CITY OF SOUTHPORT
PLANNING BOARD
REGULAR MEETING
MINUTES

February 20, 2025
6:00 PM

Members Present: Sue Hodgin, Fred Fiss, Kevin Locklin, Will Hewett, John Bove, Larry Ashley Robert Lambert

Staff Present: Maureen Meehan, Planning Services Director
Wendell Biddle, City Planner
Tori Deviney, Deputy Clerk

A. Chair Hodgin Called the meeting to order at 6:00 PM

B. Mr. Hewett provided the Invocation

C. Chair Hodgin led everyone in the Pledge of Allegiance

D. Approval of Minutes

1. January 16, 2025 Planning Board Meeting Minutes
Mr. Fiss had one correction:

Under Nomination of Chair, revise to say Mr. Locklin seconded the motion.

E. Approval of Agenda
A motion to approve the agenda was provided by Mr. Hewett and seconded by Mr. Ashley. ***Unanimous vote, motion carried.***

F. Public Comment
None

G. Closed Session NCGS 143-318.11

1. Motion to go into Closed session pursuant to NCGS 143-318.11

(3) To consult with an attorney employed or retained by the public body in order to

preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.
Chair Hodgin asked for a motion to go into closed session which was given by Mr. Hewett and seconded by Mr. Ashley. ***Unanimous vote, motion carried.*** **6:07 PM**

2. Motion to close the Closed Session and re-enter the Regular Session.
Chair Hodgin asked for a motion to come out of closed session which was provided by Mr. Hewett and was seconded by Mr. Ashley. ***Unanimous vote, motion carried.***

End Closed Session at 6:56 PM

H. Old Business

1. 101 E Moore St Major Site Plan [Maureen Meehan] pg. 17-71
Ms. Meehan presented an overview of the subject property, which is located in the Central Business District (CBD). She outlined the zoning requirements for this district, noting that there are no setback requirements, no minimum lot sizes and that at the time of application, the height limit was 40 feet. Ms. Meehan cited State Statute 160D-108, which allows applicants to choose the applicable version of the building regulations in effect at the time of their application. In this case, the applicant is opting to maintain the 40-foot height limit under the previous regulations.

She then provided an overview of the current conditions of the area, highlighting the location of the property at the corner of North Howe and East Moore Street. The proposed project is a three-story mixed-use building, with existing retail on the first floor and two floors of residential units, comprising four units total, two on each floor. The submitted site plan, dating back to April, indicates the provision of four parking spaces required for the residential units. However, no parking spaces are mandated for the commercial retail portion of the building, because commercial zoning does not require parking per the Unified Development Ordinance (UDO).

Ms. Meehan recalled that during the last meeting, the applicant had proposed an alternative parking configuration, which required a variance from the parking requirements. However, the variance was denied at the last Board of Adjustment meeting. As a result, the applicant is proceeding with the site plan that includes vehicles reversing out of the parking lot onto North Howe Street. Ms. Meehan noted that this site plan incorporates all required elements for a major site plan, including the variance granted in 2024 for this project. She also stated that the Planning Board Review Committee met on February 14 to discuss this project and would present their findings. The applicant was present and available to answer any questions, along with a prepared presentation including slides.

Chair Hodgin invited the applicant to make any comments or presentations.

Ms. Schaefer, representing the applicant, expressed appreciation for Ms. Meehan's presentation and staff report. She reiterated much of the previously shared information, emphasizing that the project complies with all sections of the zoning code. She cited the Unified Development Ordinance (UDO), which mandates approval of a site plan if it meets all ordinance standards. She referenced material from the School of Government website, stating that administrative approvals are based on objective standards with minimal discretion.

Ms. Schaefer provided additional details on the project, including renderings to illustrate the building's height in comparison to surrounding structures. The building's height will only exceed that of the commercial section. She also confirmed that the Planning Board's approval is only the first step in the planning process. Any finalized site plans must undergo further review by the Technical Review Committee (TRC) and adhere to fire ingress, egress, and building permit requirements. She confirmed that the applicant was available for questions.

Chair Hodgin then opened the floor for Board questions.

Mr. Ashley began by asking for clarification on the specific site plan under review, noting that several different plans had been included in the materials, dated August 25, 2022; November 16, 2022; December 21, 2022; April 17, 2024; and November 5, 2024. Ms. Meehan confirmed that the site plan under consideration was the April 17, 2024 version, found on page 19 of the packet. She acknowledged the various iterations of parking configurations throughout the project's history.

Mr. Ashley expressed gratitude for the additional time to review materials, noting that, as a new member, he wanted to ensure he was making informed decisions. He reviewed the project's timeline, confirming that the initial application was submitted on August 29, 2022, before a UDO amendment in September 2022 reduced the height limit in the Central Business District to 30 feet. Since the application was filed under the previous UDO, the applicant was permitted to proceed under those regulations.

He then inquired about parking lot requirements, asking whether lots require marked entrances or exits. Ms. Meehan clarified that no such requirement exists unless a parking lot exceeds ten spaces, in which case paving is required. She confirmed that handicapped parking is required to meet size specifications but does not necessarily need specific signage.

Mr. Ashley also sought clarification on the ownership and long-term access to the parking spaces. Ms. Meehan confirmed that the applicant owns both the subject property and the adjacent lot providing parking. In response to concerns about ensuring long-term parking access, she noted that a deed restriction could be placed on the property.

Further discussion ensued about the variance granted by the Board of Adjustment, which allowed vehicles to back out onto North Howe Street. Mr. Ashley questioned whether a variance should have been requested for the applicant's primary property at 101 East Moore Street, rather than for the adjacent property at 114 North Howe Street, which contains the parking. Ms. Meehan and the Board attorney explained that the variance applied to the parking configuration rather than to a specific lot.

Mr. Ashley raised concerns about the variance process, questioning why the variance was granted for 114 North Howe Street when the parking was needed for 101 East Moore Street. He pointed out that the applicant for 101 East Moore, the property requiring the parking, had not filed the variance but rather the owner of the parking lot had, even though no changes were proposed for that lot. Ms. Meehan clarified that the variance was granted for the building that holds the parking because that is where the backing-out requirement applied. Mr. DiGuiseppe added that because both properties share the same owner, a separate variance was not needed for 101 East Moore St property. The Unified Development Ordinance (UDO) allows a property to use parking on a neighboring lot within 400 feet, and conditions such as a deed restriction could be added to an approval if necessary.

Mr. Ashley also questioned the evolving nature of the site plans, asking how changes to parking configurations over time affected the variance approval. Ms. Meehan explained that the variance was granted to allow backing out onto North Howe Street, regardless of the specific site plan layout. The most recent site plan was designed to meet dimensional requirements while maintaining compliance with the granted variance.

Other Board members asked additional questions regarding site plan approval processes. One member asked whether a more detailed site plan would be reviewed by the city beyond the survey currently under consideration. Ms. Meehan confirmed that a full set of engineered drawings would be required for building permits and reviewed for compliance with fire and building codes.

Mr. Ashley concluded by expressing concern about the fluid nature of site plan revisions and the process for variances, noting that multiple versions and applications could create confusion. Ms. Meehan assured the Board that the April 17, 2024 site plan was the definitive version under review.

Chair Hodgin thanked all participants for their time and asked if there were any additional questions.

Mr. Fiss expressed his concerns about the project, emphasizing that while his heart tells him he cannot approve the proposal due to safety concerns for the citizens of Southport, as a Planning Board member, he is required to approve it. He made it clear that he was grappling with the decision.

Mr. Locklin agreed with Mr. Fiss and also acknowledged the concerns raised by Mr. Ashley regarding the procedural aspects of the project. He suggested that this case should prompt the city to reevaluate how information flows between the city planning office and the Board of Aldermen. He recommended better coordination and communication, particularly regarding pending matters, to improve the process in the future.

Mr. Hewett stated that he was not implying any wrongdoing on the part of the applicant but rather recognized that the applicant utilized the benefits of the existing system. He emphasized that if the system needs improvement, changes should be made to prevent similar issues in the future. He noted that the Planning Board should act on the current matter but also consider subsequent amendments to the Unified Development Ordinance (UDO) to address concerns. He proposed that, as part of the approval, conditions should be imposed, including the installation of visual cues and signage for pedestrian safety. He also suggested that legal counsel be consulted regarding a condition ensuring the parking area remains available in perpetuity for the residents of Bullfrog.

Chair Hodgin provided concluding remarks on behalf of the Committee. She noted that the Committee and the full Board had spent a significant amount of time considering this site plan submission, seeking ways to address concerns that were in the best interest of Southport as a whole. She highlighted the importance of preserving the small-town character of Southport, which is a key factor in why many residents choose to live there.

She acknowledged flaws in the city's planning and adjustment processes and stated that this situation highlighted the need for reform.

She reviewed the history of the application, noting that the applicant had been advised by city staff in 2022 that all required elements for the application were present. However, it later became clear that this was not the case, as the parking plan did not comply with the UDO. Despite this, the application was accepted and moved forward to the Planning Board. A Review Committee was then formed to work with the applicant to find acceptable parking solutions. The applicant ultimately sought and obtained an adjustment allowing a parking reconfiguration that reduced the required spaces by one and permitted cars to back out onto one of Southport's busiest intersections at Howe and Moore Streets.

Chair Hodgin expressed disappointment that in January and February 2024, the city failed to provide proper legal advice regarding Board of Adjustment processes and appeal rights. She explained that had the Committee been fully informed of its appeal options, they would have pushed for the City to challenge the adjustment decision in the greater interest of Southport. However, the applicant later sought another variance to eliminate all parking requirements, which was denied by the Board of Adjustment.

Chair Hodgin emphasized that, given the procedural history and the applicant's legal standing, the Planning Board had no choice but to approve the major site plan. The applicant's legal counsel had already warned that if the matter were delayed further, they would pursue legal action to compel approval. Recognizing that their options were limited, The Board resolved to approve the plan with conditions. Chair Hodgin states:

> **"For the record. I want it known that our Committee advanced every idea, every option it could conjure for best and required parking options for this submission. The applicant pursued and obtained for his benefit, as he is allowed by statute and the UDO, a formal adjustment which reconfigured a parking drawing, reducing the required spaces by one and allowing cars to back out into Southport's busiest intersection at Howe and Moore St. Our Review Committee believes that the city failed us in January and February 2024. whether by staff, leadership or counsel, by not giving proper advice regarding Board of Adjustment processes and then the appeal right post Adjustment action. That window closed well before we ever learned that the city could have had legal representation at that January 2024, Board of Adjustment hearing to present evidence about the safety concerns that we, as a Committee of this Board, found to be glaring. I also want it on record that our Review Committee, had we been well-informed of the processes for that Adjustments hearing and all of our appeal options within that 30 day window following, would have pressed full court for the City's appearance at that hearing, and we would have pressed to appeal that adjustment in the month following, in the greater interest for all of Southport. None of that happened, however. The applicant appeared again at last month's Board of Adjustment meeting, asking for forgiveness for any parking requirements for his submitted project. This time, Adjustment denied the request, ending the applicant's available procedural options. Now, with that latest result, this applicant and counsel have already advised the City that if this Board tables the matter for any other discussion, they will issue a Writ of Mandamus, forcing us to come back and approve his submission. So, a partial background given for the record and as an explanation of our options or lack thereof, we basically find ourselves with our collective backs against the wall,**

because of a procedural and process failure, I regret to inform for the Committee, that we have no way out. We are now forced to approve this major site plan. As we've discussed, we can put forth a motion to approve it with conditions. I'll ask at this point, if there is a motion to be brought to the floor"

Mr. Locklin made a motion that we move forward with the approval, with conditions, as noted by the Board of Adjustment in the Variance it was granted with regards to the installation of visual cues and signage for pedestrian safety, and also that there will be a condition that the parking will continue in perpetuity as far as that building is used for mixed-use from the owner of the Pearl Property.

Chair Hodgin called for a second to the motion, and Mr. Hewett seconded it.

Before proceeding to a vote, Mr. Fiss sought clarification on the perpetuity condition, specifically whether it would be enforced through a deed restriction. Ms. Schaefer, representing the applicant, explained that similar conditions have been enforced in various ways, including deed restrictions, shared parking agreements, or site plan conditions that, if violated, would constitute a zoning violation. She recommended that the Board attorney draft the appropriate legal document to ensure compliance.

Mr. Ashley stated his preference for a deed restriction to ensure long-term clarity for future property owners. Mr. DiGiuseppe, the Board attorney, agreed that a deed restriction would provide the most transparency and legal certainty. He emphasized that it would be clearer for prospective buyers and the public record if the parking obligation were explicitly included in the property deed.

Chair Hodgin confirmed that the conditions regarding the deed restriction would be included in the approval motion. Mr. Ashley asked for a final review of the conditions to ensure clarity. Mr. Locklin summarized that the approval would include a deed restriction ensuring that the parking area remains available for the Bullfrog building at 101 East Moore Street.

With no further discussion, **Chair Hodgin called for a vote on the motion. *Unanimous vote, motion carried.***

Following the vote, Chair Hodgin addressed the applicant, noting that while the Board had approved the motion, they (the Board) sincerely hoped that the applicant would consider modifying the parking area to create more room, possibly by removing the planter box attached to the Pearl building. This modification could facilitate three-point parking, allowing tenants to turn around within the lot rather than backing blindly onto Howe Street. While this remains the applicant's decision, it was discussed as an option with staff. She reiterated that liability for parking rests with the applicant and that the Board's primary concern remains the safety of Southport's citizens and visitors, including families with small children and pets who frequently use the sidewalk in the area. She urged the applicant to take thoughtful measures within the constraints of Southport's ordinances to prevent potential accidents in this busy part of town.

2. Special Events Text Amendment [Wendell Biddle] pg. 72-78
Mr. Biddle presented a proposal for a text amendment to the UDO, seeking to create a new land use category. He provided background information, explaining that in the summer of 2024, an applicant was granted a special use permit for operating a bed and

breakfast. However, the applicant's management plan included hosting weddings and other events, highlighting the fact that the UDO does not currently provide appropriate land use for such activities.

In an October Planning Board session, a Committee was formed with staff and Board members to address this issue. The Committee identified several key concerns, including maintaining the character of residential zoning districts, enforcing safety precautions such as capacity limits, and ensuring emergency services are not overwhelmed. Based on these considerations, the Committee proposed creating an accessory land use category called "specialized events," defined as commercial ventures held in non-religious venues where the event is secondary to the venue's primary land use.

The proposed amendment would modify Article 8 of the UDO to incorporate this definition and amend Table 3.1 to establish appropriate zoning districts where specialized events are permitted. The permitted districts would align with those for bed and breakfasts. Rather than being a land use permitted by right, this new accessory use would require specific use standards. Additionally, a temporary use permit would be established to ensure agencies such as the City Fire Department and law enforcement are aware of proposed events and can enforce capacity standards. The permit would function similarly to the City's food truck permits. Other benefits of the temporary use permit include administrative oversight to control the number of specialized events at any given time and ensuring residential neighborhoods are considered in event planning. Specific use requirements would address issues such as noise, signage, and alcohol consumption. Events that are non-commercial or already reviewed under separate processes, such as Southport's Fourth of July Festival, would not be classified as specialized events.

Mr. Locklin inquired whether city administrators had the discretion to deny a permit if an event seemed inconsistent with the City's best interests. Mr. Biddle clarified that as long as an applicant met all standards, they would be granted the permit. Mr. Fiss posed a hypothetical scenario involving a controversial group hosting an event, to which Mr. Biddle responded that permits could not be denied based on an event's nature if it met the required criteria.

Clarification on the text amendments was asked for, particularly regarding section 3.6. Mr. Biddle confirmed that the amendments would be reflected in multiple sections, including Article 8, Table 3.1, and 3.6 A and Q for temporary use permits. A question about event capacity limits was raised, and Mr. Biddle explained that the temporary use permit process would allow the Fire Department to establish case-by-case capacity standards. The permit would also limit the frequency of events at bed and breakfast establishments near residential properties.

Chair Hodgin called for a motion to accept the Committee's recommendation and staff's drafted text amendment for forwarding to the Board of Aldermen for adoption into the UDO.

A motion was made by Mr. Locklin and seconded by Mr. Bove, followed by a unanimous vote in favor.

Mr. Ashley read the Statement of Consistency and Recommendation, affirming that the proposed zoning text amendment aligns with the City of Southport's 2015 Core Land Use

Plan, which supports activities promoting tourism.

The Planning Board recommended approval by the Board of Aldermen.

I. New Business

1. Project Updates and Meetings
Mr. Biddle provided updates on ongoing projects. The City is conducting a review of the UDO to ensure compliance with state statutes and to eliminate inconsistencies. This review will continue over the next two to three weeks. Additionally, a draft of the 2026–2035 State Transportation Improvement Plan is available on the NCDOT website for public comment.

Regarding the Turtle Bay development, tree removal for infrastructure has been completed. A pre-construction meeting with staff, developers, and public works will be held soon.

Mr. Fiss inquired about the remaining trees, particularly thin pines, and whether further thinning would be necessary. Mr. Biddle confirmed that the tree removal permit had already been processed. Ms. Meehan explained that the remaining trees would be addressed at the individual lot level as building permits are issued.

The development plan includes additional tree planting, particularly in buffer zones and recreation areas.

J. Other Business

Chair Hodgin opened the discussion by introducing a new agenda item, requesting an update on any significant applications or matters that may be coming before the Board of Adjustment. Ms. Meehan confirmed that such updates could be provided and noted an upcoming Adjustment and Planning Board training sessions.

Mr. Locklin proposed forming a Committee to review text amendments and work with City Council to address concerns raised earlier in the meeting. Chair Hodgin supported the idea and emphasized the importance of learning from past processes. The goal is to recommend changes to the UDO that would involve the Planning Board earlier in project submissions. It was noted that the Board of Aldermen has been discussing UDO text amendments, but the Planning Board has not been included in those conversations. Members were encouraged to submit any proposed amendments to Interim Manager Noah Saldo, who has been designated as the point person.

Discussion continued regarding whether Board members should submit suggestions individually or if a Committee should be formed. Ms. Meehan reassured members that the Planning Board would be included in the process and suggested using recommendations from the ongoing Comprehensive Plan review. Chair Hodgin recalled past discussions about waiting for the comprehensive plan to be completed before making amendments, aligning with the Board's goal to ensure actions reflect the City's direction rather than being random changes.

A Committee was formed to review text amendments, consisting of Mr. Locklin, Mr. Ashley, and Mr. Bove. Mr. Ashley suggested that a joint meeting with the Board of Aldermen might help align efforts, but the consensus was that the Committee should first work through recommendations before engaging the Aldermen. The Planning Board members were encouraged to submit concerns or ideas to the Review Committee rather than waiting until a full Board meeting.

Mr. Ashley also raised concerns about improving procedural efficiency, specifically referencing the extensive workload Ms. Meehan experienced with past project reviews. Chair Hodgin confirmed that process improvements could be considered as part of the Committee's work.

Ms. Meehan reminded the Board that emails regarding UDO amendments should be sent to Wendell or herself to avoid Open Meetings Law violations. Chair Hodgin clarified that members should send suggestions to the Review Committee, which would compile and communicate ideas to staff.

Chair Hodgin invited the Planning Board's liaison, Mr. Lai, to the table to inquire about improving the system between the Boards. Mr. Lai expressed support for streamlining processes and improving coordination between the Planning Board and Board of Adjustment to prevent conflicts. Chair Hodgin announced that going forward, liaison comments from Mr. Lai would be included in each meeting.

K. Announcements

Chair Hodgin provided a legislative update, mentioning Senate Bill 27 and House Bill 24, which aim to restore downzoning authority to municipalities. House Bill 24 is the preferred version and has been referred to the Judiciary Committee. A city resolution in support of the Bill is being delivered to Raleigh. She also highlighted a recent Wake County Superior Court decision in favor of the Coastal Resources Commission, which reinforces coastal protection regulations.

L. Adjourn

In closing, Chair Hodgin acknowledged ongoing challenges faced by communities affected by flooding and winter weather in Western North Carolina, Tennessee, and Kentucky.

Chair Hodgin asked for a motion to adjourn, which was provided by Mr. Hewett and seconded by Mr. Ashley. ***Unanimous vote, motion carried.***

The meeting was adjourned at 8:11 p.m.

X

Lawrence Ashley

Chair

x

Tori Deviney

City Clerk