachments do not create a hazard to the public. Such encroachments shall not be permitted to be expanded, and the City reserves the right to remove a right-of-way encroachment for any public purpose and shall not be liable for the removal of those encroachments. Existing vegetation right-of-way encroachments removed at any time by the City for a public purpose are allowed to be reconstructed, if possible, at the property owner's expense.
- II. Private installation of native trees within the right-of-way is permitted when city trees must be removed for construction or when a tree must be removed due to the health of the tree. Canopy and understory installation shall follow

standards found in the UDO, current arboricultural best management practices (ANSI A300 standards), and the guidelines outlined in the most recent City of Southport Urban Forest Management Plan. Such action shall require review and written approval by the UDO Administrator in consultation with the Forestry Committee.

(c) Where curb and public sidewalks exist, private fences, walls, and vegetation installed up to the private property side of the sidewalk existing at the time of the adoption of this ordinance may remain. All approvals and building permits must be obtained for maintenance or replacement of existing fences and walls.

(d) Any wall or fence located in the right-of-way in the designated National Historic Register or in the adopted local historic district(s) built on or before December 31, 1980, may remain after written determination by the UDO Administrator and Historic Preservation Commission that the structure contributes to the historic character of the district.

(e) The City reserves the right to remove a right-of-way encroachment for any public purpose and shall not be liable for the removal of those encroachments and shall levy the cost of removal in accordance with Section 16-10(a) above.

Sec. 16-11. Gates opening on streets and sidewalks.

No gate to any residence, lot or other enclosure in the city shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street, shall constitute a separate offense.

(Code 1974, § 5.35)

EXHIBIT I

There shall be a 6-month grace period for enforcement of this ordinance. All code enforcement cases open prior to adoption of this ordinance shall remain open and processed consistent with the ordinance prior to this adoption.

The foregoing Ordinance, having been submitted to a vote, received the following vote and was duly adopted this the 12th day of December 2024.

Ayes: 4

Noes: 1

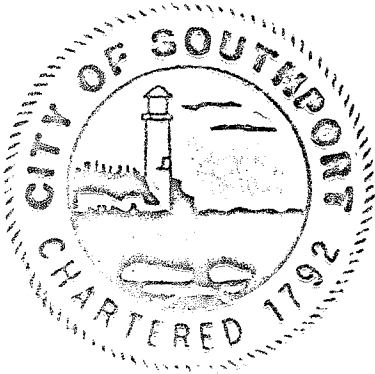
Absent or Excused: 1



Rich Alt
Mayor



Noah Saldo
City Clerk



December 12, 2024

BOARD OF ALDERMEN REGULAR MEETING
December 12, 2024 223 E. BAY STREET
SOUTHPORT, N.C. 6:00 PM

REGULAR MEETING

Present:

Mayor Rich Alt, Mayor Pro-Tern Rebecca Kelley, Aldermen Karen Mosteller, Lowe Davis, Robert Carroll, and Frank Lai.

Absent:

Marc Spencer

Staff:

City Manager Stuart Turille, City Clerk Noah Saldo, Public Information Officer ChyAnn Ketchum, City Engineer Tom Zilinek, Police Chief Todd Coring, Community Relations Director Allayna Dail, Police Major Tony Burke, Fire Chief Charles Drew, City Attorney Brady Herman, and Deputy City Clerk Tori Deviney.

- A. Mayor Alt called the meeting to order at 6:00 PM.
- B. Rev. Sally Learned, Executive Director of Brunswick County Partnership for Housing, gave the invocation.
- C. Mayor Alt led the Pledge of Allegiance.
- D. Special Recognition
 - 1. Recognition of Police Major Tony Burke on the occasion of his retirement Mayor Alt and Police Chief Coring presented Major Burke with a resolution and other items on the occasion of his retirement.
 - 2. Recognition of Chris Schnell for his extraordinary volunteer service as Chair of the Southport Wooden Boat Show

Mayor Alt presented Mr. Schnell with a resolution in recognition of his dedication to volunteering at the wooden boat show.

E. Public Comment

Mayor Alt read the ethics statement

Kay Ross of 5205 White Ibis Ct spoke about the action of the Aldermen related to the old city hall building at the special Aldermen December 12th meeting. She stated she was disappointed the arts group was not able to have a meeting with the Aldermen regarding their vision for the building.

Brad

Sevaldson of 226 Sand Dollar In spoke about his dissatisfaction with the Aldermen's decision on the old city hall building.

City Clerk Saldo read an emailed public comment from Bonnie Bray of 515 Quarter Master Drive regarding her disappointment with the Aldermen's decision on the old city hall building.

Aldermen Carroll made a motion to close public comment, seconded by Mayor Pro-Tern Kelley.

Unanimous Vote; Motion Carried.

F. Approval of Agenda

Aldermen Carroll made a motion to approve the agenda with the removal of item H4 Franklin Square Park, seconded by Mayor Pro-Tern Kelley.

Unanimous Vote; Motion Carried.

G. Approval of the Consent Agenda

Mayor Pro-Tern Kelley made a motion to approve the following consent agenda items, seconded by Aldermen Lai.

Unanimous Vote; Motion Carried.

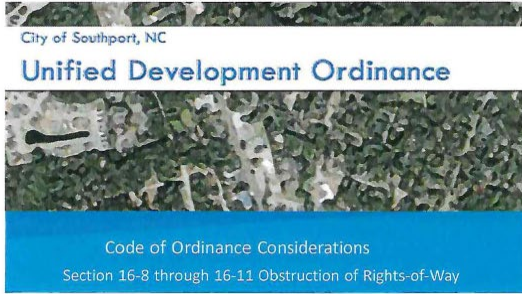
1. Minutes of the November 4th Regular Aldermen Meeting
2. Minutes of the November 14th Regular Aldermen Meeting
3. 2025 Aldermen Meeting Schedule

H. Agenda

2. Right of Way Ordinance Update

Planning Services Director Maureen Meehan presented the following:

|



**Updated Text for City Code of Ordinances
Sections 16-8 through 16-11**

- Clarify parking pad standards including size and surfacing.
- Provide a provision for existing parking surfaces to remain so long that they are not a safety hazard.
- Clarify how vegetation and protective measures can be placed around trees in the ROW.
- Increase compliance timing for permanent installation of encroachments.
- Add a provision for private installation of native trees in the right-of-way when a tree must be removed for construction or if the tree is diseased or dead.
- Provide clarification that private fences and vegetation may be installed up to the edge of a sidewalk where on street parking with curb and sidewalk exist.
- Allow the continuance of walls and fences that were erected on or before December 31, 1980, if they are deemed contributing to the historic character of the National Historic Register or local historic district(s).

The Board discussed the proposed ordinance and asked the question of Director Meehan.

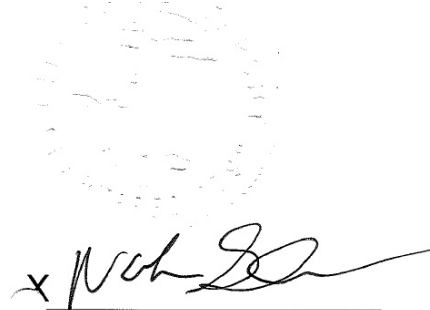
Mayor Alt stated "I am categorically against this action, I see no reason to incur the wrath of an Untold number of citizens for no immediate need. We have the right to go in, we have the right to rip the right away up if we want to. I see no reason to go through this because we're going to do nothing except have hoot nanny going on for months to come and we have so many issues in front of us that are more . . .nding and more important than to get bogged down in this action I am categorically against it.

Aldermen Mosteller made a motion to adopt the proposed ordinance with a six-month grace from enforcement, and any active code enforcement cases started prior to the adoption of this ordinance shall remain in place, seconded by Aldermen Carroll. Motion carried 4-1 with Mayor Pro-Tem Kelley Voting No.

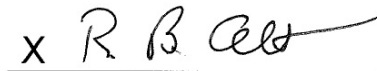
O. Adjourn

Aldermen Carroll made a motion to adjourn, seconded by Mayor Pro-Tern Kelley.

Unanimous Vote; Motion Carried at 10:12:11 PM.



x Noah Saldo
Noah Saldo
City Clerk



x Rich Alt
Rich Alt
Mayor

GEDDINGS & KLEVA, PLLC
ATTORNEYS AT LAW

8721 East Oak Island Drive
Oak Island, North Carolina 28465

Telephone: (910) 278-8998
Facsimile: (910) 278-8982

October 7, 2025

The City of Southport
1029 N. Howe Street
Southport, North Carolina 28461
Attn: Planning & Inspections

Re: Case Number 202405007

Dear Sir/Madam:

Please be advised that our office has been retained by August G. Adams and Clare C. Adams to assist them with respect to an appeal of a Finding of Fact/Final Order dated September 11, 2025, of the City of Southport NC Code Enforcement Inspector prepared by A. Sizemore.

In furtherance of that appeal, enclosed please find the following:

- 1) Completed Appeal Application.
- 2) Current and Accurate Information as to the applicant, owner, subject property, and item at issue. This information is contained in the Appeal Application.
- 3) A copy of the September 11, 2025, Finding of Fact/Final Order being appeal is attached to the Appeal Application.
- 4) The specific section of the Southport City Ordinance that is at issue in the appeal is *Zoning Violation – Existing Encroachments on Right of Way Violation – Chapter 16-10*.
- 5) Justification/Explanation Pertinent to the Appeal is attached hereto.
- 6) The filing fee of \$250.00 has been submitted.

Once this application has been processed, please provide the undersigned with the available dates and times when this matter can be heard before the Board of Adjustment.

Thank you.

Sincerely,


Greg Kleva





Appeal Application

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

Application No. AP-25-05

Receipt No. _____

FEE: \$ 250.00

Date Received: October 9

APPLICATION REQUEST(S):

- Appeal of Decision or Action of the Administration
- Appeal of Action or Determination of the Code of Enforcement Officer
- Request and Interpretation of Zoning and/or Code of Ordinance
- Interpretation of Zoning Map
- Submittal of Variance Application

PROPERTY (Location/identification information for property to which appeal request refers):

Name of Owner: August G. Adams and Clare C. Adams

Address of property: 410 East Bay Street city: Southport

State: NC Zip Code: 28461 Phone: _____

Tax Parcel ID: 238IB02301 Zoning District Classification: R-10

Subdivision Name: None Section: N/A Lot #: N/A

Current Use of Property: Residential

Applicant/Appellant Information (If different than above):

Applicant's Name: Gregory Kleva Phone: 910-278-8998

Mailing Address: 8721 E. Oak Island Drive

City: Oak Island State: NC Zip Code: 28461

Email: greg@geddingsandkleva.com



GENERAL CHECKLIST FOR SUBMITTAL:

The following information/documentation items are required prior to the submittal being scheduled for review by the Board of Adjustment:

- Completed appeal / interpretation / variance application form (with owner consent)
- Current and Accurate information as to applicant, owner, subject property, and item at issue
- Copy of Decision, Order, or Action being appealed (including date)
- Specific section reference to the Ordinance or Guideline at issue in appeal or interpretation request
- Completion of all justification / explanation questions applicable to your submittal
- n/a If applicable to your submittal: provide twelve (12) sets of a scaled drawing of the site plan
- n/a If applicable to your submittal: provide twelve (12) copies of each exhibit (8 1/2" x 11" or 11" x 17")
- n/a If applicable to your submittal: Pre-application conference with Planning Staff
- n/a All FILING FEES must be paid upon submittal of completed application package




Signature (Owner or Authorized Applicant)

10/07/2025

Date

APPROVED BY



UDO Administrator

10/09/2025

Date





FINDING OF FACT / FINAL ORDER

Case Number: 202405007

August G. Adams ETUX
Clare C. Adams
410 E. Bay Street
Southport, NC 28461

September 11, 2025

On August 21, 2025, the City of Southport, NC Code Enforcement Inspector held a hearing to consider the condition of the structure on the property located at 410 E Bay Street. Based on the evidence presented, I make the following Findings of Fact:

1. All persons presenting evidence at the hearing were/were not sworn in.
2. The City staff did/did not present written and/or oral evidence regarding the condition of the structure.
3. The owner and/or mortgage holder of the property was/was not present and was/was not represented by counsel.
4. Not Applicable.
The occupant of the building was/was not present and was/was not represented by counsel.
5. The owner and/or occupant, or their attorneys, did/did not present written and/or oral evidence.
6. The building is/is not currently occupied.
7. Based on the evidence presented, the Inspector finds that the following violations exist: **Right of Way Encroachment Violation- White fence has been installed within the right of way.**
8. Based on the evidence presented, the Inspector finds that the structure is/is not an imminent danger to life or other property.
9. These conditions are violations of the following provisions of the City of Southport Code of Ordinance Chapter(s): **Zoning Violation - Existing Encroachments on Right of Way Violation: Chapter 16-10**
10. Not Applicable.

If repairs are allowed, continued occupancy during the time allowed for repair will/will not present a significant threat of bodily harm. In making this Finding of Fact, the Officer has taken into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.



SERVICE – Regular Mail, Certified Mail & Posting on the Property



11. I make the following additional Findings of Fact: Case was opened on May 2, 2024, and a Notice of Violation was sent on January 13, 2025. Hearings were held on June 5, 2025 and August 21, 2025, and the property owner did not appear. The property remains in Violation.

MINIMUM HOUSING - Based on these Findings of Fact, I hereby determine that the structure can/cannot be repaired, altered, or improved to comply with the requirements of the City of Southport Minimum Housing Code and all applicable requirements of the North Carolina State Building Code for less than fifty percent (50%) of its value. The structure is, therefore declared to be **DETERIORATED/DILAPIDATED**. The owner is hereby ordered to do the following:

Deteriorated Structure

- ~~Repair the structure within _____ days. Failure to make timely repairs as directed by this Order shall subject the dwelling to condemnation, which shall include the posting of a placard indicating that the dwelling is unfit for human habitation; and/or~~
- ~~Vacate and close the structure within _____ days.~~

Dilapidated Structure

- ~~Repair the structure within _____ days. Failure to make timely repairs as directed by this Order shall subject the dwelling to condemnation, which shall include the posting of a placard indicating that the dwelling is unfit for human habitation;~~
- ~~Vacate and close the structure within _____ days; and/or~~
- ~~Remove or demolish the structure within _____ days.~~

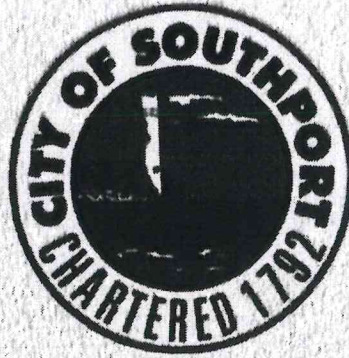
NUISANCE VIOLATION - Based on these Findings of Fact, I hereby determine that the violations can/cannot be brought into compliance with the City of Southport Code of Ordinance.

X Bring the violation into compliance within 15 days. Failure to do so may result in further action taken by the Town.

Extra notes regarding the Order: Violation must be brought into compliance by September 26, 2025.



SERVICE - Regular Mail, Certified Mail & Posting on the Property



Please note that you must obtain the proper building/zoning permits from the City of Southport before any demolition or major repair work can begin, and all required inspections must be completed within the timeframe listed above.

Your assigned inspector is Logan Boaz. If you have any questions, please contact him by phone at (743) 257-0331 or email him at lboaz@alliancecodeenforcement.com

Prepared by A. Sizemore
Administrative Analyst



SERVICE – Regular Mail, Certified Mail & Posting on the Property

Justification and Explanation for Appeal

The Unified Development Ordinance of the City of Southport (UDO) was adopted on September 23, 2020.

The property owners, August G. Adams and Clare C. Adams, acquired title to the property at issue in this appeal from Dora Loflin by deed recorded October 26, 2021, in deed book 4732 at page 854 of the Brunswick County Registry. See **Exhibit A**.

Dora Loflin had acquired title to the subject proeprty from Harold T. Spencer and wife Eloise L. Spencer by deed recorded June 7, 1989, in deed book 771 at page 396 of the Brunswick County Registry. See **Exhibit B**.

Harlod T. Spencer and Eloise L. Spencer acquired title to the subject property from Merle E. Foster by deed recorded December 4, 1980, by deed recorded in Book 462 at Page 496 of the Brunswick County Registry. Copies of these three deeds are attached hereto as **Exhibit C**.

At the time Harold T. Spencer and Eloise L. Spencer (“Spencer”) acquired title to the property it is believed that the subject proeprty was vacant. After acquiring the property, it is believed that Spencer constructed the residence located on the subject proeprty, and that as part of said construction, installed a “rope fence” in the exact location that the subject fence at issue is currently located. It is believed that Spencer sought and received the permission and approval of the City of Southport for the existence and location of said fence. The current property owners have requested information from the City of Southport regarding that request. However, no information was available given the age of the same.

Subsequent thereto, in the year 1997, Dora Loflin and spouse Carl Loflin (now deceased) removed the aforementioned “rope fence” and replaced the same with the existing fence. Prior to the conveyance of the subject property to the current owners, the existence and location of the subject fence was questioned by the City of Southport, but the same was allowed to remain in place. Information concerning any alleged violation of any ordinance of the City of Southport by Ms. Loflin is being requested.



It is respectfully submitted that the current owners did not construct or build the fence subsequent to their purchase of the property. Quite the contrary. The fence that is the subject of the alleged violation existed and has been in the same location on the subject parcel of property for a period of over twenty (20) years, and well prior to the adoption of the Unified Development Ordinance of the City of Southport (UDO) in 2021.

Additionally, the subject fence is located in front of the subject proeprty and is in plain view and sight from East Bay Street and has been that way for its entire twenty plus year existence. Yet despite this, the City of Southport has taken no legal action to enforce the alleged violation for over twenty years.

This flies directly in the face of and completely contradicts the finding of fact contained in the September 11, 2025 Orde that the alleged violation is an” imminent danger” (a situation so grave and /or risk so severe that serios physical harm or death is likely to occur is not rectified expeditiously) to life or other property. It is upon information and belief that this finding of fact was included in said Order for the sole purpose of conforming to the language contained in North Carolina General Statute 1-49(3) which recognizes an exception to the seven-year statute of limitations (which has already run) within which the City of Southport had commence legal action against the property owner for a violation of the UDO.

It is the position of the current property owners and their assertion in this appeal that the City of Southport has unreasonably delayed asserting its rights against them for this alleged violation. Additionally, as previously mentioned and as evidence will show during the appeal, relevant evidence directly on point with the alleged violation is no longer available, resulting in prejudice against the property owners.

As such, it would be patently unfair to punish or penalize the current property owner for the alleged violation, and therefore the Order should be set aside and the violation dismissed.

The appellants intend to offer further evidence in support of their position at the time of the applicable hearing.



EXHIBIT A





B4732 P0854 10-26-2021
 15:43:55.000
 Brenda M. Clemmons PROP
 of Deeds page 1 of 4

Brenda M. Clemmons Register of Deeds
 10-26-2021 15:43:55.000 Brunswick County, NC
 NC REVENUE STAMP: \$2200.00 (#788298)

Return to REP. Type 300
 Total 300 Rec 300 Int. 0
 Check \$ 300 CK # 0187 Cash \$ _____
 Fund _____ Cash \$ _____ Finance _____
 Portions of document are illegible due to condition of original.
 Document contains seals verified by original instrument that cannot be reproduced or applied.

Excise Tax: \$2,200.00

Parcel Identifier No: **238IB02301**

Prepared by: James R. Prevatte, Jr., Attorney-at-Law (dys)
 Return to: PREVATTE & PREVATTE, PLLC
 601 N. Howe St., Southport, NC 28461

Brief Description for the Index: Lot 15 and 16, Bay St. .14 Ac. PL 27/301

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 20th day of October, 2021 by and between

GRANTOR

GRANTEE

Dora Loflin, widower

306 S. Lake Park Blvd.
Carolina Beach, NC 28428

August G. Adams and wife, Clare C. Adams

410 East Bay Street
Southport, NC 28461

THIS INSTRUMENT PREPARED BY: JAMES R. PREVATTE, JR., a licensed North Carolina Attorney. Delinquent taxes, if any, to be paid by the closing attorney to the Brunswick County Tax Collector upon disbursement of closing proceeds.

The designation Grantors and Grantees as used herein shall include said parties, their heirs, successors, and assigns and shall include singular, plural, masculine, feminine, or neuter as required by context.





WITNESSETH:

THAT said GRANTOR, for a valuable consideration paid by the GRANTEES, the receipt of which is hereby acknowledged, has and by these presents do grant, bargain, sell and convey to the Grantees in fee simple, those certain lots or parcels of land situated in Smithville Township, Brunswick County, North Carolina, and more particularly described as follows:

SEE EXHIBIT "A" attached hereto and incorporated herein by reference.

Reference is hereby made to a deed recorded in Book 771, Page 396, Brunswick County Register of Deeds.


If this box is checked, subject property is permanent residence of one or more Grantors.

TO HAVE AND TO HOLD the above-described tract or parcel of land, together with all privileges and appurtenances thereunto belonging, unto the said Grantees, their heirs and assigns, to the only use and behoof of Grantees and their said heirs and assigns, FOREVER.

AND said Grantor covenants to and with said Grantees that Grantor is seized of the property in fee simple and has the right to convey the same in fee simple; that the title is marketable and free and clear of all encumbrances, and that Grantor does hereby and will forever warrant and defend title to the same against the lawful claims of all persons whomsoever, except for the exceptions herein stated.

1. Ad valorem taxes for current and subsequent years;
2. Easements for utilities and rights-of-way in the chain of title;
3. Restrictive covenants of record.

IN TESTIMONY WHEREOF, said Grantors have hereunto set their hands and seals the year and date first above written.

 (SEAL)
Dora Loflin



STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

B4732 P0856 10-26-2021 15:43:55.000
Brunswick County, NC Register of Deeds Brenda M. Clemmons PROP page 3 of 4

I, Tammy T. Turner, Notary Public for ^{New Hanover} Brunswick County, State of North Carolina, hereby certify that **DORA LOFLIN**, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes stated herein.

Witness my hand and official seal, this the 26th day of October, 2021.

(Affix Notary Stamp/Seal)

Tammy T. Turner
Notary Public

My commission expires: 12-13-2022





EXHIBIT "A"

BEGINNING at a point on the South side of Bay Street situated 66 feet East of the Southeast corner of Bay and Rhett Streets; run thence about South parallel with the Eastern line of Rhett Street to the channel of the Cape Fear River; thence about East along the channel of the Cape Fear River 132 feet; thence about North parallel with the Western line of Kingsley Street to the Southern line of Bay Street; thence about West along the Southern line of Bay Street 132 feet to the place and point of beginning.

******* There is excepted from this conveyance that property conveyed to Janie Risch Fortney, Trustee of the Janie Risch Fortney Revocable Trust, Dated October 9, 1991 as recorded in Book 1703 at Page 338 in the Brunswick County Registry. Legal Description below:**

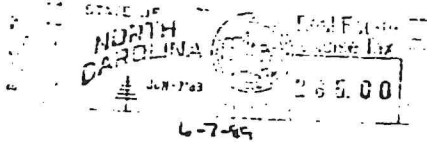
"All of the 2547.5 square foot (0.06) lot fronting on East Bay Street as shown on a Map for Carl D. Loflin et ux and Dr. Sidney Fortney by Tide Water Surveying, P.A., recorded in Book 27 at Page 301, Brunswick County Registry." *****



EXHIBIT B



0771 396



FILED FOR RECORDATION
0771 396

99 JUN -7 AM 11:55

RECORDING PROCESS
BY THE COUNTY, I.L.C.

Excise Tax **265**

Recording Time, Book and Page

Tax Lot No.

Parcel Identifier No. **23213.01**

Verified by
by

County on the

day of

, 19

Mail after recording to

This instrument was prepared by **Michael R. Isenberg (89/7889)**

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this **31** day of **May**, 19**89**, by and between

GRANTOR

GRANTEE

HAROLD T. SPENCER and wife ELOISE
L. SPENCER, of Brunswick County,
North Carolina

CARL BAXTER LOFLIN and wife
DORA CONNELLY LOFLIN, whose
mailing address is: **14 Lucky Point Rd
Denver, NC**

PL	Book	Page	or	PL	Page	or	BY
	31	02313	B	023	0100	S	MA

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of **Southport**, **Smithville** Township, **Brunswick** County, North Carolina and more particularly described as follows:

BEGINNING at a point on the south side of Bay Street situated 66 feet east of the southeast corner of Bay and Rhett Streets; run thence about south parallel with the eastern line of Rhett Street to the channel of the Cape Fear River; thence about east along the channel of the Cape Fear River 132 feet; thence about north parallel with the western line of Kingsley Street to the southern line of Bay Street; thence about west along the southern line of Bay Street 132 feet to the place and point of beginning.

Mike Isenberg
200 265.00 net
201 9650
202 6.00 net
14570

000023



The property hereinabove described was acquired by Grantor by instrument recorded in
Book 462 at Page 496 of the Brunswick County Registry

A map showing the above described property is recorded in Plat Book _____ Page _____

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers, and its seal to be hereunto affixed, on the day and year first above written.

(Corporate Name)
BY: _____

President
ATTEST: _____

Secretary (Corporate Seal)

USE BLACK INK ONLY

Harold T. Spencer (SEAL)

Eloise L. Spencer (SEAL)

Eloise L. Spencer (SEAL)

(SEAL)



NORTH CAROLINA, Brunswick County.
I, a Notary Public of the County and State aforesaid, certify that Harold T. Spencer and wife Eloise L. Spencer Grantee, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 30th day of May, 1989.
My commission expires: 5/29/94 Cornelia C. Watkins Notary Public

SEAL-STAMP
NORTH CAROLINA, _____ County.
I, a Notary Public of the County and State aforesaid, certify that _____ Secretary of _____ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by _____ as its Secretary. Witness my hand and official stamp or seal, this _____ day of _____ 19____.
My commission expires: _____ Notary Public

The foregoing Certificate(s) of _____ Cornelia C. Watkins, Notary Public _____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.
Recorded this 7 day of June, 1989 at 11:55 A.M.

Anita F. Smith REGISTER OF DEEDS FOR BRUNSWICK COUNTY
By _____ Deputy



EXHIBIT C



STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

THIS DEED, made this the 11th day of November, 1980, by and between MERLE E. FOSTER, Widower, party of the first part, and HAROLD T. SPENCER and wife, ELOISE L. SPENCER, of Southport, North Carolina, parties of the second part:

WITNESSETH

THAT the said party of the first part, for and in consideration of the sum of TEN DOLLARS AND OTHER VALUABLE CONSIDERATIONS, to him in hand paid by the said parties of the second part, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does hereby bargain, sell and convey unto the said parties of the second part, their heirs and assigns, as made subject to the hereinbelow stated provisions, that certain land lying and being in Smithville Township, Brunswick County, North Carolina, and more particularly described as follows:

BEGINNING at a point on the south side of Bay Street situated 66 feet east of the southeast corner of Bay and Rhett Streets; runs thence about south, parallel with the eastern line of Rhett Street, to the channel of the Cape Fear River; thence about east along the channel of the Cape Fear River 132 feet; thence about north, parallel with the western line of Kingsley Street, to the southern line of Bay Street; thence about west along the southern line of Bay Street 132 feet to the place and point of BEGINNING; and being the same lands as conveyed from Kirby Sullivan to Merle E. Foster, by deed dated October 19, 1978, and recorded in Book 413 at page 793 of the Brunswick County Registry.

Provided, however, that this conveyance is expressly made subject to the exceptions, reservations, covenants, conditions, restrictions and easements, if any, granted by or otherwise acquired from the party of the first part and their predecessors in title to said land.

TO HAVE AND TO HOLD the above described land, together with all privileges and appurtenances thereunto belonging unto the said parties of the second part, their heirs and assigns, to their only use and behoof FOREVER.

AND the said party of the first part covenants to and with the said parties of the second part, their heirs and assigns, that he is seized of the said premises in fee and has a right to convey the same in fee simple; that the same is free and clear of all encumbrances, and that he

DORGLAS L. HURRETT ATTORNEY AT LAW SOUTHPORT, N. C. 28581

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does hereby warrant and will forever defend the title to the same against the lawful claims of all person whomsoever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal as of the date first above written.

Merle E. Foster (SEAL)
MERLE E. FOSTER

STATE OF *New Jersey*
COUNTY OF *Ocean*

I, *Claire McHale*, NOTARY PUBLIC, do hereby certify that MERLE E. FOSTER personally appeared before me this day and acknowledged the due execution of the foregoing Deed for the purposes therein set forth.

Witness my hand and notarial seal, this the 17 day of November, 1980.

Claire McHale
NOTARY PUBLIC

My Commission Expires:

CLAIRE MCHALE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Apr 12, 1986

DOUGLAS A. LEDCETT ATTORNEY AT LAW SOUTHPORT, N.C. 28461

STATE OF NORTH CAROLINA, Brunswick County
The Foregoing Certificate(s) of Claire McHale, Notary Public

Recorded this 4th day of December 1980 at 4:06 o'clock P. M. mc
(is)(are) certified to be correct.

Robert J. Robinson, Register of Deeds

Robert J. Robinson



STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

THE CITY OF SOUTHPORT
BOARD OF ADJUSTMENT
APPEAL#: AP-25-05

In Re: August G. Adams and
Clare C. Adams

AFFIDAVIT OF DORA LOFLIN

DORA LOFLIN, being duly sworn, deposes and says:

- 1) I am an adult, not incompetent or under disability, and I have personal knowledge and or belief of matters at issue in this appeal.
- 2) The information set forth in this Affidavit is based upon my personal knowledge and I am familiar with facts, circumstances, and issues that make up the subject matter of this appeal.
- 3) That I am submitting this affidavit in support of the appeal of September 11, 2025, determination made by the Code Enforcement Officer of the City of Southport the City of Southport filed by August G. Adams and Clare C. Adams.
- 4) The Adams' property is located at 410 East Bay Street; Southport, North Carolina 28461.
- 5) I was the previous owner of the Adams' proeprty having purchased it from Harold T. Spencer and wife Eloise L. Spencer on December 4, 1980.
- 6) At the time that I purchased the proeprty from Mr. and Mrs. Spencer, there was a "rope fence" in place and located where the current fence at issue is located.

- 7) This “rope fence” was installed/placed in its location by Mr. and Mrs. Spencer at the time they constructed the residence upon the property.
- 8) That “rope fence” remained in the same place from the date I purchased the property until some time in 1997 when my spouse and I removed the rope fence and replaced it with the current fence that is the subject of this appeal.
- 9) During the time that I owned the property, I had a verbal conversation with a representative from City of Southport concerning the location of the fence.
- 10) At that time, I advised the city representative that Mr. and Mrs. Spencer had informed me that when they had constructed the residence on the property, they received permission from the City of Southport to place the fence in its current location.
- 11) After that conversation, the City of Southport never spoke with me again concerning the fence and/or its location, nor did the City of Southport ever take any other action against me with respect to the fence or its location.
- 12) The fence at issue has existed in the same location for a period of over twenty years.
- 13) The fence at issue does not block or impede foot or vehicle traffic on Bay Street.
- 14) Based on the above, it is respectfully submitted that the current appeal be granted.

This the 21st day of JANUARY, 2026.

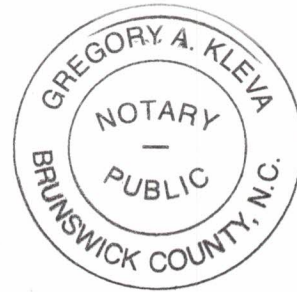
Dora Loflin
Dora Loflin

Sworn to and subscribed before me, this the 21st day of January, 2026.

[Signature]
Notary Public:

My Commission Expires: 3/28/2026.

(Notary Seal)



**STAFF REPORT - CASE #AP-25-04
 APPEAL OF DETERMINATION OF THE CODE ENFORCEMENT OFFICER**

APPLICATION SUMMARY

Hearing Date	January 27, 2026 Board of Adjustment
Applicant	Jennifer L. Carpenter
Property Owner	James and Bridget Chirico
Parcel ID:	237LF001 & 237LF002
Parcel Acreage	0.24 acres/parcel Total .48 acres
Zoning District	R-10

APPEAL REQUEST

Jennifer Carpenter, applicant for property owners James and Bridget Chirico (“Owners”), is appealing an administrative development decision made by Harlan Pyles, Code Enforcement Officer, under the direction and supervision of the Zoning Administrator. The subject violation is the use of R-10 residentially zoned parcels for commercial parking, which is an unpermitted use in the R-10 zoning district.

On April 9, 2025, the Owners were first issued a written violation under Article 3.5 Table 3.1 Table of Uses in the Unified Development Ordinance (UDO), with remedies to correct the violation. The remedy is to cease use of the parcels for commercial parking.

PROPERTY FEATURES AND HISTORY



Subject properties are located at the corner of W Bay Street and S Caswell Avenue and further described by parcel numbers 237LF001 & 237LF002. The properties are each approximately 10,455 SF and zoned R-10.

Brunswick County GIS 2025 Orthoimagery

Zoning District

- R-20
- R-10
- MF
- PUD
- O&I
- BD
- CBD
- HC
- OS
- POD



Google Street View January 2024



2024 Brunswick County GIS Aerial Showing Parking



APPEAL PROCEDURE

For an administrative decision to be appealed, the public official must have made an official determination written, final, and binding order, requirement, or determination (160D-405(d) & -102(10)).

An appeal of an administrative development decision must follow quasi-judicial procedures, as outlined at G.S. 160D-406. Among other things, notice must be mailed and posted on the property; witnesses must provide sworn testimony and factual evidence; and the board must base its decision upon competent, substantial, relevant evidence in the record. Politics and personal preference are not legitimate bases for the decision.

The board of adjustment makes its own independent assessment of what the terms of the ordinance mean and “shall have all the powers of the official who made the decision” being appeal from. While some consideration as to the professional judgement of the zoning administrator should be given, ultimately the question of what the ordinance means is a question of law for which the board must make its own decision. In making this determination the key goal should be giving full effect to the terms of the ordinance and the intent of the governing board that originally adopted it, not substituting the opinion of staff as to what the ordinance should say. The Board of Adjustment is an independent Board governed by the UDO.

The board must determine any contested facts and apply relevant legal standards. The board may affirm the staff decision, reverse the staff decision, or modify the staff decision, and the board may “make any order, requirement, decision, or determination that ought to be made.”

Appeals of administrative decisions are decided by a simple majority vote. The decision of the board of adjustment may be appealed to the superior court in certiorari pursuant to G.S. 160D-1402.

APPLICANT’S JUSTIFICATION FOR APPEAL

The following statements were submitted by the applicant via email on May 9, 2025, setting forth the Owners justification and explanation for the appeal.

This firm has been retained to represent James and Bridget Chirico and their businesses, Yacht Basin Holdings I, LLC and Yacht Basin Holdings II, LLC regarding certain properties in the City of Southport (“City”), including without limitation, Parcel Nos. 237LF001; 237LF002; and 237LF007. I write to you for a few reasons.

First, I have become aware of certain aggressive and inappropriate interactions between City officials, wherein City officials showed up uninvited at my clients’ home and/or business and demanded my clients’ consent and signatures on legal documents, one of which involved my clients granting the City an easement on the 237LF007 lot for the City’s shoreline restoration project. This type of behavior is unacceptable and will not be tolerated. All future correspondence from the City to my clients should be directed to this office and me.

Second, my clients received two letters regarding the 237LF001 and 237LF002 properties, alleging violations of a City ordinance regulating commercial parking on those lots. The allegations were and are false. My clients were cited at the direction of City officials in retaliation for my clients’ decision not to sign the easement agreement referenced above. If the City refuses to immediately withdraw the letters, this email serves as our notice of appeal.

STAFF REVIEW

Applicable code references for this case include Unified Development Ordinance Section 3.5 Table of Permitted and Special Uses Table 3.1.

The table of uses specifies which land uses are allowed in each zoning district. The uses are either permitted by right (P), permitted with standards (PS), or special use with standards (SS). Commercial parking lots are allowed with a special use permit and subject to standards in the office-institutional (O-I), central business district (CBD), and business district (BD) zoning districts. Commercial parking lots in the highway commercial (HC) zoning district are permitted by right, provided the outlined standards are met.

Table 3.1: Table of Uses		Use Standard									
Uses	ICS	R-10	R-20	MF	PUD	O-I	CBD	BD	HC	OS	Section #
COMMERCIAL PARKING LOTS	812930					SS	SS	SS	PS		3.8.G

UDO, Article 8, provides definitions for “Parking Lot” and “Commercial Lot,” which are set forth verbatim below and attached hereto:

Parking Lot. An open area, outside of the public right-of-way, for the storage of a vehicle or vehicles. The term “parking area” shall be included in this definition. Each parking lot shall have an approved means of ingress and egress.

Commercial Parking Lot. Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

The definitions of parking lot and commercial parking lot in Article 8 of the UDO confirm that parking on the subject R-10 parcels without the Yacht Basin Overlay Zoning District is a violation of the UDO. The parcels are open and accessible to the public for parking and are not explicitly reserved for any one commercial establishment. A commercial parking lot is defined as any premise “used for the storage of motor vehicles for the public or private businesses.” Therefore, the identified use is a commercial parking lot.

City-Initiated Parking Overlay Zoning District

The property owners of the residentially zoned properties on the block between S Caswell Avenue, Yacht Basin Drive, W Moore Street, and W Bay Street have historically opened their lots for public parking during holiday weekends and city events. In the early 2020’s, the properties were opened more frequently for public parking, although not all lots were opened. The subject properties had bollards installed along the perimeter of the properties to restrict parking.

City officials, recognizing the benefits of the additional parking and following the recommendations of the Downtown Parking Study, directed staff to research and draft a zoning overlay district that allows public parking to be legally established through

development standards in the UDO. Draft language was prepared and presented to the Planning Board in November of 2024.

The Planning Board created a review committee, inviting all R-10 property owners on the block, including the Owners, to review and consider language to add to the UDO that allows public parking. In an email to staff dated January 24, 2025, Mr. Chirico declined the invitation to the review committee meeting. He stated that he and Mrs. Chirico were not interested in participating in the overlay district.

Being part of the Yacht Basin Parking Overlay does not require the property to be used for parking, and all underlying R-10 land uses remain in effect. The text and map amendment was recommended by the Planning Board and forwarded to the Board of Aldermen for consideration. The zoning text and map amendment was adopted on February 13, 2025, a copy of which is attached hereto.

On April 9, 2025, the City issued Notice of Violation to the Owners, citing violations of Section 3.5 of the UDO, copies of which are attached hereto. The violation can be corrected by ceasing the use of the property for public parking. Other abatement options include either (i) requesting inclusion in the Yacht Basin Overlay Zoning District or, (ii) applying for a rezoning of their property to Business District (BD) and applying for a special use permit to establish a commercial parking lot. To date, the properties have been open and available for public parking. Bollards that were initially installed along the perimeter of the properties to restrict parking have now been removed, which has allowed the public access for parking on the properties.

In conclusion, the applicants' allowing public parking on their properties constitutes a violation of the Unified Development Ordinance. Therefore, City staff requests that the Board of Adjustment reaffirm the initial Notices of Violation ordering the applicants to cease commercial parking on parcels 237LF001 and 237LF002.

BOARD OF ADJUSTMENT: DECISION

Affirms the staff determination based on the following:

Modifies the staff determination, including the following:

Reverses the staff determination based on the following:

The final decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board.

Attachments Summary:

City's Exhibits:

Chirico Email dated January 24, 2025 Declining the Invitation from Staff (Ex. 1)

Relevant Provisions of the UDO (Ex. 2)

Yacht Basin Overlay District UDO Text Amendment Adopted on February 13, 2025 (Ex. 3)

Code Enforcement Letters from CEO sent on April 9, 2025 (Ex.'s 4-5)

Applicant

Notice of Appeal email dated May 9, 2025, by Jennifer Carpenter, Applicant (following City's Exhibits)

From: Jim.Chirico@yahoo.com
To: [Maureen Meehan](#)
Cc: sabre42@icloud.com; [Fred Fiss](#); jjbove10@gmail.com; [Wendell Biddle](#); [craig blanks](#); [Paul Swenson](#); [Rebecca Kelley](#); [Frank Lai](#); [Richard Alt](#)
Subject: [EXTERNAL] Re: Yacht Basin Parking Overlay PB Committee Meeting
Date: Friday, January 24, 2025 6:04:14 PM
Attachments: [mime-attachment.ics](#)
[YB Parking Overlay PB memo 1-16-25.pdf](#)
[YB Parking Overlay PB memo 12-19-24.pdf](#)

You don't often get email from jim.chirico@yahoo.com. [Learn why this is important](#)

Mo, thank you very much for the invite. I've read the pilot and just to clarify our position, Bridget and I have no interest in participating in the overlay.

Jim

Sent from my iPhone

On Jan 22, 2025, at 6:42 PM, Maureen Meehan
<mmeehan@cityofsouthport.com> wrote:

Good Evening,

The yacht basin parking overlay meeting has been scheduled for Monday 1/27 at 3pm at City Hall. I have attached the last 2 PB memos for your review. There are links to the studies/recommendations that are referenced in the memos. These are the past yacht basin efforts within the last 4-5 years.

If this time doesn't work, please let me know. Also, if you cannot attend in person and need a link to connect remotely, please let me know.

Thanks, Mo

WARNING: This email originated from outside of the City of Southport. Please DO NOT click on links or attachments unless you are familiar with the sender and know the content to be safe.

3.1 GENERAL

A. TYPES OF ZONING DISTRICTS

All land within the city's planning jurisdiction is classified by this ordinance to be within one (1) of the several base zoning districts or overlay districts respectively.

B. OVERLAY ZONING AREAS AND RELATIONSHIP TO ZONING DISTRICTS

Land within any base zoning district may also be classified into one (1) or more overlay zoning areas, as listed in Section 3.3, Overlay Zoning Districts. Regulations governing development in an overlay area shall apply in addition to the regulations governing development in the underlying district. If the standards governing a zoning district expressly conflict with those governing an overlay zoning area, the more restrictive standard shall control.

C. COMPLIANCE WITH DISTRICT STANDARDS

No land within the city shall be developed except in accordance with the zoning district use, use and development standards, and requirements of this article and all other regulations of this ordinance, as applicable.

3.2 BASE ZONING DISTRICTS

A. ESTABLISHMENT OF BASE ZONING DISTRICTS

For the purpose of this ordinance, the City of Southport and its extraterritorial jurisdiction is divided into the following classes of base zoning districts:

1. R-10: Residential District. Single and two-family residential district with 10,000 square foot minimum lot area.
2. R-20: Residential Agricultural District. Single and two-family residences with 20,000 square foot minimum lot area.
3. MF: Multi-Family District. A district designed to accommodate a variety of attached single-family dwellings up to a density of 11 units per acre.
4. CZ: Conditional Zoning District. A special district where uses and densities are established through public input for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or conditional use, on small- and large-scale projects.
5. PUD: Planned Unit Development District. A special district where multiple residential and commercial uses may be proposed and density and lot dimensions may be different from that of the base residential zoning districts in trade-off for significant dedication of open space, alternative housing types, and affordable development.
6. O/I: Office/Institutional District. A district designed for office/institutional uses at low to moderate densities and multi-family housing. This district should be used as a transitional zone between areas of conflicting land uses.
7. CBD: Central Business District. Restricted district in which commercial uses are densely developed in accordance with the City's historical commerce center.

8. BD: Business District. A commercial related district with lot and setback requirements suitable for placement abutting residential areas.
9. HC: Highway Commercial District. A district established for the retailing of durable goods, provision of commercial services to industrial areas, and the provision of services to transients.
10. OS: Open Space District. Areas of special public interest that should be placed in a zone protected from any development other than improvements or uses undertaken by the City of Southport.

3.3 OVERLAY DISTRICTS

A. ESTABLISHMENT OF OVERLAY DISTRICTS

For the purpose of this ordinance, the City of Southport is subject to the following overlay zoning districts:

- A. YBO: Yacht Basin Overlay District. The following uses are allowed in the areas shown on the Official Zoning Map of the City of Southport as the Yacht Basin Overlay District.
 1. Commercial Parking Lots are allowed, and the following standards shall apply:
 - a. Surfacing. Materials are limited to pervious pavers and number 57 driveway slate gravel. The perimeters of the parking lot will be delineated with wooden borders. Concrete or asphalt parking lot surfacing is prohibited in the overlay district.
 - b. Borders. 8"x8" wooden beams are to be used for horizontal lot boundaries. 4"x4" wooden posts are to be used for vertical boundaries.
 - c. Driveway Entrances. All driveway entrances to City rights-of-way or streets shall include an apron. Aprons are to be sized to contain surface aggregate and to consist of cast-in-place concrete, or with an alternative paving material (e.g. concrete pavers, brick, "turfstone" or similar pervious material) determined to exhibit equivalent wear resistance and load-bearing characteristics to concrete.
 - d. Maintenance. Off-street parking areas shall be properly inspected and maintained on a regular basis using industry standard best practices.

3.4 INTERPRETATION OF DISTRICT REGULATIONS

- A. Regulations for each district shall be enforced and interpreted according to the following rules:
 1. Uses by right. All listed permitted uses are permitted by right according to the terms of this article.
 2. Special uses. Special uses are permitted, subject to compliance with the additional regulations specified.
 3. Permitted or special use with standards. Uses with additional standards are denoted with an "S."
 4. Unlisted uses. The uses listed may not address all possible uses. In determining if a use is permitted, the UDO Administrator shall consider which category of expressed uses most closely matches the use proposed and apply the regulations pertaining to that category to the proposed use. In determining the use which most closely matches the proposed use, the UDO Administrator shall consider the density and intensity of the use, and anticipated traffic, noise, light, and odor

on adjacent properties. Such interpretation shall be provided in writing to the property owner and subject to appeal by the Board of Adjustment.

5. Minimum regulations. Regulations set forth in this article shall be minimum regulations. If the requirements set forth in this article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.
6. Restrictive covenants and deed restrictions. Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this article, nothing herein contained shall be construed to render such covenants or restrictions inoperative.

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

1. If a cell in the table of uses is blank the use is prohibited in the corresponding zoning district.
2. The following uses are prohibited throughout the City's planning jurisdiction in an effort to mitigate natural and manmade hazards, maintain desired environmental qualities, and enhance public health, safety, and welfare, as desired in the City's Comprehensive Plan:
 - a) The manufacturing, processing, fabrication, and/or bulk storage of acetylene gas (except for use on premises), ammunition, explosives, fireworks, gunpowder, jute, or matches;
 - b) The manufacturing, processing, and/or fabrication of acids (except non-corrosive acids), ammonia, ammonium nitrate, animal byproducts, bleaching powder, cellulose, chlorine, creosote and creosote treatment, detergents, enamels, lacquers, linoleum, oilcloth, paints, paper pulp, pigments, lime, plastic, rubber (except tire recappers), soaps (except artisan manufacturing), tannery products, turpentine, varnishes, whiting and/or wood fillers, and environmentally hazardous material. The fabrication of plastics is exempt from this prohibition.
 - c) The slaughtering of animals, except seafood processing.

City of Southport
Unified Development Ordinance (UDO)

Uses	Use Standard										Section #
	ICS	R-10	R-20	MF	PUD	O-I	CBD	BD	HC	OS	
COMMERCIAL PARKING LOTS	812930					SS	SS	SS	PS		3.8.G
COMMERCIAL RECREATION, INDOOR					S		S	P	P		
COMMERCIAL RECREATION, OUTDOOR									P		
CONTRACTORS, EQUIPMENT & SUPPLY DEALERS & SERVICE	811310								P		
CONTRACTORS, HEAVY CONSTRUCTION; GRADING, PAVING, MARINE, ETC.	234										
CULTURAL ARTS CENTER, INCL. THEATERS, OFFICES, CLASSROOMS, ETC.					P	P	P	P	P		
DANCE STUDIOS	611610				P	P	P	P	P		
DAYCARE, ADULT AND CHILD	624120					SS	SS	PS	PS		3.8.H
DIVERS, COMMERCIAL							P	P	P		
DRY CLEANERS	812320				SS		PS	PS	PS		3.8.I
DRY STORAGE									PS		3.8.J
EDUCATIONAL FACILITY		S	S	S	S	P	P	P	P		
ELECTRONIC GAMING OPERATIONS									SS		3.8.K
EXTERMINATING SERVICES	561710						PS	P S	P		3.8.L
FARMERS'S MARKET	445230	SS			SS		SS	PS	PS	SS	3.8.M
FARM MACHINERY SALE AND SERVICE								S	P		
FEED, SEED, AND FERTILIZER SALES, RETAIL								S	P		
FISHING, COMMERCIAL	11411						P	P	P		
FLEA MARKET									SS		3.8.N

2. The eave projections of the roof shall not be less than 10 inches (excluding roof gutters) unless the roof pitch is 8/12 or greater.
3. The minimum height of the first story exterior wall must be at least 7 feet 6 inches.
4. The materials used in and the texture of the exterior must be compatible in composition, appearance, and durability to the materials commonly used in the exteriors of standard residential construction.
5. The modular home must be designed to require foundation supports around the perimeter. These may be in the form of piers, piers and curtain walls, piling foundations, perimeter walls, or another type of approved perimeter support.

3.8 NONRESIDENTIAL USE STANDARDS

A. ADULT ESTABLISHMENT

Where permitted, the following shall apply:

1. The sexually oriented business may not be located or operated 1,000 feet of:
 - a) A church, synagogue, or regular place of worship;
 - b) A public or private elementary or secondary school;
 - c) A public library;
 - d) A boundary of any residential district;
 - e) A publicly owned park, beach, beach access, or other recreation area or facility;
 - f) A licensed day care center;
 - g) An entertainment business that is oriented primarily towards children;
 - h) Another sexually oriented business.
2. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is to be conducted, to the nearest property line of the premises of any use listed in (1) above.
3. No more than one (1) adult or sexually oriented business establishment or massage business shall be located in the same building or structure or on the same lot. No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.
4. No person shall permit any viewing booth in an adult mini motion picture theater to be occupied by more than one (1) person at any time.
5. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
6. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing

they determine such limitation to be appropriate in order to protect, maintain or promote the general public health, safety and welfare.

5. The Board of Adjustment shall consider and may require any additional relevant time, place and manner conditions or restrictions as may be deemed appropriate for the location sought for due cause in order to protect, maintain or promote the general public health, safety and welfare. Such due cause shall be noted as a finding of fact and shall be included in the record of the final disposition of the application.

E. CHURCHES, SYNAGOGUES, & OTHER ASSOCIATED ACTIVITIES, INCLUDING OFFICES, ACTIVITY CENTER, ETC.

Where permitted, the following shall apply:

1. If a school is operated on-premises, parking needs may be satisfied by that already provided by the church. A school having an enrollment certification of 100 or more students shall be considered a separate use and approved as an educational facility. It shall be considered a separate principal use and may be allowed on the same lot so long as the school meets all applicable use, area, bulk, and setback requirements.
2. A single-family residential use, occupied by the pastor, priest, rabbi, and the like of the facility, may be placed on the lot containing the church/house of worship. The structure shall meet all setback requirements for single-family dwellings for the zoning district in which the lot is located. The structure may not be used for day care facilities.
3. If a day care center with an enrollment capacity in excess of 25 students is operated on-premises, the day care center shall be deemed a separate use and approved as such.

F. CLUB OR LODGE

Where permitted, the following shall apply:

1. Outdoor recreational facilities, with the exception of swimming pools, shall be located at least 20 feet from any side or rear lot line, except 50 feet shall be required if in or adjacent to a residential district. Rear and side yard setbacks for outdoor swimming pools shall be 50 feet each, unless adjacent to residential districts.
2. Outdoor swimming pools shall be at least 100 feet from any adjoining residential zoning district.
3. Hours of operation may be between 7:00 AM and 10:00 PM only, if located in a residential zoning district.

G. COMMERCIAL PARKING LOTS

Where permitted, the following shall apply:

1. Landscaping. A screen not less than six (6) feet high of dense plant material is required where lot abuts a residential lot. Plant material shall be of a type which

will grow to a height of six (6) feet within five (5) years following planting. Any additional buffering provisions subject to non-residential uses shall apply.

2. Signage. Proposed location of one (1) sign which may be no larger than 10 square feet; sign shall be freestanding and not higher than seven (7) feet above the ground. Two (2) incidental unlighted entrance and exit signs not exceeding two square feet each may be provided at each entrance and/or exit.

H. DAYCARE, ADULT AND CHILD

Where permitted, the following shall apply:

1. All outdoor play areas are to be surrounded by a fence or wall at least four (4) feet in height.
2. There shall be adequate road ingress and egress to and from the site.
3. Traffic generated by the facility shall not be disruptive to any adjacent residentially developed properties.
4. Outdoor play areas may be located in the rear yard or side yard only. If located in the side yard, a minimum side yard setback of ten feet shall be observed. On corner or through lots, a minimum 20-foot setback, as measured from the abutting street right-of-way line, shall be observed. Greater setbacks may be required if otherwise called for in the underlying zoning district.

I. DRY CLEANERS

Where permitted, the dry cleaner shall be limited to a customer pick-up station with 2,000 square feet or less of enclosed floor area. There shall be no on-site dry cleaning or washing of clothes.

J. DRY STORAGE

Where permitted, the following shall apply:

1. All storage areas shall be fenced with a minimum of an eight (8) foot opaque fence and screened with a Type A bufferyard along all property lines, including the front.
2. Dry storage facilities with 10 or more spaces shall provide a dustproof surface with adequate drainage facilities and must comply with the Parking Facility Landscaping requirements contained within this article. Dry storage facilities containing 25 or more spaces shall be paved with concrete, asphalt material, or with alternative paving material determined to exhibit equivalent water resistance and load bearing characteristics as asphalt or concrete.

K. ELECTRONIC GAMING OPERATIONS

Where permitted, the following shall apply:

1. Days/Hours of operation: businesses engaging in electronic gaming operations activities may operate from 8:00 am until 12:00 midnight each day, seven (7) days per week.

ARTICLE 8: DEFINITIONS AND MEASUREMENT

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from some agency when the circumstances warrant it, or the City may require that the certification be in the form of a letter or other document.

Change of Use. A lot, structure, or property where the zoning use has been modified or altered in accordance with the uses permitted in this ordinance.

Chemical Storage Facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Church or Place of Religious Worship. An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held in addition to other associated activities and offices.

Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

City. The City of Southport, North Carolina.

Clearing, Lot. Clearing means any activity which removes part or all of the vegetation and/or trees including, but not limited to, root mat removal and/or topsoil removal. Some vegetation and/or trees may remain on a lot that has been cleared.

Club or Lodge. An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities operated on a nonprofit basis for the exclusive benefit of its members, and recognized as a nonprofit organization by the State of North Carolina.

Coastal Barrier Resources System (CBRS). Undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

Commercial Parking Lot. Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

Commercial Recreation, Indoor. A commercial use that is typically indoors and that provides recreational, amusement, and entertainment opportunities. Examples include billiards, bowling, dinner theaters, fortune tellers, skating rinks, pickleball, and coin-operated games.

Commercial Recreation, Outdoor. A commercial facility that is typically outdoors and that provides entertainment, recreational, and amusement opportunities. Examples include water parks, mazes, and miniature golf.

Communications Tower. A tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed

machine dispensing fuel, compressed air, or water at an automobile service station; or a public telephone. Self-service ice vending machines shall not be included within this definition.

Overhead Canopy. Any structure placed over, around, or near a fuel pump island, drive-up bank teller facility, or similar use, and intended to provide lighting and/or protection from the elements for facility users.

Parking Area, Aisles. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking Lot. An open area, outside of the public right-of-way, for the storage of a vehicle or vehicles. The term “parking area” shall be included in this definition. Each parking lot shall have an approved means of ingress and egress.

Parking Space, Off-street. For the purpose of this ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. No required off- street parking shall be located on any public right-of-way.

Parks and Recreation Area, Municipal. Government established community parks and recreation areas.

Permanent resident. A person who resides year-round in the dwelling unit and has declared the dwelling as their permanent residence. Only one dwelling unit at a time may be identified as a permanent residence.

Permeable Paving. Any paving which, due to its inherent nature or construction, allows fluids and gases to penetrate through it in at least some areas.

Personal Property. Property owned, utilized, and maintained by an individual or members of his or her residence, and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Service Establishment. Use types related to the provision of services or product repair for consumers. Personal services use types meet frequent or recurrent service needs of a personal nature, including the repair of small personal items such as shoes, watches, jewelry, and clothing. Examples include banks, credit unions, print shops, massage therapy and day spas, gymnasiums, fitness centers, photography studios, photocopy services, barber/beauty shops, and tanning and nail salons.

Planned Unit Development (PUD). A development constructed, planned, and developed as an integral unit.

Planning Board. A commission appointed by the City Board of Aldermen and by the Brunswick County Board of Commissioners.



COURTESY LETTER / 1ST NOTICE OF VIOLATION

Case Number: 20254010

Yacht Basin Holdings II LLC
32520 Archdale
Chapel Hill, NC 27517-8396
April 9, 2025

The City of Southport, NC, Code Enforcement Inspector has reason to believe that your property located at **ID: 237LF001** may be in violation of the City of Southport Unified Development Ordinance. On **April 8, 2025**, the Code Enforcement Inspector observed the following violation(s): **Commercial Parking use in a R-10 Residential Zone at Parcel ID: 237LF001. UDO Article 3.5 Table 3.1 Table of Uses.**

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 1. If a cell in the table of uses is blank the use is prohibited in the corresponding zoning district.

See the attached Table.

As the owner/occupant of the property, **you have Ten (10) days to correct the violations**, or the City will take further steps to enforce the requirements of the Unified Development Ordinances, which may include levying a fine of \$100 per day and facing misdemeanor charges. Failure to comply with the requirements will also result in a civil penalty of \$25 per day. If the City determines that any of the violations constitute a public nuisance or threat to health and welfare, the City may also summarily abate the nuisance and bill you for the cost of abatement pursuant to the Southport Code of Ordinances.

To correct the violation, you must do the following: **Cease the use of Commercial Parking at Parcel ID: 237LF001.**

Please note that if any of the work described above requires Zoning, Building, and/or Demolition Permits, they must be obtained from the Southport Building Inspections office. All required inspections must be completed within the timeframe listed above.

If you have any questions, please do not hesitate to call me at (910) 363-7670 or email me at hpyles@cityofsouthport.com.

Sincerely,
Harlan Pyles
Code Enforcement Inspector

City of Southport
 Unified Development Ordinance (UDO)

Table 3.1: Table of Uses	Districts													Use Stand ard
	P = Permitted by Right; S = Special Use; PS or SS = Permitted or Special Use with a Use Standard													
Uses	ICS	R-10	R-20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
BUS TERMINALS AND RAILROAD STATIONS									P	P				
CHURCHES, SYNAGOGUES & OTHER ASSOC. ACTIVITIES, INCL. OFFICES, ACTIVITY CENTER, ETC.	813110	SS	SS	SS	SS	SS	SS	PS	PS	PS				3.8.E
CLUBS OR LODGE		SS	SS			SS		SS	PS	PS				3.8.F
COMMERCIAL PARKING LOTS	812930						SS	SS	SS	PS	SS			3.8.G
COMMERCIAL RECREATION, INDOOR						S		S	P	P				
COMMERCIAL RECREATION, OUTDOOR										P				
CONTRACTORS, EQUIPMENT & SUPPLY DEALERS & SERVICE	811310									P	P	P		
CONTRACTORS, HEAVY CONSTRUCTION; GRADING, PAVING, MARINE, ETC.	234										P	P		
CULTURAL ARTS CENTER, INCL. THEATERS, OFFICES, CLASSROOMS, ETC.						P	P	P	P	P				
DANCE STUDIOS	611610					P	P	P	P	P				
DAYCARE, ADULT AND CHILD	624120						SS	SS	PS	PS				3.8.H
DIVERS, COMMERCIAL								P	P	P	P	P		
DRY CLEANERS	812320					SS		PS	PS	PS				3.8.I
DRY STORAGE										PS	PS	PS		3.8.J
EDUCATIONAL FACILITY		S	S	S	S	S	P	P	P	P				
ELECTRONIC GAMING OPERATIONS										SS				3.8.K
EXTERMINATING SERVICES	561710							PS	P S	P	P	P		3.8.L



COURTESY LETTER / 1ST NOTICE OF VIOLATION

Case Number: 20254011

Yacht Basin Holdings II LLC
32520 Archdale
Chapel Hill, NC 27517-8396
April 9, 2025

The City of Southport, NC, Code Enforcement Inspector has reason to believe that your property located at **ID: 237LF002** may be in violation of the City of Southport Unified Development Ordinance. On **April 8, 2025**, the Code Enforcement Inspector observed the following violation(s): **Commercial Parking use in a R-10 Residential Zone at Parcel ID: 237LF002. UDO Article 3.5 Table 3.1 Table of Uses.**

3.5 TABLE OF PERMITTED AND SPECIAL USES A. USE TABLE

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To correct the violation, you must do the following: **Cease the use of Commercial Parking at Parcel ID: 237LF002.**

Please note that if any of the work described above requires Zoning, Building, and/or Demolition Permits, they must be obtained from the Southport Building Inspections office. All required inspections must be completed within the timeframe listed above.

If you have any questions, please do not hesitate to call me at (910) 363-7670 or email me at hpyles@cityofsouthport.com.

Sincerely,
Harlan Pyles
Code Enforcement Inspector

City of Southport
Unified Development Ordinance (UDO)

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Uses	ICS	R-10	R-20	M F	MH	PUD	O-I	CBD	BD	HC	LI	HI	O S	Section #
BUS TERMINALS AND RAILROAD STATIONS									P	P				
CHURCHES, SYNAGOGUES & OTHER ASSOC. ACTIVITIES, INCL. OFFICES, ACTIVITY CENTER, ETC.	813110	SS	SS	SS	SS	SS	SS	PS	PS	PS				3.8.E
CLUBS OR LODGE		SS	SS			SS		SS	PS	PS				3.8.F
COMMERCIAL PARKING LOTS	812930						SS	SS	SS	PS	SS			3.8.G
COMMERCIAL RECREATION, INDOOR						S		S	P	P				
COMMERCIAL RECREATION, OUTDOOR										P				
CONTRACTORS, EQUIPMENT & SUPPLY DEALERS & SERVICE	811310									P	P	P		
CONTRACTORS, HEAVY CONSTRUCTION; GRADING, PAVING, MARINE, ETC.	234										P	P		
CULTURAL ARTS CENTER, INCL. THEATERS, OFFICES, CLASSROOMS, ETC.						P	P	P	P	P				
DANCE STUDIOS	611610					P	P	P	P	P				
DAYCARE, ADULT AND CHILD	624120						SS	SS	PS	PS				3.8.H
DIVERS, COMMERCIAL								P	P	P	P	P		
DRY CLEANERS	812320					SS		PS	PS	PS				3.8.I
DRY STORAGE										PS	PS	PS		3.8.J
EDUCATIONAL FACILITY		S	S	S	S	S	P	P	P	P				
ELECTRONIC GAMING OPERATIONS										SS				3.8.K
EXTERMINATING SERVICES	561710							PS	P S	P	P	P		3.8.L

Brady Herman

From: Nicholas Herman
Sent: Friday, May 9, 2025 6:08 PM
To: Brady Herman
Subject: Fwd: Firm Clients// James and Bridget Chirico
Attachments: 25-04-09 Ltrs to YBHII re Parking Violations.pdf; Perpetual Easement Agrmt for Shore Line Improvement.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Sent from my iPhone

Begin forwarded message:

From: Jennifer Carpenter <jennifer@ggrlawoffice.com>
Date: May 9, 2025 at 5:45:35 PM EDT
To: Nicholas Herman <herman@broughlawfirm.com>
Subject: Firm Clients// James and Bridget Chirico

[EXTERNAL Sender]

Brady,

This firm has been retained to represent James and Bridget Chirico and their businesses, Yacht Basin Holdings I, LLC and Yacht Basin Holdings II, LLC regarding certain properties in the City of Southport (“City”), including without limitation, Parcel Nos. 237LF001; 237LF002; and 237LF007. I write to you for a few reasons.

First, I have become aware of certain aggressive and inappropriate interactions between City officials, wherein City officials showed up uninvited *at my clients’ home and/or business* and demanded my clients’ consent and signatures on legal documents, one of which involved my clients granting the City an easement on the 237LF007 lot for the City’s shoreline restoration project. This type of behavior is unacceptable and will not be tolerated. All future correspondence from the City to my clients should be directed to this office and me.

Second, my clients received two letters regarding the 237LF001 and 237LF002 properties, alleging violations of a City ordinance regulating commercial parking on those lots. The allegations were and are false. My clients were cited at the direction of City officials in retaliation for my clients’ decision not to sign the easement agreement referenced above. If the City refuses to immediately withdraw the letters, this email serves as our notice of appeal.

Finally, there are other City violations of my clients' property rights that are ongoing. I will be back in touch once I have had a chance to review documents and gain more clarity on these additional issues.

The letters and the proposed easement agreement are attached for your ready reference.

Thank you,
Jennifer

Jennifer L. Carpenter
Partner
Law Offices of G. Grady Richardson, Jr., P.C.
1908 Eastwood Road, Suite 224
Wilmington, NC 28403
Phone: 910-509-7166
Fax: 910-509-7167
Email: jennifer@ggrlawoffice.com

City of Southport Board of Adjustment Regular Meeting Schedule for 2026

January 27, 2026*

February 24, 2026*

March 24, 2026*

April 28, 2026*

May 26, 2026

June 23, 2026

July 28, 2026

August 25, 2026

September 22, 2026

October 27, 2026

November 24, 2026

December 22, 2026

The regular monthly meetings of the Board of Adjustment will be held at 4:30 p.m. on the fourth Tuesday of each month at the Indian Trail Meeting Hall, 113 W Moore St., Southport NC. Please note for those dates with an (*), meetings will be held at the Southport Community Building, 223 E. Bay Street, Southport NC, unless otherwise specified by Public Notice.

If you have any questions, please contact City Clerk, Tori Deviney, at (910) 457-7900 Ext 1009 or tdeviney@cityofsouthport.com