



**Planning Board Meeting Minutes
Southport Community Building
223 E. Bay Street
September 15, 2022
6:00 P.M.**

|

Members Present: Sue Hodgkin, Will Hewett, Christopher Jones, Donnie Joyner, Fred Fiss, Scott Jones, and Dick Sloan

Members Absent: Gustavo Mibelli and Mo Meehan

Staff Present: Dorothy Dutton, City Clerk
Tanya Shannon, Deputy Clerk

Board of Aldermen Karen Mosteller and John Allen
Liaisons:

Others: Sam Shore, Planner, Cape Fear Council of Government

- A. Chair Sue Hodgkin called the Meeting to order at 6:02 p.m.
- B. Mr. Donnie Joyner gave the Invocation.
- C. Chair Hodgkin led the Pledge of Allegiance.

In the absence of Mr. Gustavo Mibelli, Alternate Member Mr. Fred Fiss was appointed as a voting member. Ms. Maureen Meehan, who was not in attendance, has formally resigned from her appointed position as a Full Member to accept a full-time position as City Planner for the City of Southport. ETJ Member Mr. Chris Jones was appointed as a voting member in her absence. Chair Hodgkin announced that notice would be published for the open position.

- D. Motion to approve the August 18, 2022, meeting minutes by Mr. Donnie Joyner and seconded by Mr. Scott Jones. **Unanimous vote; motion carried.**
- E. Motion to approve the Meeting Agenda by Mr. Sloan and seconded by Vice-Chair Hewett. **Unanimous vote; motion carried.**
- F. Public Comment:

Vice-Chair Hewett motioned to enter Public Comment and was seconded by Mr. Fiss. **Unanimous vote; motion carried.**

- 1. Tracy Beaulieu, 206 W. Nash St; had concerns about the proposed Major Site Plan for a mixed-use development located at 115 N. Howe Street. She is concerned about the height of the building and how this will affect the Live Oaks branches and limbs on the rear side of the property. She said that with this development and construction, there would be significant damage to the heritage trees and a threat to their survival. Also, she said the open rooftop bar could become dangerous to those around the business without protection from high winds. Ms. Beaulieu stated

that the design of the building does not reflect the historic and graceful architecture of Downtown Southport. She said there are factors from the ABC Board Commission that must comply with any permits are issued. In addition, parking for a mixed-use development as proposed, which could occupy up to 662 people, will be beyond challenging. She presented a "Preserve Our Neighborhood" petition that received 424 signatures from citizens that are not in favor of the development for this type of use, especially the rooftop bar surrounded by residential housing (the petition signatures are on file at the City Clerk's office for the record). She asked the Board to please consider the devastating effects of this development on the surrounding residents and the character of Southport.

2. Rebecca Kelly; 5971 Dutchman Creek Road. First, she thanked the Board for their diligence and research on the proposed Indigo Plantation Phase 2 project. She understands that the application for the development had recently been withdrawn. However, she said that this would be a temporary reprieve, and she hopes that the Planning Board will continue to keep up the excellent work on their commitment and dedication. Ms. Kelly stated that although the CZ-HC Zoning request for Rhetson Companies was removed from the agenda for revisions, she wanted to give an update on the company's website that she spoke about at the last Aldermen meeting. She said previously that the website showed photographs of Dunkin Donuts and Dollar Generals, but they have since updated the site to other types of businesses. She also wanted the Board to consider that rezoning the property to HC could potentially change the look and feel of the entry corridor for Southport. Ms. Kelly also mentioned that impact fees have nearly doubled for businesses in Southport. She said that it has been challenging for small businesses to manage the increase in addition to permit fees.
3. Glen Patterson, 102 W. Nash Street, is a resident and business owner in the immediate area of the proposed mix-use development at 115 N. Howe Street. He said that although this type of use is allowable in the Central Business District, he feels that the expansion of the building on all four sides and the rooftop bar adjacent to a residential area is implausible. He stated that patrons from the rooftop could see directly into the upstairs windows of the neighboring house. He said there is not enough parking for this type of use, and parking will overflow into the residential area. Also, he said the fragile infrastructure cannot handle the capacity for retail, apartments, and a restaurant/bar at this location. He feels the project should not move forward until these issues are resolved.
4. Deputy Clerk Tanya Shannon read comments submitted via email from Kate Magill Walters; 214 N. Street. She is concerned that the proposed new building at 115 N. Howe Street will set a precedent for other similar types of uses to develop in the Central Business District. She stated that there is not enough available parking to service this mixed-use and, therefore, it will push all the traffic and parking onto residential streets. She said this would destroy any peaceful residential ambiance that she currently enjoys.
5. The Deputy Clerk read a submitted statement from Mr. Bill Duke; he said that as a 25-year resident of Southport, he is adamantly opposed to the 115 N. Howe Street project. He stated that he does not think this project will be in compliance with the standards that ensure architectural compatibility, as well as the preservation of the architectural character that currently exists throughout the city.

There were no further questions or comments. A motion to close Public Comment was made by Vice-Chair Hewett and was seconded by Mr. Fiss. ***Unanimous vote; motion carried.***

- A statement was made by Chair Hodgin as follows (verbatim):

"Before we get into our first item, I want to briefly speak to the actions at last week's Board of Aldermen meeting re: Indigo Phase 2 and the withdrawal of the applications by BHI-L and East-West. For the Planning Board, it means that we will be getting another submission if/when the

Applicant is ready to do that. There is no further interaction or action to take regarding this matter until it is brought before us again, just like it was earlier this year.

I DO want to state publicly how proud I am of the work this body did, and the recommendations that were forwarded to the Aldermen. I thank you. Public participation is important and another part of our process, but this body's work – absorbing that participation, and OUR holding the submission accountable to the UDO - were the largest parts of getting that application to the point it now stands.

Next ... I am so very pleased for our City's starting work (again) on a Historic Preservation Commission. For those who may not know or have heard recently, Southport had a Historic District established in the 1970s – a District placed on the National Register of Historic Places. For years – decades – City administrations let that distinction for our town languish. Our Mayor, our Aldermen are finally reigniting that light for us and moving to get a Historic Preservation Commission established. Soon, those 9 members will be named. I'm looking forward to this body working with that Commission to help us hold our historic aesthetic and character in proper high regard. I spoke to this last month as we discussed and ultimately forwarded UDO changes to the Aldermen to aid in preservation of the character of our Central Business District.

And to that subject -- the UDO text revisions we forwarded and the Aldermen voted into place last week. We are appreciative that the Aldermen considered, discussed and ultimately recognized those revisions as important for the CBD and BD. Some comments have been made, and published, calling the revisions 'kneejerk reactions' on the part of this Board. That is not correct and is a misrepresentation, I believe, of this Board's responsibilities and commitment to the City. We all share and hear often that the UDO is a living, breathing document that must remain static for amendments that are recognized as necessary to protect our city and its integral Core Values in our CAMA Land Use Plan, those including preservation of the city's historic character and protection of our neighborhoods. Let me be clear that nothing this Board does is pointed at one particular individual, development- or investment- group and/or their efforts in Southport's commerce."

G. Old Business:

1. Conditional Zoning Request for Rhetson Companies, Inc. (From BD to CZ-HC); 6 parcels at the corner of W. 14th and N. Howe St. (Removed from the agenda for revisions)

Chair Hodgin stated that the Conditional Zoning request had been removed from the agenda so the applicants could complete revisions to their plans. However, she gave a brief overview of the application and asked the Review Committee members to provide an update on their discussion. She said the application was first reviewed in May for a 2.07 tract currently located in the ETJ at the corner of W. 14th and N. Howe St to be rezoned from Business District to Highway Commercial. After further review, the applicants decided to change the request for the property to be rezoned to Highway Commercial Conditional Zoning. The Review Committee, which consisted of Will Hewett, Fred Fiss, and Chris Jones, met on September 12th to discuss the application in detail. Chair Hodgin asked the Review Committee to give a brief update on their review.

Vice-Chair Hewett stated that one of the committee's concerns was the size of the building, which is proposed to be 11,000 sf. He explained that they did not feel like that would blend with the character of the current surrounding residential area. He said it was suggested to design the building into boutique-style shops that would blend better and thus would potentially reduce the size. He noted that it was discussed that one advantage of developing the boutique-style shops would be that there could be better tree mitigation and preservation of the existing trees. He also said the Committee wanted to ensure that the applicant was aware of the Tree Ordinance and

the Exterior Lighting Ordinance that was recently adopted. He noted that the applicants would take this into consideration and report back to the Board.

Mr. Fiss said that he feels rezoning this property to Highway Commercial would not fit this location well. He said the scale of the building is too large to be in the Entry Corridor of the City. Mr. Chris Jones noted that the Walgreens located on N. Howe Street and Robert Ruark Rd. is comparable to the size of this proposed 11,000 sf. Building. He stated it was the consensus of the Review Committee that this building would be too large to fit into the surrounding area's character. He explained that currently, the property is zoned in the Business District, and he said that they could build up to a 5,000 sf. building in this district. He explained that the applicant requests to rezone the property to the Highway Commercial District, but to put conditions on the development. He explained that this would allow the City to have flexibility with the use. However, he said the concern was mainly about the large size of the proposed structure. He said, as Mr. Hewett mentioned, the trees were of concern, and the Committee would like to see the owners restructure their proposal to accommodate for preservation. Mr. Fiss noted that the applicants were invited back to discuss the options of remaining in the current zoned Business District with a lower scale and submitting a new plan.

Chair Hodgkin asked Mr. Shore Planner with the CFCOG if he could explain the definition of Conditional Zoning. Mr. Shore gave the framework for legal development with three different types of reviews. 1) Administrative Development Decisions, 2) Quasi-judicial Development Decisions, and 3) Legislative Development Decisions are the political decisions by the governing board to set or amend the development ordinances. Adopting a new unified development ordinance, rezoning a piece of property, adopting the comprehensive plan, or amending the standards in the subdivision ordinance—each is a legislative decision. It is setting a broad policy for the community. Mr. Shore explained that the definition of Conditional Zoning in the City's UDO states: *Conditional Zoning District: A special district where uses and densities are established through public input for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or conditional use, on small and large-scale projects.* Mr. Shore said the intent of Conditional Zoning is to mediate site-specific issues and allow certain conditions placed on the proposed use.

It was the consensus of the Board to table the zoning request until the applicant had completed the changes and submitted the update to the Review Committee, which consisted of Mr. Hewett, Mr. Fiss, and Mr. Chris Jones for more discussion. Mr. Joyner motioned to table the zoning request and was seconded by Vice-Chair Hewett. ***Unanimous vote; motion carried.***

2. Major Site Plan Review: Revised Plan for 115 N. Howe Street Mixed-Use Development; submitted by Ron Greger.

Chair Hodgkin stated that the plan was first presented to the Board in July and a Review Committee was established that consisted of Ms. Hodgkin, Mr. Fiss, and Mr. Mibelli. The Review Committee met on July 15th with project manager Ron Greger and the property owners Frankie and Eric Beacham.

Mr. Shore gave the background on the application. He explained that the existing structure located at 115 N. Howe Street is proposed to be demolished and replaced with a new structure. The proposed structure is a multi-story building that is 102 feet x 90 feet. The existing impervious area on the site is 11,431 sf. The proposed site layout would add 2,886 sf for a total of 14,317 sf. The percentage of impervious area for the site is 91.73 %. The site plan proposes four residential dwelling units. The UDO requires two parking spaces per residential unit regardless of whether it is in the Central Business District or not. Within the CBD Zoning district, no off-street parking shall be required for any nonresidential use, whether new construction or change of use/redevelopment. The only exception to this is for residential. There are eight total spaces. Parking facilities with less than ten spaces are not required to meet the parking facility landscaping

guidelines. Street yard buffers are not required in the BD or CBD zoning districts. Buffer yards are also not required in CBD where adjacent to R-10 property. However, in this case staff would recommend that a fence be installed. The proposed uses of the site are Retail, Restaurant, and Residential.

Mr. Shore stated that a report from the Review Committee was included in the Board packet. A recap of the Review Committee meeting in July discussed the Central Business District in Southport and how it was important to have architectural design that matched the character of Southport. The Review Committee mentioned that missing from the application was a Traffic Impact Study, lighting plan, and signage plan. A traffic impact study is required for any project that exceeds 500 trips a day. If an applicant feels like their project does not exceed 500 trips a day, they need to have a traffic engineer submit documentation as to why this is the case using ITRE Trip Generation Manual. The applicant said that they would get back together with their civil engineer and work on that documentation. The Review Committee also indicated that they were concerned with the lack of parking for these uses. Although the CBD does not require off-street parking for nonresidential uses, they were concerned with the lack of parking for the intensity of uses at this location. There was discussion on the eight parking spaces for nonresidential uses and how one of those parking spaces was handicapped. They asked if the dwelling units would be able to use this spot if they did not have a handicapped placard. Staff indicated that they would not. Mr. Mibelli brought up the 5 ft parking setback from the property line and how it needed to be shown on the plan. Mr. Greger indicated he would get that modified. He also asked whether there would be an elevator structure to the rooftop bar in order to comply with ADA requirements. The elevator shaft would need to be in line with zoning requirements. The committee also discussed that the corner visibility needed to be clarified and discussed the increase in impervious area on the site. While the site already has 11,431 sf of impervious area, there would be an additional 2,886 added to the site if developed as proposed. The Committee further discussed the architectural compatibility. Mr. Greger said they were willing to talk about architectural considerations within reason. He indicated that they would talk to a local architect in Wilmington to get further ideas on how to soften the building and make it more compatible with Southport. There was also discussion on whether the applicant was aware of potential changes to the City's lighting policy and becoming Dark Sky Compliant. Mr. Fiss asked about the occupancy and whether there was enough egress according to the Fire Code. It was his understanding that there would need to be 3 stairwells. Mr. Greger indicated that they were considering adjusting that and that they would need to resubmit an updated version. There was also discussion on grease interceptors, recycling containers, and the dumpster. Mr. Fiss conveyed to the applicant that folks around town indicated that they would be more comfortable with a two-story structure rather than a 38-foot tall building. Mr. Greger indicated that this was a good way to introduce the project and that they gained valuable feedback. He indicated that he would incorporate some changes and bring the plan back as a resubmittal. It was the consensus of the Review Committee to table this site plan until it comes back for resubmittal.

At this meeting of the Planning Board, the applicant Mr. Ron Greger came to the podium to answer questions and concerns. He stated that after the Review Committee meeting, he went back to the architect and the traffic engineer to address the concerns from the Committee and checked off the boxes that were of concern and updated that in the revised plans that were provided to the Board. He said they had included the signage and lighting requirements in the updated plans. Mr. Greger said that they meet their requirements as far as the parking issues are concerned. He said they did not create the parking problem that the City has, and said it is the City's responsibility to address the parking issues. He said that they would like to come to an agreement so that the final plan could be submitted. Mr. Fiss asked if Mr. Greger could provide some of the design changes that have been made. Mr. Greger said that the first floor would be concrete with brick veneer columns. The second and third floors will be a mix of concrete and Hardy plank siding. He said the intention is to blend the building with the city's character. Mr. Greger addressed the concern regarding debris from the roof-top bar blowing off during high

winds, saying they are prepared for when the winds pick up and they will safely secure all loose materials. Mr. Fiss asked if there was an additional stairwell added to the plans. Mr. Greger said there are two stairwells, one that goes up to the second floor, another to the restaurant, and partially down to the apartment area. Mr. Fiss questioned if the combined numbers for the restaurant and bar had changed. Mr. Greger stated the applicant sees between 200-222 people at max occupancy. He said that the term roof-top is misperceived. He said that the restaurant has a bar and that there is a viewing area on the rooftop to sit and drink. He said that most of the rooftop section would be facing Howe Street and not on the backside of the restaurant.

Chair Hodgkin asked for clarification on page 7 of the site plan that shows a 416 occupancy on the 3rd floor. Mr. Greger referred to page 4 on the 3rd (floor life safety plan), which says the actual occupancy is relatively lower than what could be the maximum amount. He stated that the site plans have to reflect the maximum capacity. Ms. Hodgkin asked if the 222 occupants for the rooftop area was correct. Mr. Greger said that was maximum capacity, but they were going to try to limit that number.

Mr. Scott Jones interjected that the Fire Marshall would have to come in and set the maximum occupancy. Mr. Jones asked if the Fire Marshall allows a higher occupancy, will the owners allow a higher capacity. Mr. Greger replied that it is not their intention to achieve maximum capacity. He said they would like to try to limit the number of people at one time, and this scale only shows the capability, not the actuality. Mr. Fiss stated that a Technical Review Committee would need to be established and meet with the Fire Marshall for more discussion. Mr. Fiss said that regarding the Fire Code requirements, and with the potential for over 500 occupants on the 3rd floor and roof-top area, he feels that a third stairwell will be required. Mr. Greger said this would be addressed with the Fire Marshall and the architect to possibly incorporate another stairwell. Mr. Fiss also stated that he does not like the location of the dumpster. Chair Hodgkin noted that it is placed too close to residential housing. She said that with there being a restaurant/bar, the dumpster would create unpleasant odors for the adjacent neighbors. Mr. Greger said this is near where the dumpster was initially placed so the trash trucks could enter and exit conveniently. He said he would talk to his planner to see if another location is feasible. Mr. Hewett questioned the hood system for the restaurant and how this affects the blowout into the residential areas. Mr. Greger said that with the system's height, there should be no effect on the surrounding area. Mr. Fiss questioned the 18" recessed space for the retail spaces on page 9 for the north (right) elevation facing Nash Street. Mr. Greger stated that he thought this was a requirement in the UDO, but he would clarify that with the architect. Chair Hodgkin asked for clarification on page 5 (facility lighting plan) that shows an 8" gap between the building and Port City Java. He said that is correct, and there is more clarification on page 2 (section between buildings). Chair Hodgkin asked when the final plans would be completed. Mr. Greger said that the elevations are nearly finished and that everything has been addressed that is of concern. He said they may add more parking spaces and address the dumpster location and Fire Code. But the plans are mostly complete.

Mr. Don Davenport, with Davenport Engineering Consultants, gave a review of the Traffic Impact Analysis. He explained that NCDOT was contacted regarding a traffic study at the location, but they said that this location only met half of the threshold requirements for a traffic study and did not require one. Mr. Davenport explained that the ITE Trip Generation 11th Edition was used for this study, and a scope was provided to the City that was approved. The study included estimated trips to the site, including residents, employees, customers, deliveries and other services such as trash pick-up. The scope estimated average weekday driveway volumes and concluded the total unadjusted trips to 1,474 (24hr two-way). Average AM Peak Hour: enter 78 and exit 78, and Average PM PEAK HOUR: enter 83 and exit 74.

Mr. Chris Jones discussed the concerns with the parking. He said there needs to be a discussion with the owners, developers, and builders to help accommodate the need for parking.

He said if not, the City would have to find a solution that might not be favorable to some of the businesses. He asked if Davenport Engineering could do parking studies. Mr. Davenport stated that they can, but he said it would ultimately be up to the City to provide adequate parking. He said encouraging gold carts, walking, or biking is beneficial. He also said many of the residents that live in the apartments also work in the businesses, which reduces some parking issues.

Mr. Scott Jones asked how the traffic is analyzed at different times. Mr. Davenport said that the study generates statistics that tell traffic usage at other times of the day and at peak times. It also allocates the type of usage that is developing the traffic. Mr. Davenport said that the scope provided is based on the worst-case scenario.

The Board will take the Major Site Plan back to the established Review Committee for further review, which includes Chair Hodgins, Mr. Fiss, and Mr. Mibelli.

H. New Business

1. Major Site Plan: Bullfrog Corner; 101 E. Moore St; Mixed-Use Development; submitted by Andrew Laing

Mr. Sam Shore gave an overview of the Major Site Plan application for the redevelopment of an existing property located at 101 E. Moore Street in the CBD. The site is comprised of 4,383 sft. The applicant proposes a mixed-use development comprised of retail (existing on the first-floor use) and two residential units on each of two stories to be added. He said the existing building would remain on site, with upper story construction above. The redeveloped structure, as proposed, has a height limit of 40 ft in accordance with the height requirements of the CBD zoning district. No setbacks are required in the CBD per the dimensional requirements as provided in Section 3.9, Table 3.2 of the UDO.

The applicant, Mr. Andrew Laing, thanked everyone for their time. He said it is a straightforward project, with retail on the bottom floor and apartments on two additional floors. He said that he and his family are full-time residents of Southport, and he has several local businesses in the area. He said that the location for this project at N. Howe and Moore Street is a prominent corner, and he wants to make the building look exceptional. He said the building would blend well in the downtown area. He is looking forward to working with the Board to proceed with the process.

Chair Hodgins asked if the apartments would be for long-term or short-term renters; Mr. Laing said that had not been determined. Mr. Fiss inquired if he had engaged either an architect or engineer; Mr. Laing said he had not. Mr. Fiss asked when plans might be ready for review; Mr. Laing said he was unsure. There was some discussion on the existing footprint of the building, and if it was structurally capable of maintaining additional floors. Mr. Laing replied that the former owner had told him that the building was designed to build up, and that he was told there were beams in place to secure the structure.

It was the consensus of the Board to establish a Review Committee. Mr. Scott Jones, Mr. Fred Fiss, and Chair Hodgins were assigned to the Committee for further review.

I. **Other Business:**

Chair Hodgkin noted that the Members Table and Attendance Record are always in the back of the Board Agenda Packet for Member information, but there was no action to be taken.

J. **Announcements:** None

• **Chair Hodgkin's Comments on the Application Submission Process (verbatim)**

A very interesting thing I've noted as I've watched and listened to our discussions while I've been on this Board – and more so since I've been in the Chair's seat -- is how much teamwork should matter. I think for the City's administration, for this Board, for the citizenry, it's obviously very, very important.

Everyone should be able to know that all applications are held to the same submission- and review- standards. I've observed through the last several applications presented to this Board that we need to work towards consistency and accountability in the application submission process. In everyday vernacular, we need to 'all be singing from the same hymnal' in our submission process so that everyone is treated fairly.

To cultivate what I hope is a greater teamwork approach between the Development Services Office in City Hall and the Planning Board, I'd like to appoint a Submissions Committee to talk through the current checklists – what's good and works, what's bad and doesn't, what's not there – and work on suggestions for discussions I hope we can have with City Staff on how we can better the process 'as a team'.

Mr. Chris Jones, Mr. Fred Fiss, and Chair Hodgkin were appointed to the Application Submissions Committee.

- Chair Hodgkin stated that at last month's Meeting, she assigned Mo Meehan to a committee to begin the periodic review of the UDO, starting with the PUD and Subdivision standards. With Mo's resignation, she will need to assign someone else. Mr. Dick Sloan was appointed as the replacement to serve on this committee with Vice-Chair Hewett and Mr. Gustavo Mibelli.

- Mr. Fred Fiss and Mr. Chris Jones were confirmed back to City- and ETJ-Alternate Member status.

K. There were no further comments or questions. Vice-Chair Hewett made a motion to adjourn and was seconded by Mr. Sloan. ***Unanimous vote; motion carried.***

Adjournment: 7:50 p.m.

Chair, Sue Hodgkin

Deputy Clerk, Tanya Shannon