



**CITY OF SOUTHPORT
PLANNING BOARD
REGULAR MEETING AGENDA**

September 21, 2023
6:00 PM

Agenda

Please turn off all cell phones

Meetings are open to the public. Face masks and social distancing may be used at the discretion of each individual. Changes to this policy may occur, as needed to help prevent the spread of the Coronavirus.

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

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Approval of Minutes**
 - 1. August 17, 2023
- E. Approval of Agenda**
- F. Public Comment**
- G. Old Business**
- H. New Business**
 - 1. Text Amendment-Section 3.9 Setback Exceptions and Encroachments
- I. Other Business**
 - 1. Comprehensive Plan Update
- J. Announcements**
- K. Member's Information**
 - 1. Attendance Record
 - 2. Member's Roster
- L. Adjourn**



City of Southport
Planning and Zoning Minutes
Community Building 223 E. Bay Street
August 17, 2023
6:00 P.M.

Members Present: Sue Hodgins, Will Hewett, Dick Sloan, Scott Jones, and Donnie Joyner.

Members Absent: Fred Fiss, Roy Pender, Kevin Locklin, and Chris Jones

Staff Present: Travis Henley, Development Services Director
Mo Meehan, City Planner
Dorothy Dutton, City Clerk
Sydney Heil, Community Building Administrator

Board of Aldermen Karen Mosteller and John Allen
Liaisons:

- A. Chair Sue Hodgins called the meeting to order at 6:01 p.m.
- B. Mr. Donnie Joyner gave the Invocation.
- C. Chair Hodgins led the Pledge of Allegiance.
- D. Motion to approve the July 20, 2023, Meeting Minutes By Vice-Chair Hewett, and second by Mr. Sloan. **Unanimous vote; Motion carried.**
- E. Motion to approve the Meeting Agenda By Vice-Chair Hewett and second by Mr. Joyner. **Unanimous vote; Motion Carried.**

Public Comment: A Motion was made by Vice-Chair Hewett to open Public Comment and was seconded by Mr. Joyner. **Unanimous vote; Motion Carried.**

Chair Hodgins stated that at the Board of Aldermen's Meeting on August 10, a vote was taken to return the Conditional Zoning Text Amendment to the Planning Board for additional review and consideration. She stated that Members of the public who did not attend that Meeting could view it on the City's website.

The Chair made the following comments regarding the Board of Aldermen's action:

"Ultimately there was a Motion and Vote to return Conditional Zoning to us for (as I heard and understood it) more work concerning the process-order for proposals, the assurance of thorough public comments on proposals, and the review of some of the guardrails previously discussed and included. Staff will be responsible for establishing the goals for and firming up our instructions and providing review materials when it's delivered to us again.

Mayor Hatem stated that this would likely take several months, and I agree: we must now hire a new Director of Development Services. I've worked in Human Resources for public agencies in my career and know that recruitment and hiring processes take time. And we want it to: we want it done right; we want to find another Travis. And then, the 'new Travis' should have time to get up-to-speed and guide our next work. So, for now... there's nothing on our plates for Conditional Zoning.

I will also comment that just last Saturday, a Planning Board Member was stopped on the street and verbally assaulted by an individual wanting to know 'what were WE going to do about CZ'? When the Member politely explained (and correctly, I might add) that the Planning Board

had not yet begun any further CZ work and began to walk away with his wife, the man yelled profanities at him. It is unfortunate, it is despicable, when citizens in a small town think that they can bully, threaten and accost others that don't see things exactly as they see them. I don't see those folks sitting in these seats; I see instead a table of volunteer-servants to Southport, and I want you to know that I have your backs. I hope that actions like last Saturday's are the exception...not what will become the rule for those who don't agree or understand – or even want to try.

Anyone with comments on CZ can certainly make them tonight – this is not an attempt to stifle or (the word I've heard is) 'censor' anyone. If you want to make CZ comments tonight, bring them on – our ears are ready ... and they're ready for any other comments, too."

The Chair asked the Clerk to call the names of anyone signed up to address the Board. There being none, the Chair asked for a Motion to close Public Comment. Mr. Joyner moved, seconded by Mr. Sloan. ***Unanimous Vote; Motion Carried.***

G. Old Business: None

H. New Business: None

I. Other Business: Update on the Comprehensive Land Use Plan. Development Services Director Travis Henley gave a brief update on the Plan's progress.

He said a Request for Qualifications (RFQ) went out in July and closed on August 15. Two bids have been received, and each bidding company has impeccable experience. Interviews could be conducted soon. The recommended applicant will then proceed with the negotiation process regarding costs and refining the scope of work. The selected client could conceivably be on the Board of Aldermen's September 14 Meeting Agenda for review and approval of the contract.

Mr. Henley said that the process for writing the new Comprehensive Plan will not be an update to the current Plan, but a completely new Plan. He said the 2014 and updated 2020 Plans will be referenced, but there will be more public input and planning review with the 2024 Plan. The Comprehensive Land Use Plan guides the direction for the future of the City. He explained that after the Comprehensive Plan is completed, the next step will be to update the Unified Development Ordinance (UDO).

Chair Hodgkin inquired about the interim processes: she asked if there would be some comparisons from other towns or surveys posted on the City's website for the public's review and updates. Mr. Henley said that once the Consultant has been confirmed, they will drive the process, including posting information, questionnaires, and comments for the public on the City website.

Director Henley said there must be caution that people outside the City's jurisdiction will add input; he qualified that input should be considered only from people who live inside the City's jurisdiction. However, there would most likely be input from adjacent areas that use Southport mailing addresses.

Chair Hodgkin confirmed that these firms most likely have established processes and template for providing information and receiving input from the community.

2. Set the Date for the Next Sign Review Committee Meeting: Director Henley said the Sign Committee – consisting of Fred Fiss, Sue Hodgkin, and Kevin Locklin - met on August 10. He said it was very productive, with good feedback. City Planner Maureen Meehan will take over the process and provide draft language for the Committee and the Board to review. Mr. Henley said that once the Planning Board has established new guidelines, the Historic Preservation Commission will work jointly to ensure the same standards. However, he said the Historic

Preservation Commission would be able to be more restrictive to issue the Certificate of Appropriateness. Chair Hodgkin said that the next Sign Review Committee will be on September 13.

The Chair inquired as to any additional items of Other Business. With none from Members, she brought one forward, asking Development Services Henley to join her at the podium. The Chair lauded the accomplishments and the projects underway for the City Development Services team under Henley's leadership and thanked him and Ms. Meehan for their work in taking the City toward solid strategic planning. She presented a parting gift to Henley and led Board Members and Meeting participants in applause for him.

J. Announcements: None

There were no further questions or concerns. Chair Hodgkin requested a Motion to Adjourn.

Vice-Chair Hewett made a Motion to Adjourn, seconded by Mr. Sloan. ***Unanimous Vote; Motion Carried.***

Adjournment: 6.25 p.m.

Chair, Sue Hodgkin

Deputy Clerk, Tanya Shannon

STAFF REPORT

ZONING TEXT AMENDMENT APPLICATION

SECTION 3.9 DIMENSIONAL REQUIREMENTS

APPLICATION SUMMARY	
Presentation Date	September 21, 2023 Planning and Zoning Board
Applicant	Cameron Smith
Relevant Ordinance Sections	Section 3.9.B.5 Setback Exceptions and Encroachments

ZONING TEXT AMENDMENT PROPOSAL
Cameron Smith, applicant, respectfully submits a Zoning Text Amendment to the City of Southport Unified Development Ordinance. Specifically, the request is to amend Section 3.9.B.5 Setback Exceptions and Encroachments to modify the maximum setback encroachment for heating and air conditioning units, generators, pool equipment, and other similar items. All proposed changes, including additions and deletions, can be found as an attachment to this report and may also be viewed in the City of Southport Development Services Department offices.

REVIEW PROCESS
A Zoning Text Amendment proposal is considered a legislative process. As laid out by North Carolina General Statutes, a legislative process is a policy-level decision with broad discretion by the decision-making authority, in Southport's case the Board of Aldermen. In a decision to approve or deny a legislative proposal, the Board of Aldermen shall include a statement referencing the decisions consistency with the adopted land use plan for the City of Southport. Per the City of Southport Unified Development Ordinance, the Planning and Zoning Board shall also provide a recommendation on any proposed Zoning Text Amendment to the Board of Aldermen. The Board of Aldermen shall hold a public hearing prior to voting on any Zoning Text Amendment.

AMENDMENT DESCRIPTION AND APPLICANT PETITION
The amendment to this section would allow heating and air conditioning (HVAC) units and similar equipment to encroach into a side or rear setback no more than forty-eight (48) inches or four (4) feet.

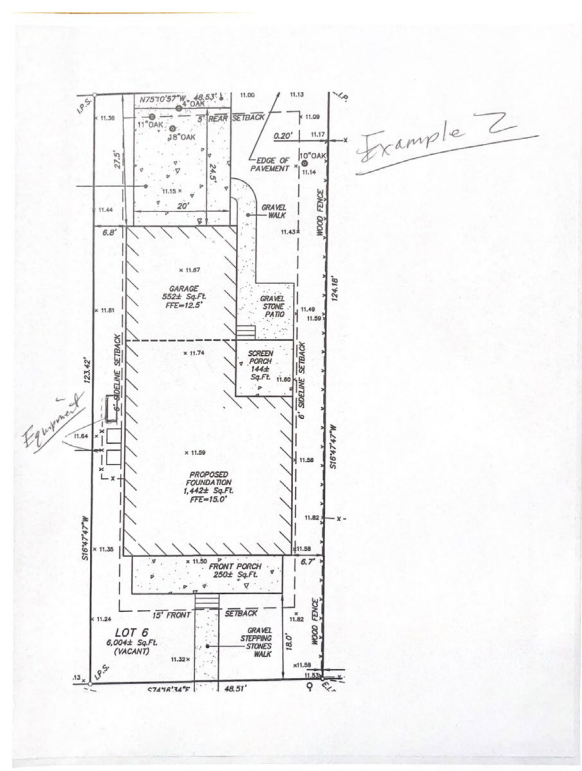
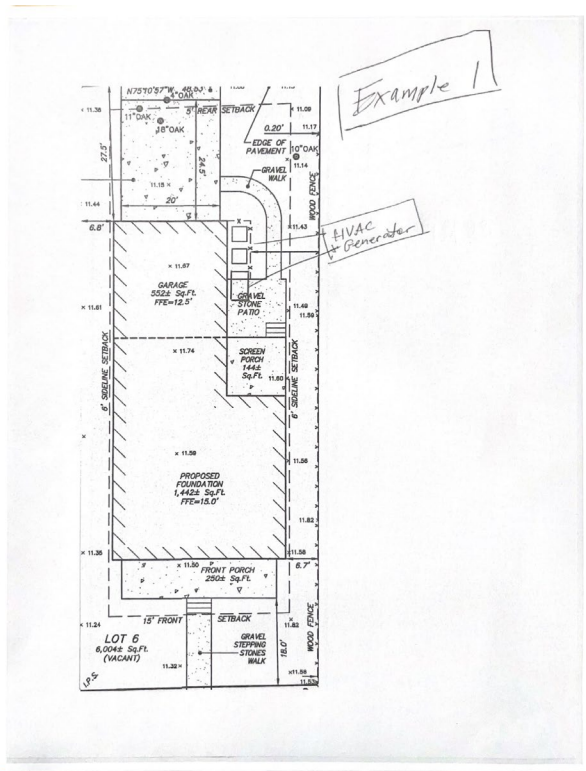
Currently, Section 3.9.B.5 of the UDO states, "Sills, cornices, buttresses, ornamental features, gutters, eaves, heating and air conditioning units and similar items may project into a required setback not more than 30 inches."

The applicant, Cameron Smith, applied for this amendment to accommodate narrow lots approved for PUD subdivisions and nonconforming R-10 lots throughout Southport. Mr. Smith is a builder in the city and has stated that most HVAC and whole house generators need to be 48" off the main structure to meet code requirements. As homes are being built on smaller lots, using most of if not all the buildable width for desired home designs is becoming a necessity. He further states that this causes an undue hardship on homeowners since the units cannot go in the front of homes and many times the rear of the home does not work either, an example of this would be for properties that include a rear loading garage.

Specifically, the applicant has requested the following text amendment:

Sills, cornices, buttresses, ornamental features, gutters, and eaves, ~~heating and air conditioning units and similar items~~ may project into a required setback not more than 30 inches. Heating and air conditioning units, generators, pool equipment, and similar items may project not more than 48 inches into a required setback.

Examples from the applicant are shown below. Example 1 is a site plan that cannot meet the 30" encroachment standards so the equipment is located near the outdoor living area. Example 2 is a site plan showing where equipment has historically been allowed and away from living areas.



BACKGROUND AND EVALUATION

Previous editions of the UDO did not include heating and air conditioning units in the encroachment provisions. The current UDO, adopted on September 23, 2020, added these types of mechanical units. Since October 2022, this section of the UDO has been enforced. Staff encounter equipment encroachments beyond the 30" standard regularly in site plan and final as built survey review. The instances have been reduced since the standard has been enforced, although staff do have to address the issue often. Historical plan review and approvals enforcing this standard cannot be confirmed.

Justification for this text amendment is to be able to accommodate smaller lot widths within cluster subdivisions and nonconforming R-10 lots throughout the city. Nonconforming lots not located in subdivisions many times have a 4' side setback, therefore the units would be allowed to have no setbacks.

Staff consulted the Cape Fear Council of Governments (CFCOG), the Building Inspector, and the Fire Marshall during review of this proposed amendment. Each entity was able to give insight on setback requirements found throughout the region and codes that must be met.

Mr. Wes MacLeod, with the CFCOG confirmed that 30 inches is a standard encroachment throughout the region for these types of units. Further, independent research found examples that allow HVAC and other units 30 inches or a 50% encroachment of the setback, whichever is greater, that allow the encroachment of stoops for air conditioning, but the stoop can only be large enough to accommodate the unit, and there are some examples of 48" in other coastal areas.

Southport's Building Inspector stated that HVAC units must meet manufacturer listed setbacks to allow air circulation. The average is approximately 24" and some can be as close as 12" to meet the National Fire Protection Act (NFPA). Generators must have a minimum clearance of 18" per the manufacturer's installation guidelines and NFPA. The Fire Marshall did not have any issues with these types of equipment being installed in side yard setbacks.

Unified Development Ordinance Compliance

Zoning Text Amendments, like General Use Zoning Map Amendments (Rezoning), follow the process laid out in Section 2.10 of the City of Southport Unified Development Ordinance. Pursuant to this section, the Planning Board shall advise and comment on whether the proposed text or zoning map amendment is consistent with the comprehensive plan or any other official adopted plans that are applicable and make a recommendation to the Board of Aldermen. The Board of Aldermen shall, in their final decision-making capacity, base their decision upon the same.

2014 CAMA Core Land Use Plan Compliance

Explicit references to specific lot layout, setbacks, and designs for single family lots are not included in the land use plan. The plan references updating the UDO and other documents to meet the needs of the residents of the city. Further, the following Policy supports consistency with the proposed text amendment and the land use plan.

Policy 2.4: Southport will permit residential development to occur in response to market needs provided that the following criteria are met: (1) Due respect is offered to all aspects of the environment. (2) Concurrent planning for improvements to community facilities, infrastructure, and services is provided.

STAFF'S RECOMMENDATION

City Planning Staff submit the proposed Zoning Text Amendment to the Planning Board for their consideration and recommendation to the Board of Aldermen. The proposal appears to be consistent with the 2014 CAMA Core Land Use Plan, specifically regarding residential development occurring in response to market needs.

Attachments

Proposed Text Amendment Language

Text Amendment Application

Consistency Statement

Proposed Text Amendment to Section 3.9.B

5. Sills, cornices, buttresses, ornamental features, gutters, and eaves, ~~heating and air conditioning units and similar items~~ may project into a required setback not more than 30 inches. Heating and air conditioning units, generators, pool equipment, and similar items may project not more than 48 inches into a required setback.



Text Amendment

City of Southport, North Carolina

1029 N. Howe St, Southport NC 28461
www.southportnc.org

Planning & Inspections
Phone 910-457-7961 Fax 910-457-7957

For Staff Use Only

PERMIT No. ZTA-23-03 FEE: \$ 250 Date Received: 8/8/23

Applicant's Name: Cameron Smith
Mailing Address: 107 Bennett's Creek Lane City: Southport
State: NC Zip Code: 28461 Phone: 910-443-5880
Email: _____

Current Section Impacted by Proposed Text Amendment: 3.9.B.5

Please describe the conditions that makes the proposed text amendment necessary for the promotion of public health, safety, and general welfare; or that identifies an obvious error in the UDO. Also explain why the proposal is or is not consistent with the Land Use Plan and other adopted plans (Attach separate sheet if necessary).

see attached

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

[Signature]
Signature (Applicant)

8/2/23
Date

APPROVED BY:

Mamoon Mehar

8/8/23

This is how the ordinance currently reads. 3.9 B.5 Sills, cornices, buttresses, ornamental features, gutters, eaves, heating and air conditioning units and similar items may project into a required setback not more than 30 inches.

Proposed text amendment : 3.9 B.5 Sills, cornices, buttresses, ornamental features, gutters, eaves, ~~heating and air conditioning units~~ and similar items may project into a required setback not more than 30 inches. HVAC units, generators, pool equipment, and similar items may project not more than 48 inches into a required setback.

Rationale behind revision: In the previous 24 years I have built homes in Southport this ordinance was either not in the UDO or not enforced. Items that are fixed to the structure such as cantilevers, etc were enforced with the 30" rule but never the equipment (HVAC, generators, etc). Many of the homes I have built in communities with narrower lots have equipment on the sides of the homes that would not have met this ordinance. Most air condensing units and generators need 48" off the structure to meet codes for clearances. In my opinion, this 30" guideline creates an unnecessary hardship. Many homeowners, especially in communities with narrow lots (PUDs or some of our city lots) need to use the majority of their buildable width for their home design. The equipment cannot go in the front of the home and in many cases the rear of the home doesn't work well either. A prime example of this would be homes with rear load garages on narrow lots and I have included an example site plan.

Example 1 shows what happens when the equipment is not allowed to go on the side of the home as it typically does due to the 30" guideline. The small rear outdoor space is adversely affected. In addition, having the equipment alongside the garage instead of the house foundation doesn't work in the construction world for a variety of reasons.

Example 2 shows where the equipment should be placed and where it has been allowed historically speaking. Changing this 30" guideline to 48" will allow this to work.

Another point I would like to make in regards to existing homes is many people are now wanting to install whole house generators and may not be able to with the enforcement of this 30" guideline. There is really no downside to this revision that I can see and it will be permitting this equipment placement to continue as it has been allowed in the past.



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

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

AMENDMENT: ZTA-23-03

STATEMENT OF CONSISTENCY AND RECOMMENDATION:

The City of Southport Planning Board hereby recommends adoption of the proposed Zoning Text Amendment to the Board of Aldermen and finds that it is consistent with the City's 2015 CAMA Core Land Use Plan originally adopted Nov. 13, 2014 and subsequently amended by the Southport Board of Aldermen. More specifically, the proposed amendment is consistent with **Policy 2.4:** Southport will permit residential development to occur in response to market needs provided the following criteria are met: 1) Due respect is offered to all aspects of the environment. and 2) Concurrent planning for improvements to community facilities, infrastructure, and services provided.

The statement and motion was seconded and passed _____.

Tanya Shannon, Deputy City Clerk

Sue Hodgin, Chairman

2023 PLANNING BOARD ATTENDANCE

MEETING DATE	Jan.	Feb.	Mar. 8 Special	Mar.	Apr.	May 3 Special	May	June	July	Aug	Sept	Oct	Nov	Dec	
<u>NAME</u>															Total Absences
Sue Hodgins Chair	P	P	P	P	P	P	P	P	P	P					
Will Hewett Vice-Chair	P	P	P	P	P	P	P	P	P	P					
Fred Fiss	P	P	P	P	P	P	P	P	P	A					1
Christopher Jones	P	P	P	P	P	P	P	P	P	A					
Scott Jones	P	P	P	P	P	P	P	P	P	P					
Donnie Joyner	P	P	A	P	P	A	P	P	P	P					2
Dick Sloan	P	P	P	P	P	P	P	P	P	P					
Roy Pender					P	P	P	P	P	A					1
Kevin Locklin					P	A	P	P	P	A					2
Gustavo E. Mibelli	P	R	R	R	R	R	R	R	R						

P = Present
A = Absent
R= Resigned

M:\PLBFILES\2023 ATTENDANCE PB.wpd

PLANNING BOARD MEMBER LIST SPRING 2023

MEMBER	ADDRESS	PHONE NUMBERS	APPOINTED	EXPIRATION	
Sue Hodgins, Chair sue.hodgin@southportnc.org	608 Cottage Point Way	(910) 477-1808	February 10, 2022	June 2025	IN
Will Hewett, Vice-Chair will.hewett@southportnc.org	129 Cape Fear Dr	(910) 520-3291	August 11, 2022	June 2025	IN
Fred Fiss fred.fiss@southportnc.org	216 N. Atlantic Ave	(910) 269-6901	February 10, 2022	June 2024 (completing the term)	IN
Christopher W. Jones chris.jones@southport.nc.org	1008 Dutchman Cove SE	(910) 549-1407	March 12, 2020	June 2026	ETJ ALT
Scott Jones scott.jones@southportnc.org	1001 Pete's Camp Rd	(910) 471-0802	August 14, 2020	June 2024	ETJ
Donnie Joyner donnie.joyner@southportnc.org	635 Jabbertown Rd	(910) 368-7501	August 14, 2020	June 2024	ETJ
Richard Sloan dick.sloan@southport.nc.org	509 E. Moore St	(910) 946-1771	February 10, 2022	June 2025	IN
Roy Pender roy.pender@southportnc.org	102 S. Fodale	(910) 477-6057	April 13, 2023	June 2026	IN
Kevin Locklin kevin.locklin@southportnc.org	209 N. Lord St.	(540) 272-0808	April 13, 2023	June 2025 (Completing the term)	IN ALT
Travis Henley thenley@cityofsouthport.com	1029 N. Howe St	(910) 269-7212	Staff Director of Development Services		
Mo Meehan mmeehan@cityofsouthport.com	1029 N. Howe St	(910) 457-7900 X 1043	Staff Planner		
Tanya Shannon tshannon@cityofsouthport.com	1029 N. Howe St	(910) 457-7929	Staff Deputy Clerk		
John Allen jallen@cityofsouthport.com	752 Indigo Village Ct	(910) 685-0495	Board of Aldermen Liaison		
Karen Mosteller kmosteller@cityofsouthport.com	310 N. Atlantic Ave	(704) 560-2443	Board of Aldermen Liaison		