



**CITY OF SOUTHPORT
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
SOUTHPORT COMMUNITY BUILDING
223 E BAY ST
February 24, 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 The Agenda**
- D. Approval of Minutes**
 - 1. Approval of January 27, 2026, Board of Adjustment Regular Meeting Minutes
- E. Explanation of Quasi-Judicial Process**
- F. Explanation of Proceedings**
- G. New Business**
 - 1. SUP-26-01 – Accessory Dwelling Unit 306 W Moore Street
 - 2. SUP-26-03 – Accessory Dwelling Unit 508 Brunswick Street
 - 3. AP-25-05 – Administrative Appeal 410 E Bay Street
- H. Old Business**
- I. Other Business**
- J. Adjourn**



**CITY OF SOUTHPORT
BOARD OF ADJUSTMENT
REGULAR MEETING
223 E BAY ST SOUTHPORT, NC 28461
January 27, 2026, 4:30 PM
Minutes**

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

Staff Present: Ray DiGiuseppe, Board of Adjustment Attorney; Brady Herman, City Attorney; Maureen Meehan, Planning Services Director; Wendell Biddle, City Planner; ChyAnn Ketchum, Public Information Officer; Scott Baillargeon, Deputy City Clerk

Board Liaison: Alderman Mark Spencer

Absent: Harley Lemons; Derek Mabe, City Code Enforcement

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. Allen and seconded by Mr. Robbins to remove Item AP-25-05 410 E Bay St Administrative Appeal from the agenda and continue the hearing until a later date.

The motion carries unanimously

D. Approval of Minutes

1. September 8, 2025, Board of Adjustment Meeting Minutes

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the September 8, 2025, Board of Adjustment Meeting Minutes.

The motion carries unanimously

2. December 4, 2025, Board of Adjustment Meeting Minutes

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the September 8, 2025, Board of Adjustment Meeting Minutes.

The motion carries unanimously

E. Explanation of Quasi-Judicial Process

Chair Haislip spoke to the Rules of Procedure concerning Ex Parte communication and shared the proceedings of the Quasi-Judicial Process.

F. New Business

1. SUP-26-02 – 109 S Atlantic Ave

Chair Haislip introduced the Special Use Permit and spoke to the item and asked City Planner Biddle to present the Item.

Chair Haislip swears in City Planner Biddle

City Planner Biddle introduced Rich Bandera, representing the property owner, Mrs. Lucia Lindsey, regarding an application for a Special Use Permit (SUP) for a detached Accessory Dwelling Unit (ADU) at 109 S. Atlantic Street; City Planner Biddle reviewed the required findings and presented photographs and aerial images of the property and surrounding structures; the parcel is zoned R-10 residential and contains an existing single-family home; the proposed ADU would be located above a detached garage measuring 22' x 24', totaling 528 square feet; and the structure meets the minimum side and rear setback requirements of five feet; and noted that the ADU is under 800 square feet, and stormwater mitigation requirements are not triggered.

Chair Haislip inquired about the adjacent property and stated that it is his residence; and noted that he had not communicated with the Lindsays regarding the application; and discussed setback requirements and asked whether the existing structure complies with those regulations.

City Planner Biddle stated that although the existing structure was originally planned for demolition, the property owners have decided to retain it for storage; and shared the dimensions of that structure; and noted that its setbacks were established prior to the adoption of current setback regulations.

Mr. Allen asked about the smaller shed behind the larger shed, a lean-to, and if it was to be demolished as well.

City Planner Biddle noted that after reviewing the Staff Report, the property owner had decided to keep that structure as well; and shared details about the structure including its location and dimensions in relation to the proposed ADU.

Chair Haislip asked if the existing structure was compliant with setback rules; and noted that the original documents had shown it to be demolished.

City Planner Biddle stated that staff worked with the applicant to ensure the structure would remain; and reviewed details of the proposed ADU located above the garage, including setback compliance, and discussed site plans showing the ADU's relationship to existing structures on the property; and provided additional details regarding the structure and its intended use.

Mr. Robbins sought clarification on the placement of the garage doors.

City Planner Biddle provided the location of the garage doors; and spoke to the living space; and the ADU's orientation relative to the principal residential structure; and shared the height of the ADU at 25'.

Mr. Robbins sought clarification concerning the height of the ADU relative to the overall height of the house.

City Planner Biddle noted that the main house exceeds 25 feet in height; and reviewed the specific use standards associated with the ADU, listing them for the Board's clarification and confirming that the ADU meets all applicable standards:

1. An accessory dwelling (ADU) 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 for a single-family dwelling unit. The primary structure is an existing single-family residence on S. Atlantic Avenue.

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

There are no other ADU's on the property.

4. The ADU shall be owned by the same person as the principal residential structure.

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

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

The primary residence is served by a driveway from S. Atlantic Avenue, and so will the ADU.

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

Parking space will be available on the proposed driveway.

7. The ADU shall not exceed 800 square feet.

The proposed ADU is 528 square feet.

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 ADU is detached and less than 530 square feet.

Mr. Robbins asked Mr. Biddle to return to the site plan image and walk through parking as it applies to the additional ADU; and if there was a swing arm in the lot that would need to be added to access the ADU from the road.

City Planner Biddle spoke to parking; and shared that the residence would have gravel access to the garage; and that a swing arm was not required for the driveway as it was sizable.

Mr. Masker asked to see the existing driveway and if one of the Specific Uses requires a driveway serving the principal residential structure; and if one of the eight conditions conflicts with having a driveway.

City Planner Biddle noted that there is no existing driveway on the property; and explained that the driveway would serve both the principal residence and the proposed ADU, as separate driveways for the ADU are not permitted under the rules.

Chair Haislip noted the lack of assigned parking in that area; and shared that most of the available parking areas are relegated to street parking; and that the design of the ADU and its added parking accommodations were a great solution to off-street parking.

Mr. Robbins asked about the material used for the driveway; and asked if the property was in a flood zone.

City Planner Biddle shared that 57 Stone—a type of crushed aggregate commonly used in construction and landscaping—would be the material used for the driveway; and noted that the stone provides stormwater relief; and that the property was not located in a flood zone.

Mr. Ross asked about how many residents have a driveway off S Atlantic.

City Planner Biddle shared that he did not have the exact number but spoke to what he could provide.

City Planner Biddle concluded his presentation and asked the Board for additional questions and shared that the property owner was present to address any further questions.

Chair Haislip swore in Mr. Bandera, 109 S Atlantic St.

Mr. Bandera apologized for not having the survey regarding the decision to retain the existing structures; and discussed the net increase in impervious surface, noting the ADU adds 608 square feet, which is below the 800-square-foot threshold that would trigger stormwater requirements; and also shared information about parking; and confirmed the ADU remains under the 25-foot height limit; and noted that permitting for the garage has been filed.

Chair Haislip asked the Board if there were any questions for Mr. Bandera, there being none, Chair Haislip closed the public hearing.

Mr. Masker stated that if the Board chose to accept the criteria and approve the submittal, he would like to have assurances that the Board was not endorsing the existing violations of setbacks.

City Planner Biddle shared clarification on the issue; and noted that the Board is not encroaching on legal nonconformity; and shared the approval is for a brand-new detached garage which is within the rules.

Chair Haislip asked if in the case the ADU was demolished, would the property owner need to rebuild in the footprint, and if there were time limits that would need to be followed to remain in compliance with updated setback laws.

City Planner Biddle shared that the owner would have 180 days to rebuild in the footprint to maintain the current setback or come into complete compliance within the setback requirements stipulated in the Unified Development Ordinance (UDO).

Chair Haislip asked the Board for additional questions, there being none he asked for a motion.

Mr. Allen read 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: Increased safety to provide off-street parking and meets the requirements of the UDO.

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the findings of fact and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously

Mr. Robbins read Motion 2:

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

Finding of Fact: No outstanding points unfulfilled in the UDO.

A motion was made by Mr. Robbins and seconded by Mr. Eckert to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

YAYS: 5

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The motion carries unanimously

Mr. Allen read Motion 3:

The motion for the use **will not** adversely affect the use of physical attributes of joining or abutting properties or finding of fact the additional square footage is only on the second level and entrance and is located on the side of the structure towards the existing property.

Finding of Fact: The new accessory structure has 5' setbacks and the height is below the maximum limit permitted by the UDO.

A motion was made by Mr. Allen and seconded by Mr. Eckert to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. Allen read 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: Meets all UDO requirements relative to the footprint.

A motion was made by Mr. Allen and seconded by Mr. Robbins to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. read 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 dwelling cannot be rented separately from the main structure.

A motion was made by Mr. Ross and seconded by Mr. Allen to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. Masker noted that City Planner Biddle would need to revise the plans to show the existing structures will not be demolished, and the ADU is in addition to those existing structures.

City Planner Biddle shared that he would make the necessary corrections.

Chair Haislip asked if a motion was required to address the rental of the ADU.

A motion was made by Mr. Robbins and seconded by Mr. Allen on a second condition that the Accessory Dwelling Unit cannot be rented separately from the remainder of the property.

The motion carries unanimously

Chair Haislip noted that Staff would have the approval letter out to the property owner and asked if anyone else would like a copy.

2. AP-25-05 – 410 E Bay St Administrative Appeal

Continued

3. AP-25-04 – S Caswell and W Bay Street

Chair Haislip introduced next item of an appeal of an administrative decision; and introduced Jennifer Carpenter, Appellant Attorney, who represents the owners, the Chiricos; and noted that he would have Planning Services Director Meehan speak first to introduce the item before the Board.

Chair Haislip swore in Planning Services Director Maureen Meehan

Planning Services Director Meehan outlined the appeal concerning an administrative decision by Code Enforcement Officer Harlan Pyles; and shared the issue involved the use of an R10 residentially zoned parcel for commercial parking, which is not permitted; and stated that a Notice of Violation was issued on April 9, 2025, under Section 3.5.1, Table 3.1 of the UDO, with remedies requiring the cessation of parking on the lot; and provided context on the history of parking in the Yacht Basin area, noting that events such as the Wooden Boat Show have increased parking demand; and shared aerial photographs of the area.

Mr. Masker asked Ms. Meehan to return to a zoning map and asked about zoning in the parcels adjacent to the lots in question.

Planning Services Director Meehan provided additional background on the subject lots, noting she would address them later in her presentation; and discussed parking changes in the area over the past five years, showing a 2025 photograph of the lots that had become parking areas; and explained that the Yacht Basin Overlay and Committee were formed to allow parking on residentially zoned properties, but the initiative did not succeed; and referenced the 2022 Yacht Basin Mobility Study, 2023 Downtown Parking Study, and other studies aimed at increasing parking; and noted that after the adoption of the comprehensive plan, the Planning Board formed a committee in 2024 to address parking, working with property owners to establish commercial parking and shared that Mr. Chirico declined to participate; and introduced Exhibit 3 in the Agenda Packet, including adopted UDO text amendments, zoning map overlay properties, and minutes from the Board of Aldermen's public hearing on the Yacht Basin Overlay UDO text amendment.

Mr. Eckert asked whether the Yacht Basin Overlay was still in effect and if any other property owners had opted out of the Overlay.

Chair Haislip asked, prior to the adoption of the Overlay, whether parking was still legal in the Yacht Basin.

Planning Services Director Meehan confirmed that the Yacht Basin Overlay is still in effect and that no other property owners had exited; and noted that parking in the Yacht Basin is legal only within the Business District; referring to Exhibit 3, she stated that Staff issued a Notice of Violation on April 9, 2025, citing a violation of Section 3.5 for allowing commercial parking on residential parcels; and discussed abatement options, including waiving application fees for a zoning change from residential to commercial; and concluded that the

applicant permitted public parking on their property, constituting a UDO violation, and requested that the Board reaffirm the April 9, 2025, Notice of Violation, ordering the applicants to cease commercial parking on parcels 237LF001 & 237LF002, which are zoned residential.

Mr. Eckert asked if it was the City's position to have the parcels used for parking.

Planning Services Director Meehan shared that the City does not have an issue with the parcels being used for public parking; however, noted that the UDO requires it to be legally established under the stipulation of the ordinance.

Mr. Ross sought clarification about the zoning map presented and some of its features; and if the properties that were shown with cross-hatching, situated on the corner of W Moore St and S Caswell Ave of the map, still existed as R10 residential; and asked for the date the Overlay was adopted; and if prior to the amendment was parking allowed in the area.

Planning Services Director Meehan spoke to the properties still zoned R10 residential; and to what was allowed under an R10 zoning; and noted that the Overlay was adopted in February 2025, and that one of the parcels was being used as a parking area, and the other would like to be used for parking; and clarified that the parking lot used for the Fishy Fishy restaurant was zoned commercial for parking.

Mr. Eckert asked that when the property owners received the Notice of Violation, was signage posted at the location that indicated public parking.

Planning Services Director Meehan shared that signage was not posted but noted that it was being used for parking.

Mr. Ross asked whether the area under discussion was related to questions raised by the owner of the Frying Pan restaurant.

Planning Services Director Meehan shared that it was the same case; and noted that wooden borders and 57 stone were to be laid per the guidelines of the Overlay.

Chair Haislip asked what would prevent parking on the R10 zoned property, and if there was a gate or signage in place.

Planning Services Director Meehan shared that chains to bar entrance were erected in addition to private parking signs; and noted that the City had asked the owners to prohibit parking on the parcel.

Mr. Eckert expressed concern about the process to allow parking on R10 zoned property; and sought clarification for what was being asked of the Board and if they were being asked to rezone the property.

Chair Haislip shared that the Board must call a motion and vote on whether to affirm or not affirm the Administrative Appeal.

Mr. Robbins stated that it would be in the Board's best interest to review both sides' arguments for additional context; and clarified the legal basis regarding commercial parking on R10 residential property; and noted that while the Board could amend the zoning or enforce the rules, failing to do either could create further substantive issues.

Mr. Eckert agreed that the Board should hear from both sides to obtain a clear understanding of the issues; and noted that the first appeal was considered circumstantial.

Planning Services Director Meehan concluded her presentation.

Chair Haislip asked if there were any further questions for staff.

City Attorney Herman noted that the City was not at this point ready to call for direct testimony.

Appellant Attorney Carpenter objected to the additional documentation that was provided by Ms. Meehan concerning Exhibit 3.

City Attorney Herman stated that all materials had been provided to opposing counsel prior to the hearing; and clarified that the PowerPoint presentation, staff reports, and all City exhibits, including Exhibit 3, were to be entered into the record; and also noted that Ms. Carpenter was being given the opportunity to present an opening statement to the Board.

Appellant Attorney Carpenter provided an opening statement on behalf of Yacht Basins Holdings LLC; and stated that the appeal did not concern overlay zoning or rezoning issues but rather challenged the Notices of Violation issued to the Chirico's on April 9, 2025, regarding alleged commercial parking lot use; and noted that the Notices were included in the agenda packets; and argued they should be dismissed for failure to comply with the UDO and City ordinances; and questioned whether the Notices constituted a final

determination; and further asserted that the Staff determination was vague and lacked required specificity; and noted that the Staff presentation did not include photographs from the date the violations were issued and stated that evidence would show no vehicles were parked on her client's lot at that time.

City Attorney Herman stated that the Notices of Violation are part of the official record and should not be excluded from the evidence; and noted that the Notices were issued and distributed approximately nine months prior to the hearing; and asserted that any legal deficiencies should have been raised earlier; and concluded that the Notices should remain part of the record and not be dismissed.

Chair Haislip sought advice from Board Attorney DiGiuseppe.

Board Attorney DiGiuseppe suggested going forward with the hearing and accepting the testimony to allow both sides to speak on the matter.

Chair Haislip asked the Board for additional questions.

Mr. Robbins sought clarification concerning the final Notice of Violation and when and how it was issued; and if a Staff decision can be made regarding them.

Planning Services Director Meehan stated that no final Notice of Violation has been issued since the initial appeal; and noted that any Staff decision is subject to appeal.

Mr. Robbins asked Mr. Herman if the decision had been transmitted.

City Attorney Herman shared that it had been transmitted, but expressed concern about discussing the matter.

Mr. Robbins stated that the purpose of reviewing the process was to determine whether a violation occurred and whether action was necessary; and emphasized the importance of ensuring that standards were applied correctly; and noted that the process was already underway, and questioned how the Board could make a determination without formal findings; and also sought clarification on whether the appeal pertained to the initial Notice of Violation rather than a final notice.

City Attorney Herman shared that he did not review the letter and cannot speak to a first and last letter issued.

Board Attorney DiGiuseppe stated his objectivity regarding the matter and explained that the letter was treated as an administrative action that could impose an adverse consequence on the property owners if challenged; and emphasized that his role was to provide a recommendation to the Board on how to proceed—or not proceed—given the procedural question raised by the Appellant.

Appellant Attorney Carpenter addressed two points raised by opposing counsel and clarified that under NC GS 160D, only final Staff determinations may be appealed, and that the appeal was filed to preserve the property owners' rights, not to contest how the Notice was treated or whether it was a final determination; and asked the Board to review the City Ordinance regarding the specific information required in a Notice of Violation; and emphasized that the Appellant's right to appeal is clearly established; and also cited a recent court decision stating that violation language must be specific and include remedies; and asserted that Staff's presentation provided no evidence that a violation occurred on April 8, 2025, the date of the alleged violation.

City Attorney Herman read the ordinance UDO 2.1.5 Subsection 2:

“The final written notice and the initial written notice may be the final notice and shall state what action the administration needs to take if the violation is not corrected and shall advise that the administrative decision or order may be appealed as the Board of Adjustment.”

and noted that the Appellant was issued the Notice approximately nine and a half months ago and that any due process concerns should have been raised at the first hearing; and further stated that the Notice language was clear, outlining that the Appellant was using R-10 residential property for commercial purposes, which is prohibited in that zoning district.

Board Attorney DiGiuseppe addressed Mr. Herman's point regarding the waiver of arguments; and referenced the email on page 123 of the agenda packet, noting its content and language; and clarified that the issue before the Board was whether to dismiss the Notices of Violation; and emphasized that arguments previously dismissed cannot be reconsidered; and affirmed Herman's point that if a dismissed argument had merit, it would not serve as a basis to continue pursuing the position.

Appellant Attorney Carpenter noted that the case could be brought before the Court of Appeals.

Chair Haislip stated that the Board's decision is whether to proceed based on the information presented by City Attorney Herman and Appellant Attorney Carpenter, emphasizing that the Board considers the entirety of the case.

Mr. Robbins agreed, noting that hearing the full case is necessary to make an informed decision and to clarify whether the Notice of Violation constituted a final notice.

Mr. Allen added that the UDO allows the first notice to serve as the final notice at the administrator's discretion.

City Attorney Herman restated the UDO language for clarification.

Appellant Attorney Carpenter argued that the full text of the UDO had not been considered; and requested that the Board invalidate the Notices of Violation and read the complete UDO passage, noting that it was not included in the notice; and further stated that Ms. Meehan did not clarify that the notice constituted a final notice.

Mr. Robbins restated Ms. Carpenter's point for clarification; and asked for confirmation that he understood the Appellant's request correctly.

Appellant Attorney Carpenter affirmed that Mr. Robbins correctly understood the request; and referenced the first paragraph of the Notice of Violation, noting that the language did not state that a violation had been committed and did not meet the requirements set forth in the UDO; and emphasized that the basis of her argument is that the Notice of Violation is insufficient.

Mr. Allen spoke to the UDO requirement; and noted that the code enforcement officer need only have a "reason to believe" that a property is in violation.

Mr. Robbins sought clarification, noting that the Appellant's request appeared to be for the Notices of Violation to be rescinded; and further stated that the City could still investigate the matter by following UDO procedures and asked Ms. Carpenter to confirm whether his understanding was accurate.

Appellant Attorney Carpenter confirmed that Mr. Robbins' understanding was correct and reflected the Appellant's request; and clarified that she would not direct Staff in their processes but noted there was little reason to hear the full case, as any Board decision could be appealed; and stated that the Court of Appeals would review the Notices of Violation to ensure compliance with City ordinance; and expressed concern that an adverse decision could be appealed.

Mr. Allen expressed concern and asked Ms. Carpenter to refrain from using language he perceived as threatening toward the Board of Adjustment.

Mr. Robbins asked if the Board found the Notices of Violation needed to be withdrawn, would the Appellants find the decision satisfactory.

Appellant Attorney Carpenter shared that her clients would find no contention with that decision; and asked the Board to consider a motion to dismiss both Notices of Violation; and shared that the goal was to find a way forward without pursuing litigation; and asked Mr. Herman to share his perspective on the situation to avoid further litigation on the matter.

Mr. Allen asked to have the Appellant's claim restated for clarification; noting that the claim, as it is understood, is that the lot is not being used as a commercial parking lot.

Appellant Attorney Carpenter shared that the Appellant's are not testifying; and noted that the issue is more to do with the way Staff have defined a commercial parking lot; and stated that the property has not been used as a commercial parking lot.

Mr. Robbins asked whether commercial parking was being provided in the lot.

Appellant Attorney Carpenter confirmed that the Appellant is not in violation of the commercial parking lot ordinance.

Mr. Robbins shared that he understood the claim; and noted that parking only appears to be occurring on the lot; and noted that the City does not particularly object to parking on the lot, but the need to satisfy the City ordinance is to have the property rezoned from residential to commercial to ensure the rule in the UDO is followed.

Appellant Attorney Carpenter noted that, according to the Staff presentation, parking had been allowed by the City on all four residentially zoned lots for years; and stated that making such parking legally acceptable would need to be addressed separately and emphasized that the matter before the Board tonight was limited to the Notices of Violation.

Mr. Robbins noted that the hearing is not a workshop for resolving arguments; and added that if the Notices of Violation were withdrawn, City Staff and the Appellants could meet separately to discuss a way forward.

Appellant Attorney Carpenter expressed hope that Staff and the Appellants could work together; and noted that to proceed, the Board needs to address the Notices of Violation outstanding at this time.

Mr. Robbins asked the City Attorney if he would like to add anything further.

City Attorney Herman agreed with Appellant Attorney Carpenter and noted that further unpacking testimony would unnecessarily consume time; and asked the Board to make a ruling to either withdraw or uphold the Notices of Violation; and referenced the UDO, noting that its procedures are consistent with other municipalities and include all required elements; and emphasized that the violation was issued because the residential lot was being used for commercial parking.

Board Attorney DiGiuseppe clarified that he was not advocating for a particular outcome but providing a recommendation on how the Board could proceed; and addressed whether the Notices of Violation constituted a final notice, explaining the process for a Code Enforcement Officer to certify delivery to the City Clerk, with the certificate deemed conclusive in the absence of fraud; and noted that if these steps are followed, the Notices can be considered final; and also confirmed that the Appellant's appeal rights and timeframes were provided, as evidenced by their attendance at the hearing; and acknowledged that the technical elements of the Notices of Violation were present, noting a technical defect in the language, and emphasized that the decision ultimately rests with the Board.

City Attorney Herman addressed a paragraph previously read by Mr. DiGiuseppe, highlighting the last sentence of the UDO (2.1.5, Subsection C.1): "Additional written notices may be sent at the UDO Administrator's discretion." And noted that, regardless of the title of the letter, the Notices of Violation can serve as the final notice.

Chair Haislip asked if there were any more questions.

Mr. Robbins expressed concern that the matter should have been resolved without a hearing; and proposed motion language to void the two Notices of Violation under appeal, with the stipulation that future notices comply more thoroughly with procedural requirements.

Mr. Eckert sought clarification that the proposed motion was intended to reverse the Notices of Violation.

Mr. Robbins noted that if the Board votes to void the Notices of Violation, the related appeal would also be nullified; and sought clarification on the UDO

Administrator's role in determining whether the Notices of Violation constitute a final notice.

Chair Haislip asked Mr. DiGiuseppe to explain the impact on the case if the Board voted to void the Notices of Violation.

Mr. Allen asked what the legal implications would be moving forward.

Board Attorney DiGiuseppe explained that a pending appeal was being treated as an adverse administrative action; and stated that the Board must take one of three actions: affirm, reverse, or modify; and discussed the merits and potential outcomes of each option; and noted that reversing the Notices of Violation would effectively end the appeal.

Mr. Robbins sought clarification, that if no finding exists, that the parking does not exist, how might the Board move forward.

Mr. DiGiuseppe noted that since there is a determination that the UDO was not complied with among the Code Enforcement Officer, UDO Administrator, and City Staff, the steps that were taken were not in compliance with the UDO and delivered an invalid process; and expressed concern that the Board could vacate the entire proceedings alone.

Mr. Robbins asked if the proceedings could be continued for additional resolution to take place.

Appellant Attorney Carpenter shared that she could clarify what her clients were asking for; and noted that if a motion is passed then the appeal becomes moot.

Mr. Robbins asked if the City could withdraw the Notices of Violation based on insufficiency.

Board Attorney DiGiuseppe stated that if the Board finds the City Code Enforcement Officer's findings ineffective or that no findings were made, the Board could deem the Notices of Violation inoperative; and noted that the Board of Adjustment has the authority to act in the role of the Code Enforcement Officer to vacate the prior action.

Mr. Robbins asked how that might be worded in a motion.

Board Attorney DiGiuseppe shared that to render the Notices of Violation as inoperative and ineffective along with the actions of the Code Enforcement Officer would render the Notices of Violation and the appeal moot.

Mr. Robbins asked whether the Board's action could be considered prejudiced or an implied finding regarding the facts in issue.

Board Attorney DiGiuseppe responded that the Board could clarify in its findings that no determinations were being made on the merits of any future Notices of Violation.

Chair Haislip sought clarification for future violations, and whether it prevented the City from pursuing future violations on the same property; and inquired if notice could be provided again after appropriate notifications.

Board Attorney DiGiuseppe shared that it should be specified in the Board action; and noted that the Board should act to render the Notices of Violation inoperative and ineffective for the dates they were issued as they were constituted without prejudice to the City and the Code Enforcement Officer to take any future action; and asked City Attorney Herman for additional comments.

City Attorney Herman stated that he did not want to strengthen opposing counsel's argument if an appeal were filed and the Board deemed the action timely; and provided an analogy to clarify the situation and emphasized that reversing the Notices of Violation would overlook the substantive issue; and cautioned the Board against creating a situation requiring them to revisit the same case within ninety days.

Board Attorney DiGiuseppe spoke to the Board's decision in the case of choosing not to dismiss the Notices of Violation based on procedural grounds; the impact the time periods have on the substantive findings as the notices refer to specific dates; and spoke about the processes included in City policy that would allow the City to issue a future violation.

Chair Haislip sought clarification that reversing the Notices of Violation would not prevent the City from pursuing future violations on the property.

Board Attorney DiGiuseppe stated that that assertion was correct.

Mr. Robbins shared that he wished to rescind any motion that he had previously suggested.

Mr. Masker presented language to draft a motion.

Board Attorney DiGiuseppe elaborated on specific language in the record that the Board should consider when making its decision.

Mr. Ross asked why the Board seemed to be delaying a decision.

Chair Haislip clarified that no vote had been taken and that the Board was only discussing the matter before them.

Board Attorney DiGuiseppe noted that pursuing the issue without resolution could become cyclical and emphasized that it was ultimately the Board's decision to consider.

Mr. Robbins shared that the matter before the Board was to determine to withdraw the Notices of Violation.

Mr. Allen asked if it was possible to table a decision for thirty days, so the City could issue a final notice.

Board Attorney DiGuiseppe shared that he did not believe the Board could table it properly; and emphasized caution and to avoid attempting to perfect the Notices of Violation into a final notice; and that the language outlined in the UDO provides sufficiently for the Notices of Violation that were issued as a final notice.

Chair Haislip noted that if the Board feels proper procedure was not followed, that the Board should make a motion and act at this time.

Mr. Ross asked what the owner's plan for the lot might be.

Appellant Attorney Carpenter shared that that was not being considered today.

Chair Haislip noted that Mr. Masker had proposed motion language that aligned with Board Attorney DiGiuseppe's recommendations and asked the Board to give it careful consideration.

City Attorney Herman noted that if the Board is leaning to withdraw the Notices of Violations that it considers including specific language so that when the appeal is brought back before the Board it will be understood what should be expected; and spoke to Board Attorney DiGuiseppe's point that the first notice can be the final notice per the language outlined in the UDO.

Mr. Masker expressed agreement with what was stated by Mr. Herman; and noted the need to focus on the Notices of Violations as the only point to act on.

Board Attorney DiGiuseppe emphasized that the motion include specific stipulations that illustrate that no determination was being made on the merits of the Notice of Violation, but the procedural issue; and shared that any finding of inoperability does not prejudice the City, or the code enforcement officer, from pursuing another Notice of Violation for the same or related basis.

A motion was made by Mr. Robbins seconded by Mr. Ross to render the two Notices of Violation inoperative dated April 9, 2025, one regarding Case Number 202540010 applicable to Parcel ID 237LF001, and the other related to Parcel ID 202540011 applicable to property 237LF002 and that by rendering those notices inoperable, this Board in no way makes a finding related to the actual matters raised in the Notices of Violation, and is limited to the procedural deficiencies the Board finds in the Notices of Violation specifically that they do not meet the requirements for such notices outlined in the Unified Development Ordinance.

YAY 5

NAY 1 Mr. Allen

The motion carries

Board Attorney DiGiuseppe stated that the motion renders the appeal moot; and noted that the record should reflect that the Board does not need to take further action on the appeal.

A motion was made by Mr. Allen seconded by Mr. Robbins stating that the Board does not need to take further action on this appeal because of the previous motion and it would be a moot point to do so.

The motion carries unanimously

Discussion ensued concerning the motion and its determinations; and the possibility of the case being returned for a future appeal.

Chair Haislip asks if there were any more questions or concerns that need address, there being none, the Chair closed hearing.

G. Other Business

1. 2026 Board of Adjustment Annual Regular Meeting Schedule

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the Annual Meeting Schedule with revisions.

The motion carries unanimously

2. Discussion Concerning Rules of Procedure on Agenda Prep Time and Dispersal

Planning Services Director Maureen Meehan spoke to the item and shared that the Planning Department would accommodate the Board's needs for receiving the agenda packet earlier.

The Board agreed to have the agenda packet delivered one week before the meeting.

H. Adjourn

Chair Haislip asked for a motion to adjourn.

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

The motion carries unanimously

The meeting adjourned at 6:45 p.m.

X

Pete Haislip
Chair

X

Scott Baillargeon
Deputy Clerk

**STAFF REPORT FOR
SPECIAL USE APPLICATION – ACCESSORY DWELLING UNIT**

APPLICATION SUMMARY	
Hearing Date	February 24, 2026 Board of Adjustment
Applicant	Solstice Builders LLC Inc.
Property Owner	Scott Fitzgerald
Property Address	316 W. Moore Street
Parcel ID:	237LE047
Parcel Acreage	0.19 Acres
Zoning District	R-10

SPECIAL USE PROPOSAL

Solstice Builders LLC, Inc, applicant, is requesting a Special Use Permit to construct an Accessory Dwelling Unit (ADU) on behalf of Mr. Scott Fitzgerald, property owner.

PROPERTY LOCATION AND DESCRIPTION

The subject property is located at 316 W. Moore Street and can be further identified by Brunswick County Parcel ID 237LE047. This is a .19-acre site located within a residential, R-10, district in the City of Southport.



Aerial Imagery of Subject Property

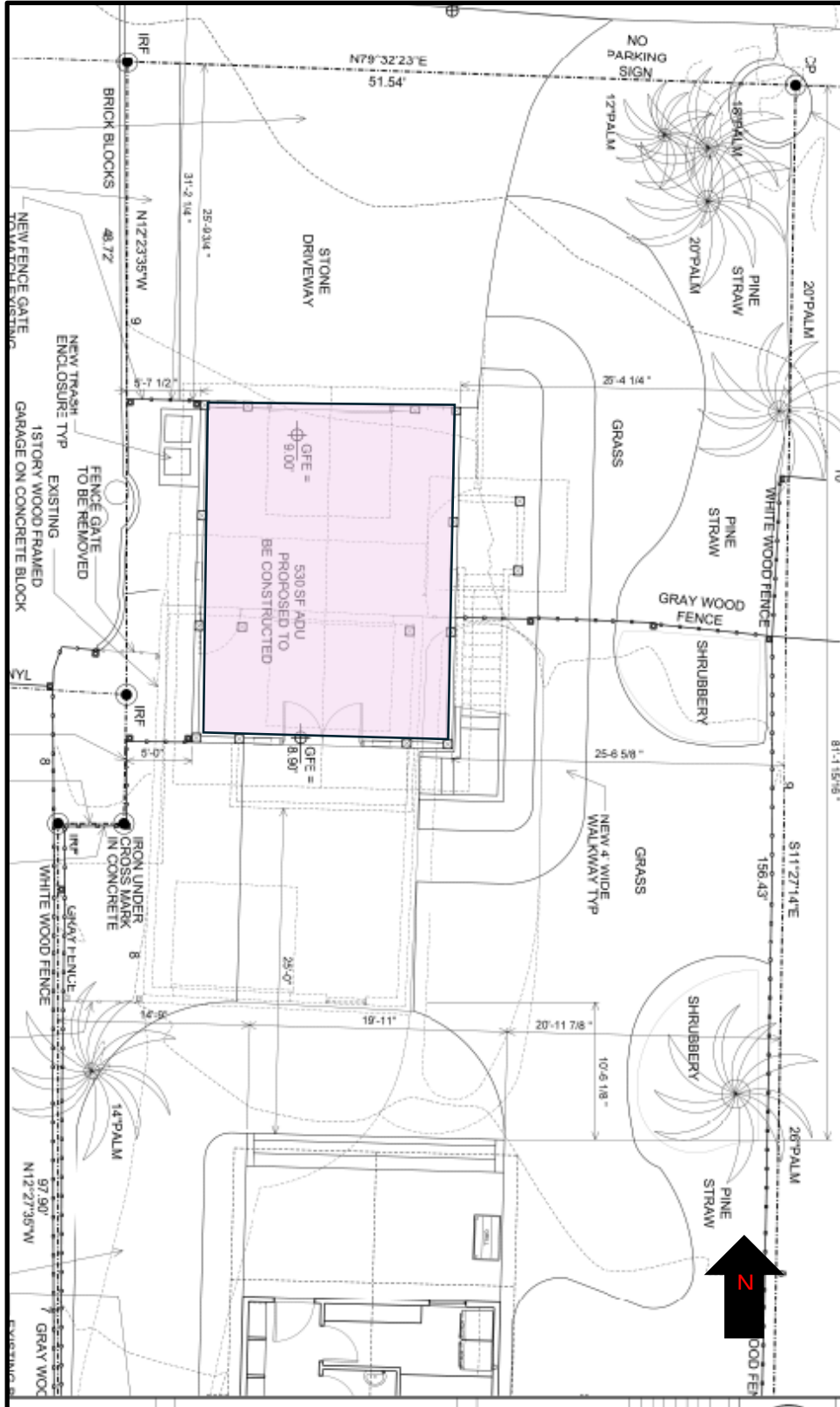


Zoning Image of Parcel and Adjacent Lots

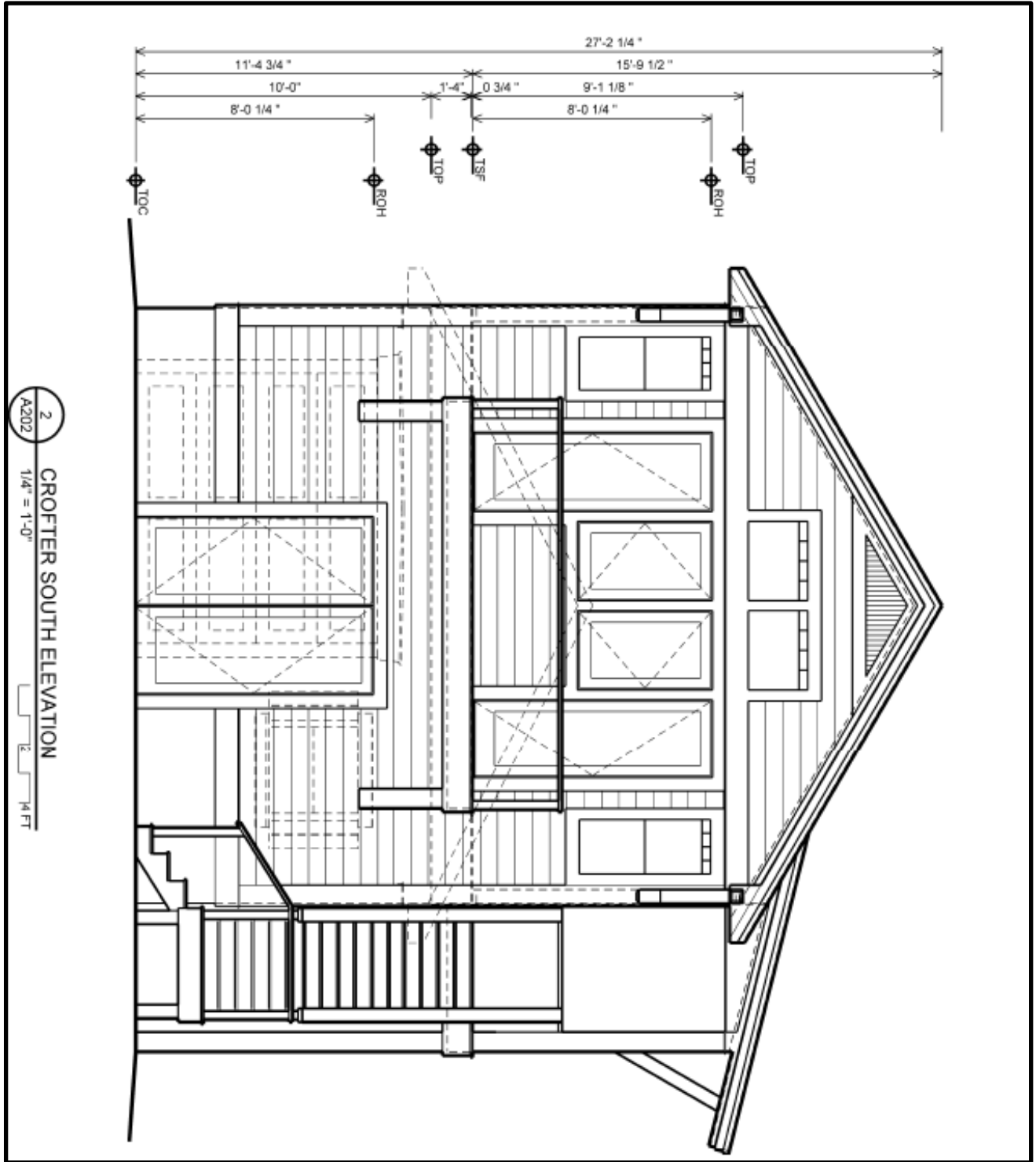


Street View of 316 W. Moore St.

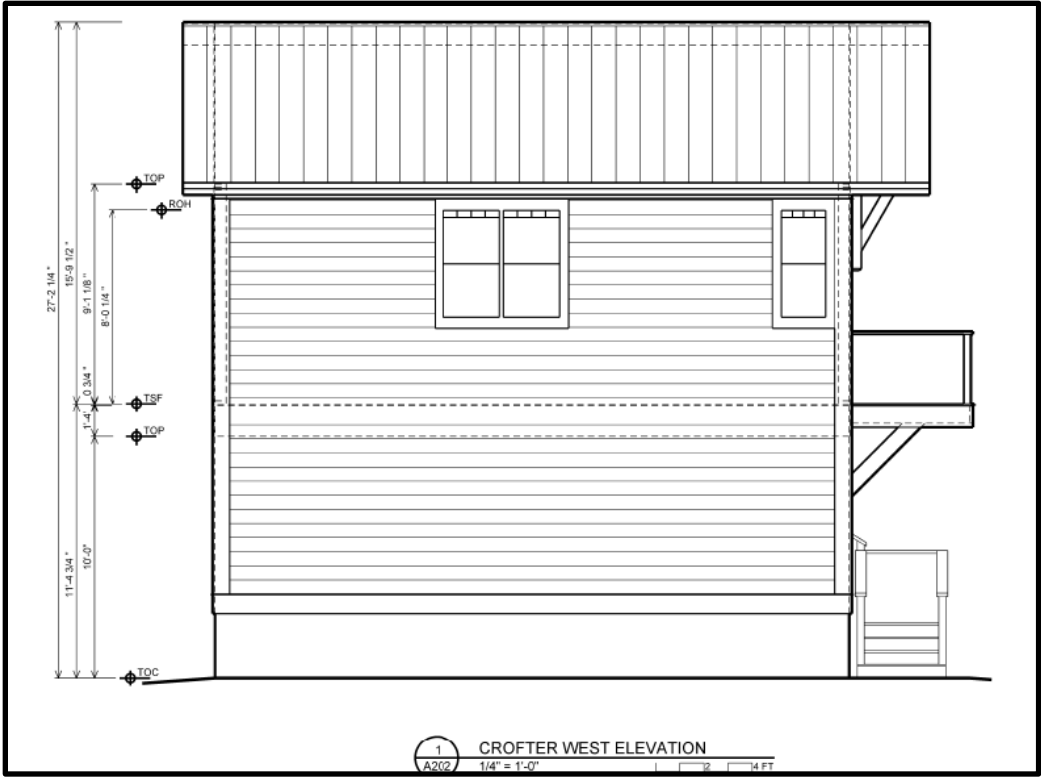




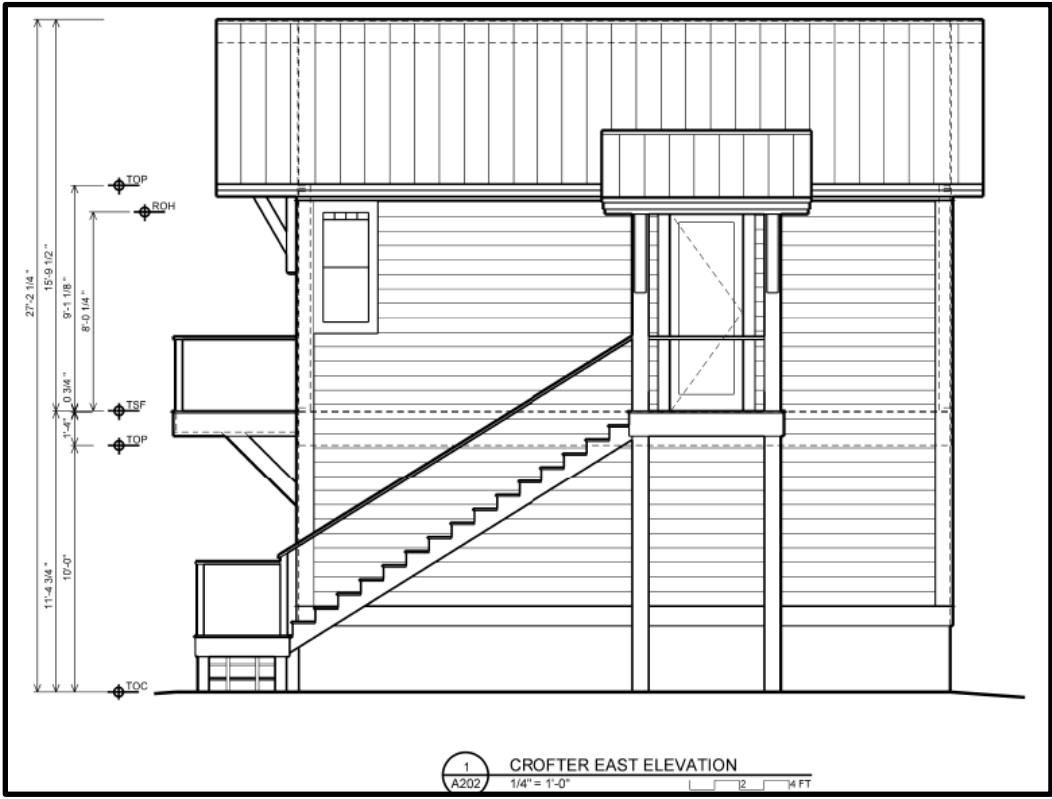
Enlarged Site Plan



Proposed ADU



Proposed ADU



Proposed ADU

SPECIAL USE DESCRIPTION

Currently the existing structure does not meet the minimum five-foot side setback. Not meeting the setback renders the structure as “nonconforming,” and therefore, to turn it into an ADU, the structure will have to be modified in a way that allows it to meet the setback. The property owner has chosen to demolish the structure and rebuild it to contemporary zoning and floodplain standards.

The new accessory structure will continue to be a detached 530 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 31' 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 for a single-family dwelling unit. The primary structure is an existing single-family residence on Stuart 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 530 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 530 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



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. SUP-26-01 FEE: \$ 250⁰⁰ Date Received: Nov 19, 2025

Applicant's Name: Solstice Builders LLC Inc
Mailing Address: Po Box 11459 City: Southport
State: NC Zip Code: 28461 Phone: 910-454-9822
Email: Melissa @ Solstice Builders . com

Property Owner's Name: Quinter Inc / Scott Fitzgerald
Address of Owner: 316 W. Moore st City: Southport
State: NC Zip Code: 28461 Phone: (704) 604-7686
Email: Scott Fitzgerald @ Quinter Inc . com

Address of the property: 316 W. Moore st City: Southport
State: NC Zip Code: 28461 Zoning District of Property: R10
Overall Acreage: 0.19 Minimum Area Requirement for Zoning District: _____
Special Use Permit Request: Addition above existing garage
Zoning of Adjacent Lots: _____

Parcel I.D.
237LE047

Design Professional: Ian Johnston / Johnston Architecture License #: NC 7224
Mailing Address: 1213 Culbreth Dr. City: Wilmington
State: NC Zip Code: 28405
Phone: 910-763-5739 Email: ian@johnstonarchitecture.com

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.



Signature (Owner or Authorized Applicant)

11/19/25

Date

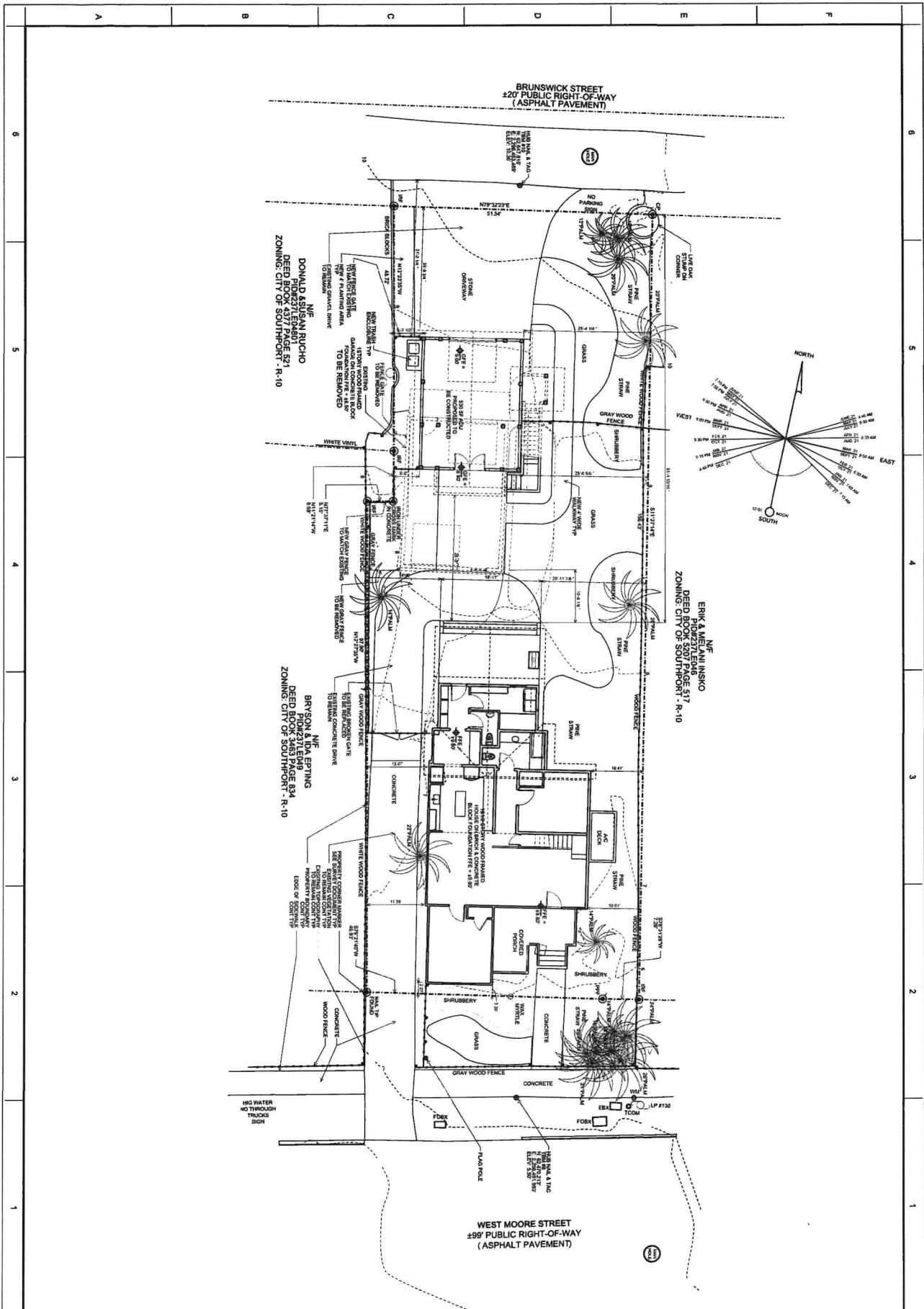
APPROVED:



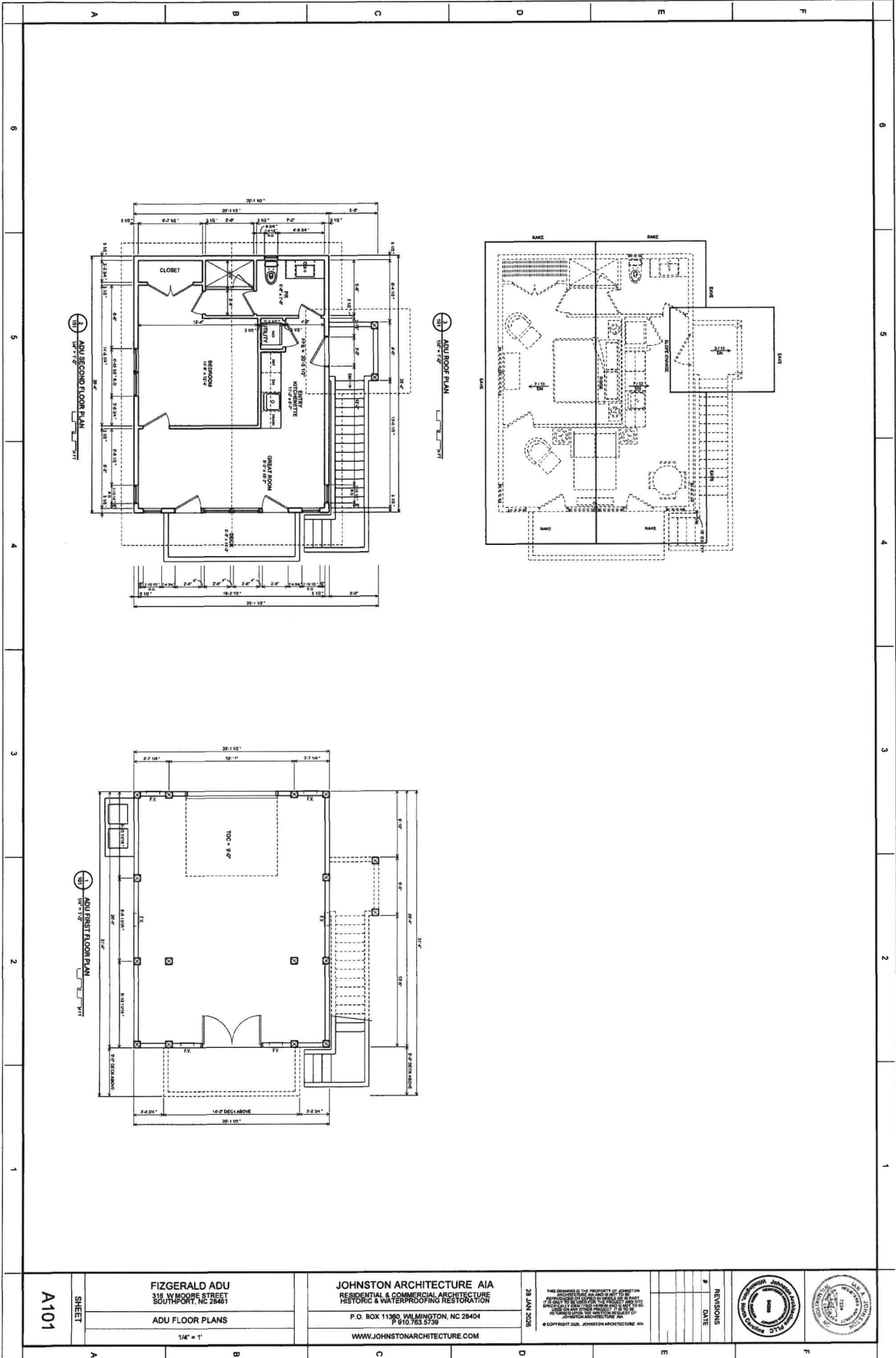
UDO Administrator

11/19/25

Date



<p>SITE PLAN</p> <p>SHEET</p>	<p>FIZGERALD ADU</p> <p>316 W MOORE STREET</p> <p>SOUTHPORT, NC 28461</p>	<p>JOHNSTON ARCHITECTURE AIA</p> <p>RESIDENTIAL & COMMERCIAL ARCHITECTURE</p> <p>HISTORIC & WATERPROOFING RESTORATION</p> <p>P.O. BOX 11360 WILMINGTON, NC 28404</p> <p>PH: 910.763.5730</p> <p>WWW.JOHNSTONARCHITECTURE.COM</p>	<p>28 JAN 2025</p> <p>THIS DRAWING IS THE PROPERTY OF JOHNSTON ARCHITECTURE AIA. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED ON THIS DRAWING. ANY REUSE OR REPRODUCTION OF THIS DRAWING WITHOUT THE WRITTEN PERMISSION OF JOHNSTON ARCHITECTURE AIA IS STRICTLY PROHIBITED.</p> <p>© COPYRIGHT 2025, JOHNSTON ARCHITECTURE AIA</p>	<p>REVISIONS</p> <table border="1"> <tr> <th>#</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> </tr> </table>	#	DATE			
	#				DATE				
<p>SITE PLAN</p> <p>1/8" = 1'-0"</p>	<p>28 JAN 2025</p>								



A101
SHEET

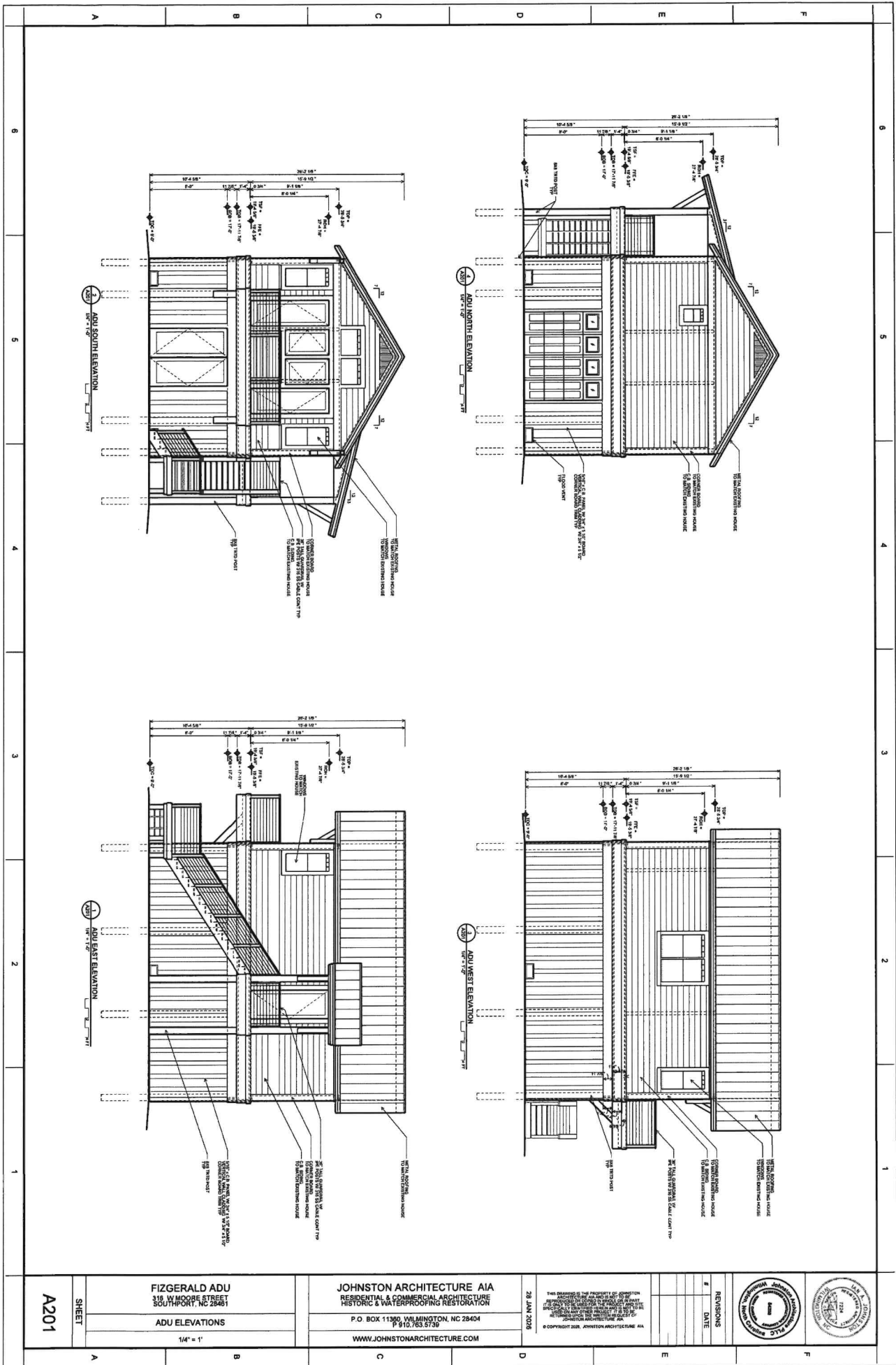
FIZGERALD ADU
315 W. WOODS STREET
SOUTHPORT, NC 28461
ADU FLOOR PLANS
1/4" = 1'

JOHNSTON ARCHITECTURE AIA
RESIDENTIAL & COMMERCIAL ARCHITECTURE
HISTORIC & WATERPROOFING RESTORATION
P.O. BOX 11390 WILMINGTON, NC 28404
P 910.783.5730
WWW.JOHNSTONARCHITECTURE.COM

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28 JAN 2028

REVISIONS
DATE





A201

SHEET

FIZGERALD ADU
 315 W. MOORE STREET
 RALEIGH, NC 27601
ADU ELEVATIONS
 1/4" = 1'

JOHNSTON ARCHITECTURE AIA
 RESIDENTIAL & COMMERCIAL ARCHITECTURE
 HISTORIC & WATERPROOFING RESTORATION
 P.O. BOX 11380 WILMINGTON, NC 28404
 P 910.783.5730
 WWW.JOHNSTONARCHITECTURE.COM

28 JUN 2025

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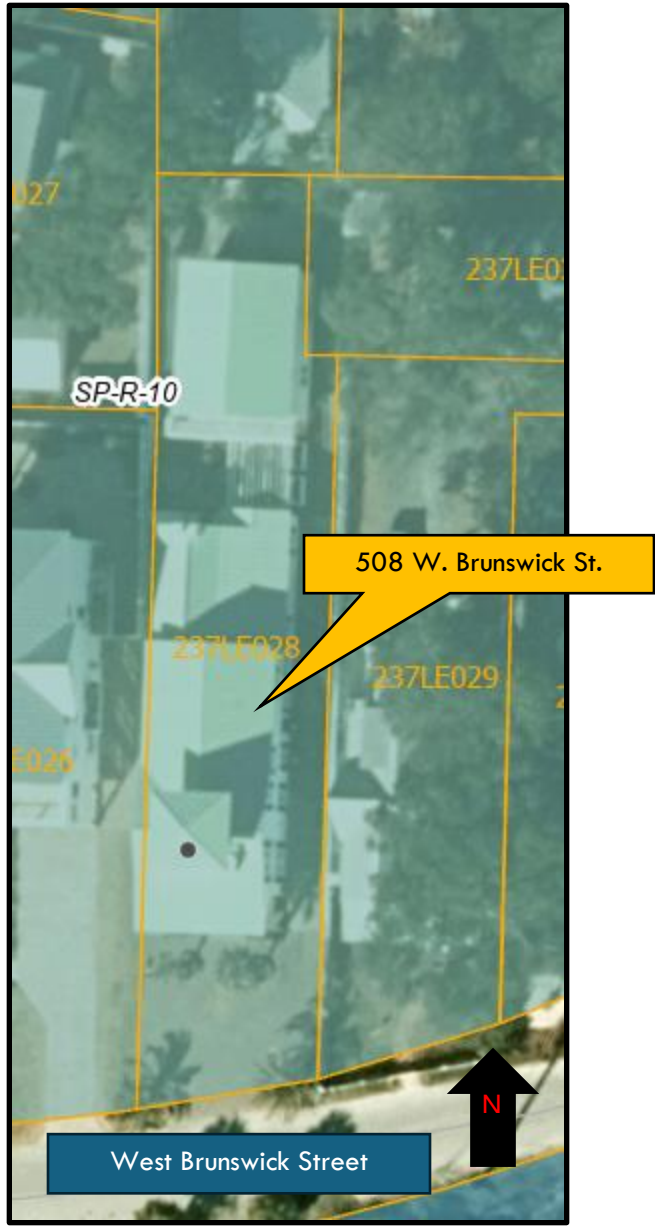
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DATE





Aerial Imagery of Subject Property



R-10 Zoning of Parcel and Adjacent Lots

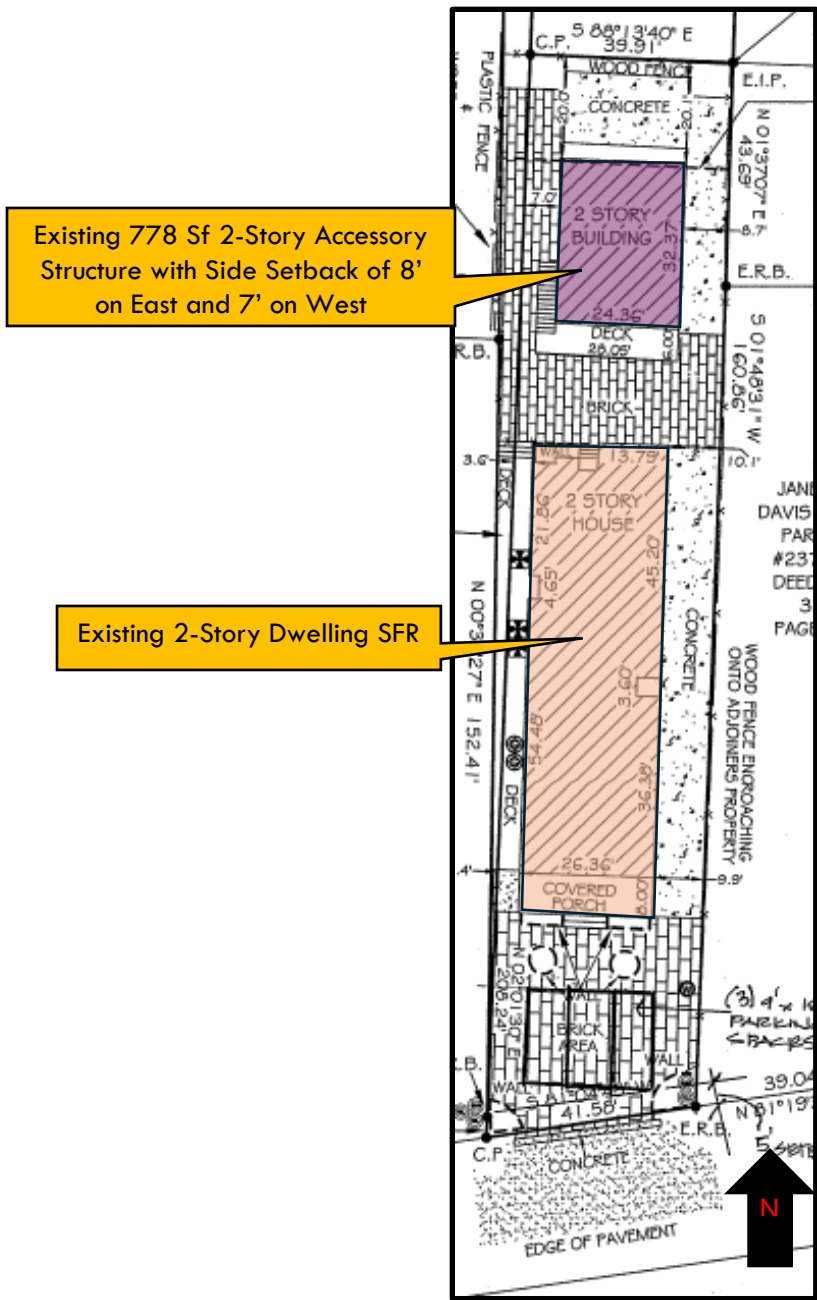


508 West Brunswick Street View



North, East, and West Sides of Existing Accessory Structure

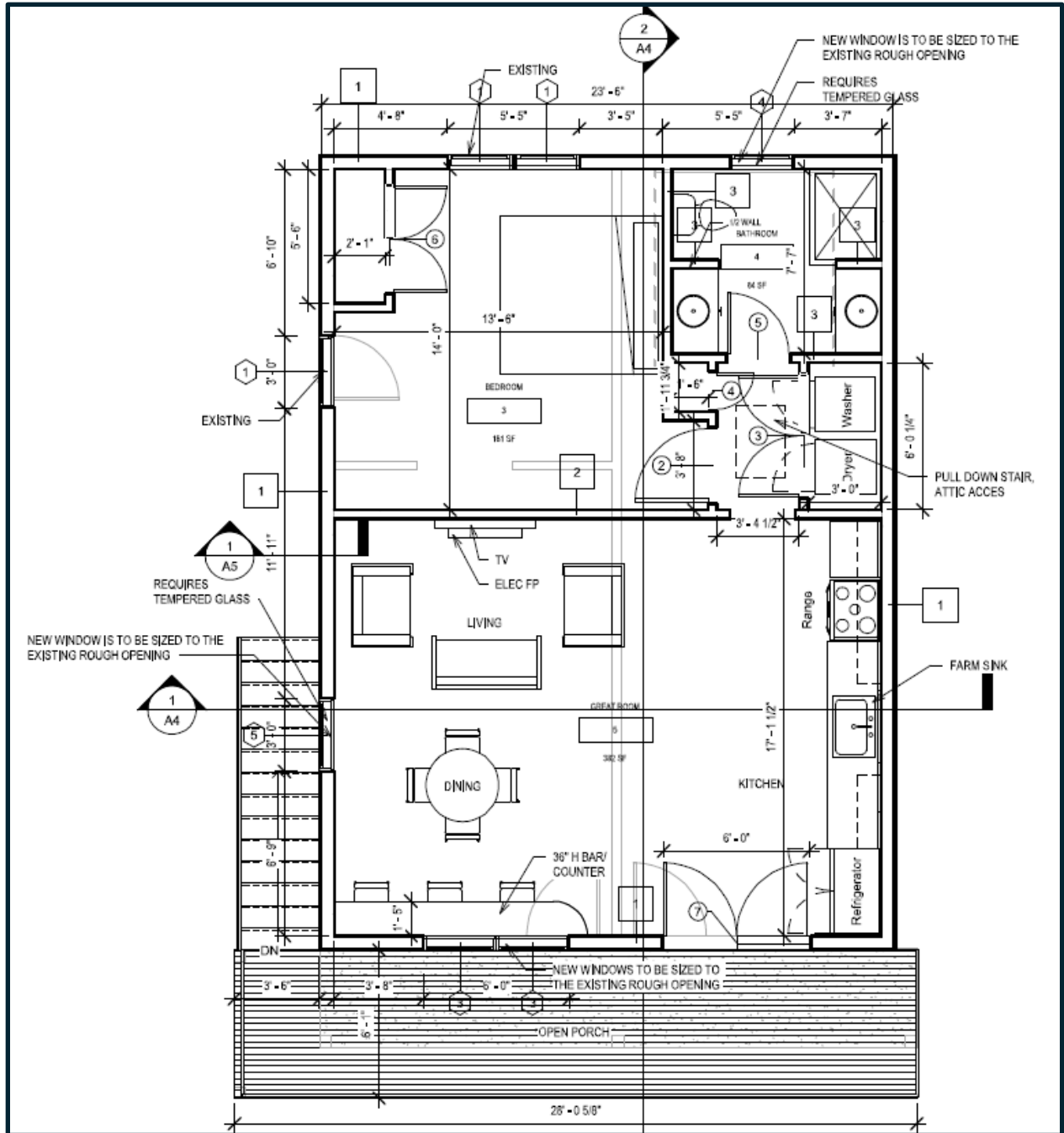




Existing 778 Sf 2-Story Accessory Structure with Side Setback of 8' on East and 7' on West

Existing 2-Story Dwelling SFR

Plat of Existing Structures on Subject Lot



Proposed Second Floor ADU

SPECIAL USE DESCRIPTION

The existing accessory structure is a detached two-story structure that measures approximately (24' x 32'). Each floor space is approximately 778 square feet, and the applicant is requesting to convert the upper floor space into an accessory dwelling unit (ADU), which would include a bedroom, bathroom, and both cooking & living space. The structure meets the reduced side and rear setbacks established by UDO Section 3.9.B.1. 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 a 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 778 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.

STAFF SUMMARY

The applicant requests a special use permit for a 778 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. The application, survey, and building drawings are attached to this report.

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



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 Owner's Agent
Mailing Address: 409 North Burrington Avenue **City:** Southport
State: NC **Zip Code:** 28461 **Phone:** 910-599-2252 c
Email: banderaarch@earthlink.net

Property Owner's Name: Jennifer Stenner
Address of Owner: 508 West Brunswick Street **City:** Southport
State: NC **Zip Code:** 28461 **Phone:** 919-636-0999
Email: jstennerproperties@gmail.com

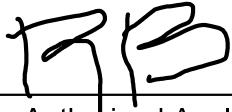
Address of the property: 508 West Brunswick Street **City:** Southport
State: NC **Zip Code:** 28461 **Zoning District of Property:** R-10
Overall Acreage: 0.19 **Minimum Area Requirement for Zoning District:** 10,000
Special Use Permit Request: Application for an Accessory Dwelling Unit
Zoning of Adjacent Lots: Residential 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.



 Signature (Owner or Authorized Applicant)

1.19.2026

 Date

APPROVED:

 UDO Administrator

 Date



BANDERA ARCHITECTURE

Office Address:
409 North Burrington Avenue
Southport, NC
28461

CONTACT:
TELE: 910.454.4513
CELL: 910.599.2252
banderaarch@earthlink.net

REV:	DATE:
REV:	DATE:
REV:	DATE:
REV:	DATE:
REV:	DATE:

Stenner Residence
508 Brunswick St.
Southport, NC
28461

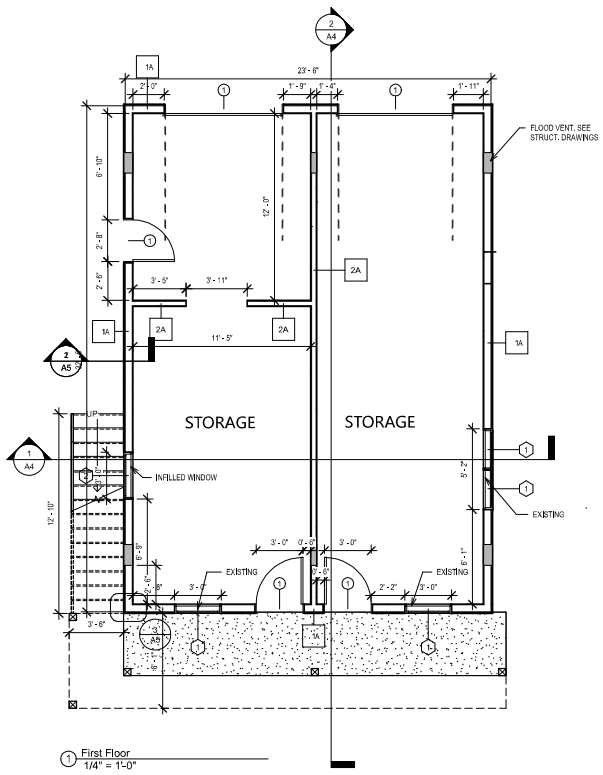
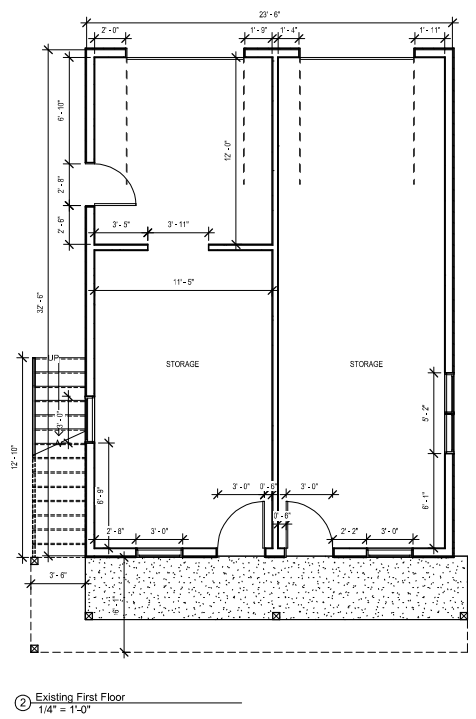
Accessory Dwelling

Date: 01.21.26

FIRST FLOOR

A1

SHEET NO.



NOT FOR CONSTRUCTION
PRICING DOCUMENTS ONLY



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:
REV: DATE:
REV: DATE:
REV: DATE:

Stenner Residence
508 Brunswick St.
Southport, NC
28461

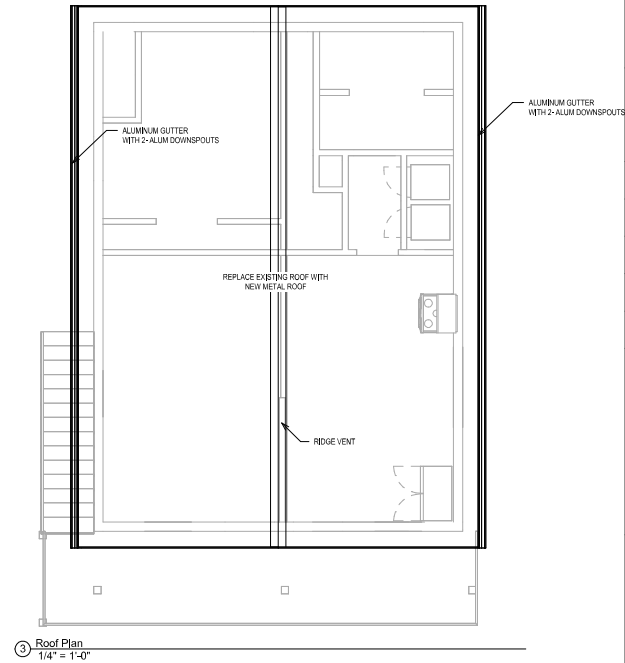
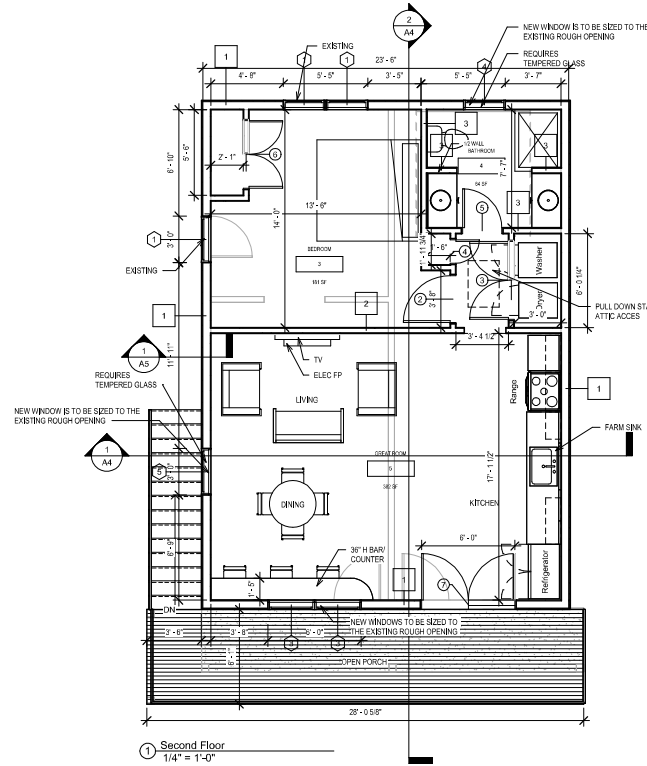
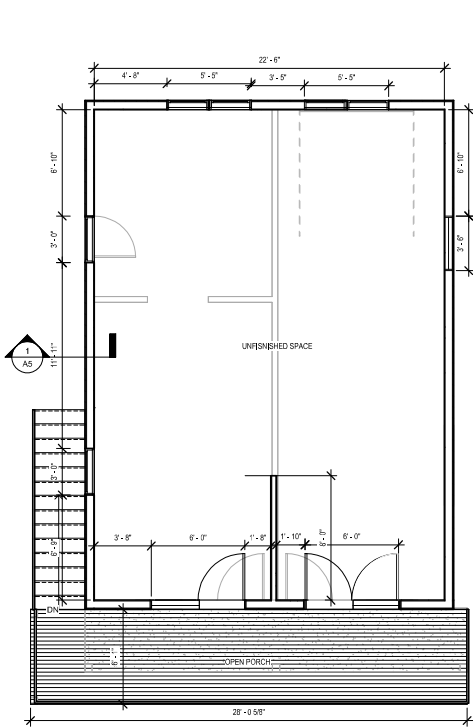
Accessory Dwelling

Date: 01.21.26

**SECOND FLOOR and
ROOF PLAN**

A2

SHEET NO.



NOT FOR CONSTRUCTION
PRICING DOCUMENTS ONLY

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

APPLICATION SUMMARY

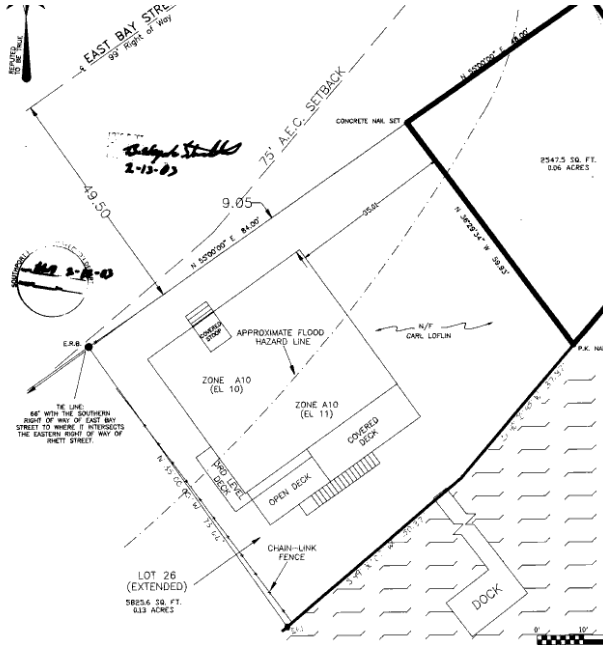
Hearing Date	February 24, 2026 Board of Adjustment
Applicant	Gregory Kleva
Property Owner	August G. and Clare C. Adams
Parcel ID:	238IB02301
Parcel Acreage	0.14 acres
Zoning District	R-10

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.

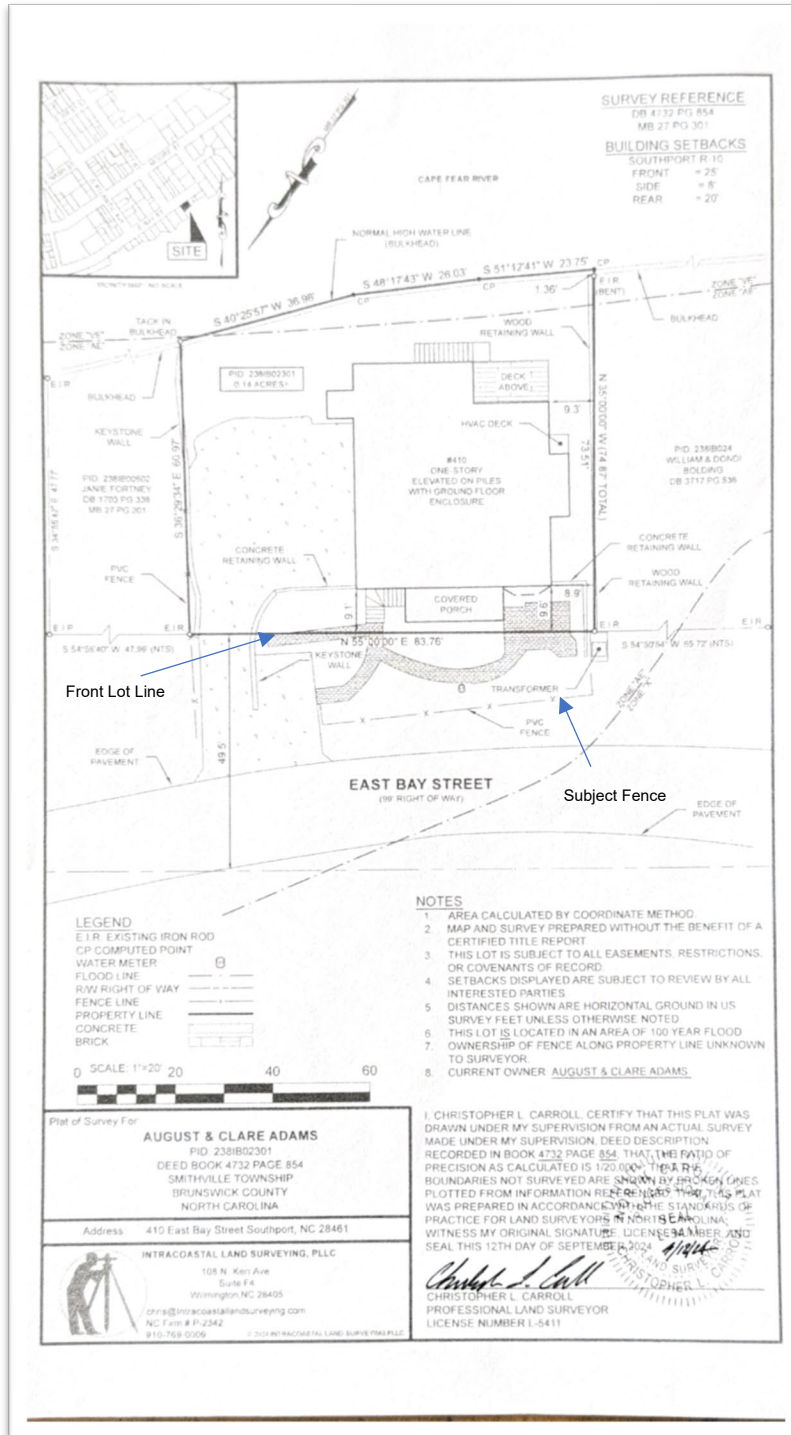
PROPERTY FEATURES AND HISTORY



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 02/24/26

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)

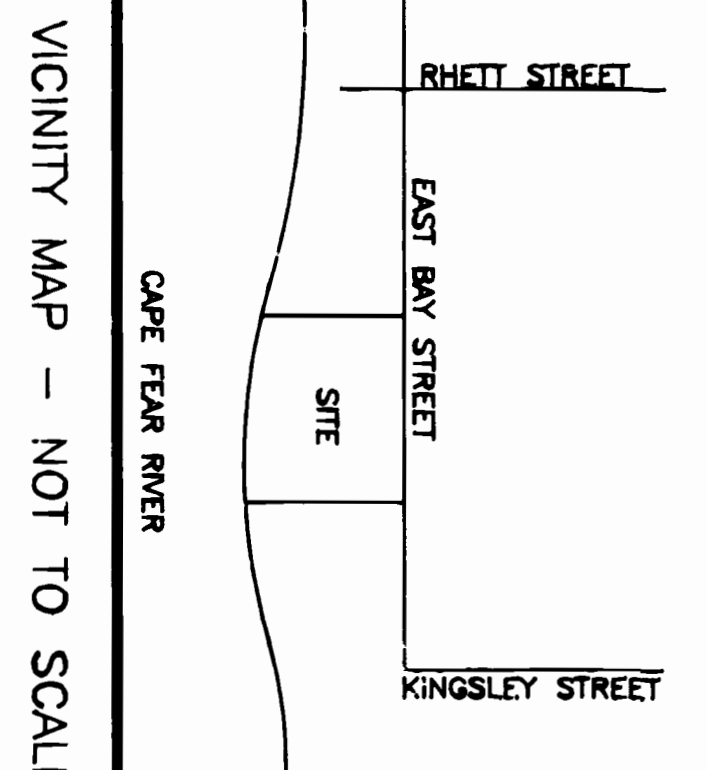
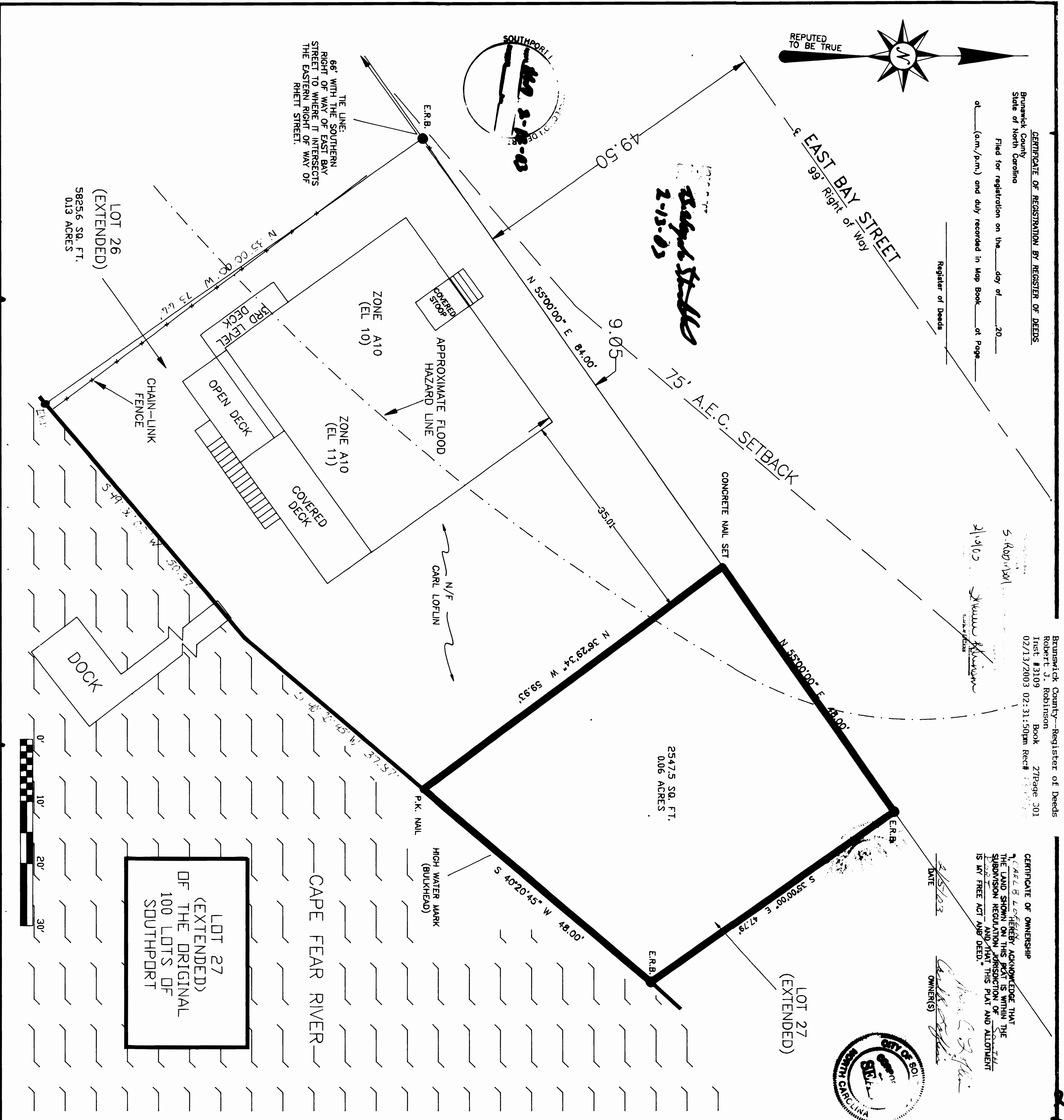
Applicant

Notice of Appeal letter and application dated October 7, 2025, by Greg Kleva (following City's Exhibits)

CERTIFICATE OF REGISTRATION BY REGISTER OF DEEDS
 Brunswick County
 State of North Carolina
 Filed for registration on the _____ day of _____ 20____
 at _____ (a.m./p.m.) and duly recorded in Map Book _____ at Page _____
 Register of Deeds

Brunswick County—Register of Deeds
 Robert J. Robinson
 Trust #3109 Book 27 Page 301
 02/13/2003 02:31:50pm Rec# 155123

CERTIFICATE OF OWNERSHIP
 I, CARL B. LOFLIN, HEREBY ACKNOWLEDGE THAT THE LAND SHOWN ON THIS PLAT IS WITHIN THE SUBDIVISION REGULATION JURISDICTION OF THE CITY OF SOUTHPORT AND THAT THIS PLAT AND ALLOTMENT IS MY FREE ACT AND DEED.
 DATE: 2/13/03
 OWNER(S): Carl B. Loflin



NOTES:
 1. WILLIAM W. DELANEY II, P.L.S. CERTIFY THAT THE OWNER OF THIS LAND IS _____ AND THAT THE SURVEY AS SHOWN ON THIS PLAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR PARCEL OF LAND THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
 2. ACCORDING TO "TRIM" 370028 0004, C DATED 12/18/95, THE LAND SHOWN ON THIS PLAT IS IN A FLOOD ZONE.
 3. SURVEY DATE: 07/07/97, 04/22/98.
 4. SCALE: 1" = 10'
 5. E.R.B. = EXISTING RE-BAR.
 6. PROPOSED CONVEYANCE SURVEY DATE: 02/04/2003.

NORTH CAROLINA
 BRUNSWICK COUNTY
 I, WILLIAM W. DELANEY II, P.L.S. CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK _____ AT PAGE _____ IN BRUNSWICK COUNTY REGISTER OF DEEDS OFFICE). THAT THE BOUNDARIES NOT SURVEYED IN THIS PLAT WERE INDICATED AS DRAWN FROM THE INFORMATION AND PRECISION AS CALCULATED BY COMPUTER SOFTWARE AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF G.S. 47-30 AS AMENDED.
 WITNESS MY OFFICIAL SIGNATURE, RECORDS AND SEALS, THIS _____ DAY OF _____ 20____.
 PROFESSIONAL LAND SURVEYOR 15460
 WILLIAM W. DELANEY II, P.L.S.
 NORTH CAROLINA
 BRUNSWICK COUNTY

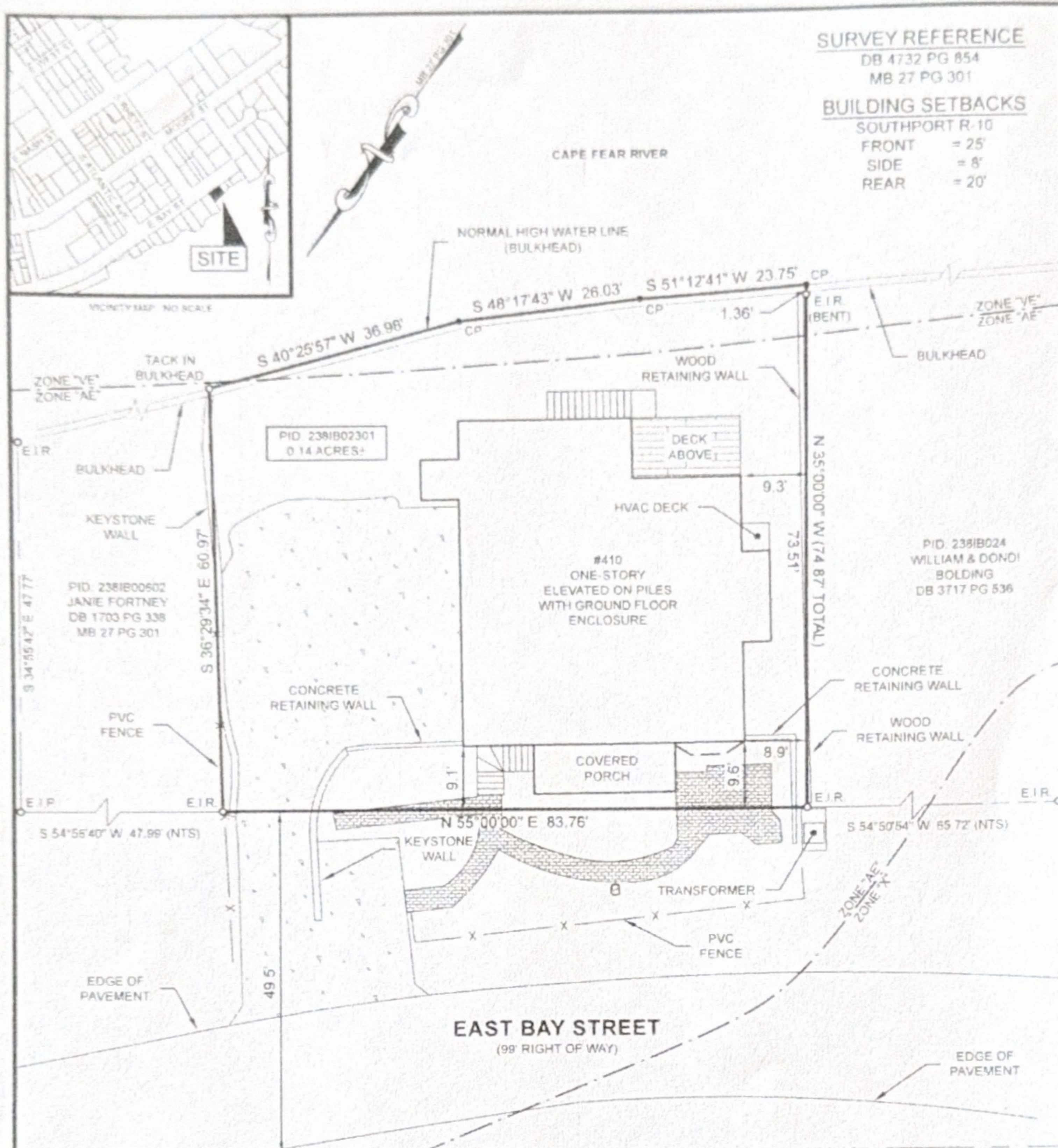
I, A NOTARY PUBLIC OF BRUNSWICK COUNTY, NORTH CAROLINA, DO HEREBY CERTIFY THAT I AM A QUALIFIED AND LICENSED PERSONAL EXECUTION OF THE FOREGOING INSTRUMENT.
 WITNESS MY HAND AND OFFICIAL STAMP OR SEAL THIS _____ DAY OF _____ 20____.
 MY COMMISSION EXPIRES _____ 20____.
 NOTARY PUBLIC

Surveyed and Mapped By
Tide Water Surveying, P.A.
 P.O. Box 11506
 802 North Howe Street
 Southport, North Carolina 28461
 Phone: 910-457-9580

PROPOSED CONVEYANCE BETWEEN
Carl B. Loflin ET UX
 and,
DR. SIDNEY FORTNEY
 CITY OF SOUTHPORT
 SMITHVILLE TOWNSHIP
 BRUNSWICK COUNTY
 STATE OF NORTH CAROLINA








Map Cabinet 27 Page 301 2/13/2003 2:31:50 pm

27/301
 DWG SHEET




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

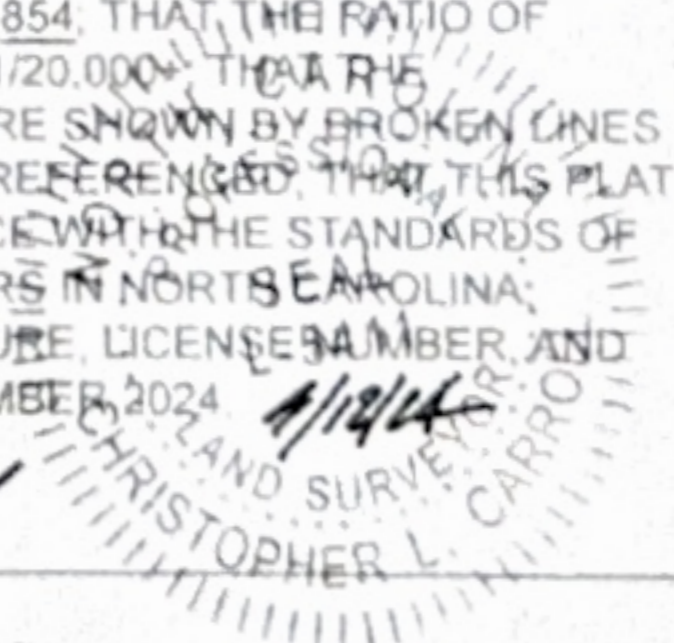
Address: 410 East Bay Street Southport, NC 28461

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
B4732 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

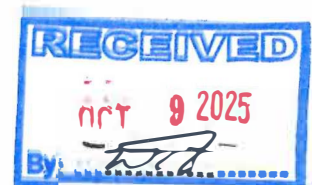




EXHIBIT "A"

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/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 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

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

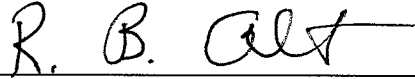
There shall be a 6-month grace period for enforcement of this ordinance. All code enforcement cases open prior to adoption of this ordinance shall remain open and processed consistent with the ordinance prior to this adoption.

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

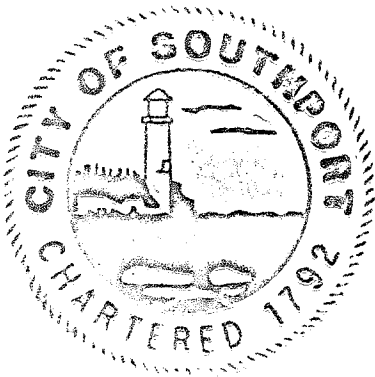
Absent or Excused: 1



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.

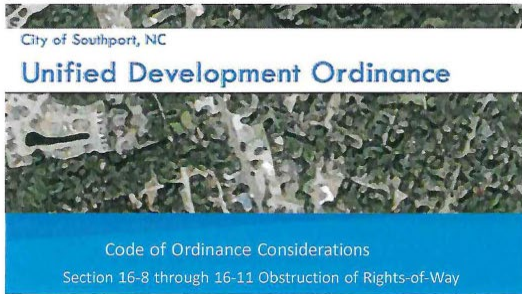
1. Minutes of the November 4th Regular Aldermen Meeting
2. Minutes of the November 14th Regular Aldermen Meeting
3. 2025 Aldermen Meeting Schedule

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.

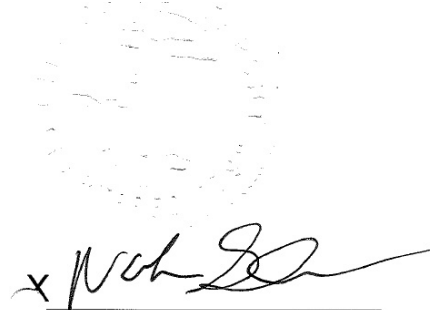
Mayor Alt stated "I am categorically against this action, I see no reason to incur the wrath of an Untold number of citizens for no immediate need. We have the right to go in, we have the right to rip the right away up if we want to. I see no reason to go through this because we're going to do nothing 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.

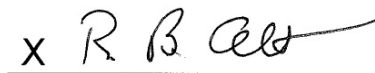
O. Adjourn

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

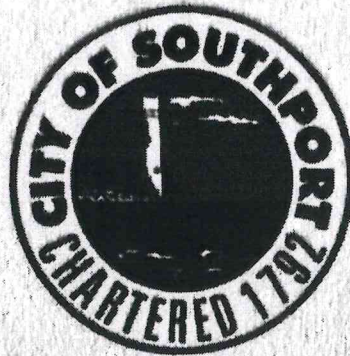
On August 21, 2025, the City of Southport, NC Code Enforcement Inspector held a hearing to consider the condition of the structure on the property located at 410 E Bay Street. Based on the evidence presented, I make the following Findings of Fact:

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.

RECEIVED
OCT 9 2025
By: *[Signature]*

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.~~

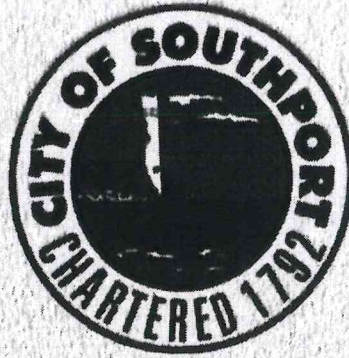
NUISANCE VIOLATION - Based on these Findings of Fact, I hereby determine that the violations can/cannot be brought into compliance with the City of Southport Code of Ordinance.

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 4 Rec 0810 Int. 18
 k \$ 3000 Ck # 0187 Cash \$
 of 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

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

COUNTY OF BRUNSWICK

I, Tammy T. Turner, ^{New Hanover} Notary Public for ~~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:**

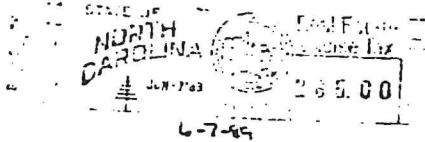
"All of the 2547.5 square foot (0.06) lot fronting on East Bay Street as shown on a Map for Carl D. Loflin et ux and Dr. Sidney Fortney by Tide Water Surveying, P.A., recorded in Book 27 at Page 301, Brunswick County Registry." *****



EXHIBIT B



0771 396



FILED FOR RECORDATION
0771 396

99 JUN -7 AM 11:55

RECORDING PROCESS
SOUTH CAROLINA COUNTY, ILL.

Excise Tax **265**

Recording Time, Book and Page

Tax Lot No.

Parcel Identifier No. **23828 23.01**

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	Sub	Plan	Ac	PCA	LC	BY
31	0	23828	B	023	0100	2/19

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
300 265.00
287.00 965
46 6.00
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 his corporate name by his 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
Harold T. Spencer (SEAL)

Eloise L. Spencer
Eloise L. Spencer (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 Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 31st 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.
Robert F. Bluman REGISTER OF DEEDS FOR BRUNSWICK COUNTY
By *Anita F. Smith* Deputy 300540101 - Register of Deeds



N.C. Not. Assoc. Form No. 1-5, 1976, Revised 6-1977. Printed by the State of North Carolina. Form No. 1-5, 1976, Revised 6-1977.

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. FURRETT ATTORNEY AT LAW SOUTHPORT, N. C. 28581

238	2301	BY
I B 2302		a



BOOK 462 PAGE 497

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)

