



City of Southport  
Planning and Zoning Board Minutes  
Indian Trail Meeting Hall; 113 W. Moore St.  
January 19, 2023  
6:00 P.M.

**Members Present:** Sue Hodgins, Will Hewett, Gustavo Mibelli, Scott Jones, Dick Sloan, Donnie Joyner, Fred Fiss, and Chris Jones

**Members Absent:** None

**Staff Present:** Travis Henley, Development Services Director  
Mo Meehan, City Planner  
Tanya Shannon, Deputy Clerk

**Board of Aldermen Liaisons:** Karen Mosteller and John Allen

- A. Chair Sue Hodgins called the meeting to order at 6:00 p.m.
- B. Mr. Donnie Joyner gave the Invocation.
- C. Chair Hodgins led the Pledge of Allegiance.
- D. Motion to approve the Meeting Agenda By Mr. Donnie Joyner and seconded by Mr. Gustavo Mibelli. **Unanimous vote; Motion Carried.**
- E. Motion to approve the December 15, 2022, meeting minutes By Mr. Vice-Chair Hewett and seconded by Mr. Donnie Joyner. **Unanimous vote; Motion carried.**
- F. Mr. Fred Fiss was sworn into Appointed Full City Member by Deputy Clerk Tanya Shannon.

Before moving into Public Comment Chair, Hodgins made the following comments.

**Chair's Comments on the Changes Underway**

*"You can see from our agenda that there are many 'pendings' for Southport right now. Our city is busy, we are growing— more so than many of its citizenry would like but folks, 'we've been found' ... just like we all found it.*

*The very reason so many have moved to Southport is why we must take care of it. We all love our town for its history, its family-connections, and its very uniqueness. And I believe we all want to honor those things and as much as absolutely possible, keep Southport as Southport is.*

*Many times you've heard me say Southport is not a beach town – we are not Oak Island, Carolina Beach, or Holden Beach. For sure, we're not Wilmington or Wrightsville Beach.*

*Do we appreciate our tourists and businesses -- absolutely -- we realize they are part of Southport's economy and welcome their contributions to it. But we are not just a tourist-town either: we are a small coastal town of communities of neighbors. Part of this Board's mission is to help protect our areas of commerce and our neighborhoods. That's really part of the uniqueness of Southport, right? -- the two are so closely intertwined: our downtown literally has businesses and residences abutting. This Planning Board is a big part of what has to 'make it all work'.*

*We've seen the increase in submissions, the increase in ideas and concepts presented in them -- and we are charged to determine what's best for ALL of Southport: looking at historic character, impacts on our infrastructure, and the balance that has to exist between 'business and bodies'.*

*Several times in the past, this Board has talked about the changes underway in Southport -- some good, some 'not so much so'. And we've talked about the need for the city's boards and commissions to be in lockstep with City Staff and plans for the good of the city. Hindsight usually turns out best -- anybody else noticed that? After something has happened you usually see what good came from it -- even if it didn't feel like that when it was going on. That's happened for Southport: we've been shocked with some things, stepped up to some challenges and we've seen as a result what good could come, what changes are mandatory.*

*For Southport, for us as a Planning Board, I am very impressed with the internal changes that we see happening. We have Leadership -- we have an Administration -- that is committed to working us through our growing pangs. We have City Staff in place now that has phenomenal experience in planning -- we've loaded our arsenal with folks who were in the right place at just the right time. I think I speak for each of us when I express appreciation for Bonnie, Dorrie (congratulations, by the way, Ladies!), Travis, Mo, and Tanya for their work, their help on our behalf.*

*We as a Board are already being involved in discussions that will change -- very much for the better -- the processes by which we receive and review submissions. Under the eyes of City Staffers, members of this Board, AND public comments, we're identifying areas of our UDO that need strengthening by text amendments or small (and sometimes major) overhauls. Work has already begun there -- to beef up the authority, the measures the City will have to help with positive interaction with the entities that come before it. You'll hear a presentation on one of those ideas tonight. And City Staff is very much open to ideas that WE are bringing forward -- we are appreciative of that, too. This must be a joint effort. We start this year by asking for your support and that you 'Trust the Process'.*

*As a municipality, we cannot stop or change what is happening on Hwy 211 -- we see what will come at us, but overall, that's 'not our circus, not our monkeys'. What we can do, though, is work within our own city limits: plan smart, plan strong, and plan strategically.*

*Is all this going to be easy? OhmygoodLord, no -- it will be work. Is all of it going to be wildly popular? Absolutely not. This Board, Staff, and the Alderman are not always going to agree on everything. But we hope that everyone has the same goal in mind -- to take care of Town, to keep Southport. As we begin an update of our Land Use Plan; as we recreate our Comprehensive Plan (the long- term vision for Southport); and as we discuss other actions we can take -- some of which may be termed 'revolutionary' - - we encourage public participation. Before any meetings are held with these specific agenda items, we encourage you to participate in Public Comment at Regular Planning Board meetings just like this one or at Board of Aldermen meetings ...you don't know what thoughts, what great action-plans you could spark. We want us ALL involved.*

*Many of us make New Year's resolutions for ourselves personally, our families, our homes, and our causes. Here's ours for 2023: this Planning Board, and our City Administration, are out to tighten up and show Southport's citizenry our continuing forward movement! "*

**G. Public Comment:**

Vice-Chair Hewett made a Motion to enter Public Comment and seconded by Mr. Joyner.

***Unanimous vote; Motion carried.***

Deputy Clerk Tanya Shannon read three submitted Public Comments.

1. Ms. Maureen Busch-Terman expressed concerns regarding the proposed Subdivision Oakton access road from Stuart Ave. She said this access is not needed because there are already three other proposed access points. She said this would cause the removal of many unnecessary trees.
2. Ms. Kathleen Fox- Rhett Street. She asked the Board to consider disapproving the proposed Oakton access road on Stuart Avenue. She believes there is enough proposed access without including Stuart Ave. and removing the trees in a nice, wooded area.
3. Mr. & Mrs. Sharon and Jim Lightbourne-316 W. West Street. They stated that so much of the Planning Board's work has been reactive in nature. This is an opportunity for the Planning Board to plan. He said the Planning Board seems to be the right group to lead the city and its residents in this planning. He said it takes time to identify the concerns we wish to address, time to explore options to address these concerns, time to implement and modify pilot experiments - all the steps necessary to identify a path forward. "We encourage the Planning Board to take up this challenge."
4. Ms. Shirley Sullivan-5002 Seaward Crt. has concerns regarding the proposed Major Site Plan for The Shoppes at Dutchman Village. She said that there needs to be an updated Traffic Impact Analysis on this area. She said that with the increase in growth in the city, the traffic flow would need to be structured for the incoming and outgoing traffic into the Shoppes and the Rivermist Community.
5. Ms. Jennifer Fontaine-5223 Shipmast Way. She lives in the Rivermist Community and has concerns about the traffic impact the Shoppes will have on the surrounding area. She agreed that an updated TIA would be needed to determine how the traffic flow will be accommodated around the Rivermist community and the adjacent restaurants and businesses.
6. Pat Kirman-119 Park Ave. would like information on the former location of Thai Peppers Restaurant on Moore St. She would like to know what design standards will be implemented to ensure that the business will be compatible with the character of Southport.
7. Rich Bandera-409 Burrington Ave. stated that as a former member of the Planning Board, he was involved with the Committees and consistently worked on the Conditional Zoning (CZ) provisions for the updated UDO for nearly 2 years. He does not encourage CZ and believes it should not expand into residential districts. He feels like this would create spot-zoning.
8. Ray Mitchell-Bethel Church Rd. stated that the 2019 Joint Land Use Study between Sunny Point Military Terminal and The City of Southport says in the Land Use Agreement that Sunny Point must approve any land sold or leased by the City. He asked has this discussion had taken place and, if not, when?

9. Mr. Terry Duff-Walden Creek Lane, Bethel Rd. is looking for answers to questions he submitted regarding the City property at Sunny Point. He said that although he does not live in the city, the decisions that the City makes regarding the use or sale of the property near his community have a significant impact.

Since there were no other comments, Chair Hodgkin requested a Motion to close Public Comment. Vice-Chair Hewett made a Motion to close Public Comment and seconded by Mr. Sloan.

***Unanimous vote; Motion carried.***

## **H. Old Business:**

### **1. Sunny Point Property:**

Development Director Henley gave the background and context of the City Property adjacent to the Sunny Point Military Terminal. Pursuant to statutory requirements and adopted and current policy promulgated by the City of Southport, the Planning and Zoning Board was tasked with providing a recommendation to the Board of Aldermen as to the best course of action to take with regard to the 440-acre property owned by the City to the east of Military Ocean Terminal Sunny Point (MOTSU).

The property is subject to a number of deed restrictions that significantly curtail the property's development potential due to the property's proximity to MOTSU. In late 2022, the City received an unsolicited proposal to utilize the property for burrow pit sand mining. In response to that proposal, the City endeavored to determine whether or not to dispose of the property in general – if the City does decide to dispose of the property, such a decision would trigger additional processes which would allow any interested parties to submit proposals for the property.

The item was referred to the Planning Board for their review and recommendation at the Board of Aldermen's October 13, 2022, meeting. A Review Committee was established at the October 20, 2022, meeting of the Planning and Zoning Board. Clarification was given that the Planning and Zoning Board's sole task was to provide a recommendation as to the future use of the property by the City of Southport.

Staff - including the City Manager, Public Services Director, City Clerk, and Development Services - all are in agreement that exploring a sale and/or lease is the best course of action at this time, with the exception that any sale should retain approximately 20-30 acres for future use by the City. Exploring disposal of the property places no obligation on the City to formally sell the property if a proposal is not received that furthers the City's goals and objectives but will afford the City the opportunity to review and consider proposals from any and all interested parties.

The Review Committee for this project consisted of Planning and Zoning Board Members Will Hewett, Chris Jones, and Donnie Joyner. The Committee convened on January 5, 2022, at the Indian Trail Meeting Hall. Discussion topics included when and how the City came to possess the property, the deed restrictions placed upon it, and the context given the previous unsolicited proposal. Ultimately, the Committee came to a recommendation that the City explore any proposals for the property, including but not limited to outright sales, lease agreements, and lease-to-own agreements, with the City retaining 30 acres for City use.

Vice-Chair Hewett made a Motion to recommend to the Board of Aldermen the sale or lease of the 440-acre property minus 30 acres for the City to retain located adjacent to the Military Ocean Terminal Sunny Point (MOTSU). Mr. Dick Sloan seconded the Motion. ***Unanimous vote; Motion carried.***

## **I. New Business**

### **1. The Shoppes at Dutchman Village Major Site Plan**

CFSC Land LLC, Applicant, on behalf of J S South LLC, Owner, is requesting approval of a Major Site Plan for the construction and operation of a non-residential mixed-use building in the HC, Highway Commercial zoning district. Proposed uses include office, restaurant, and retail.

The property is located on the northeast corner of J Swain Boulevard and Eason Street, approximately 450 feet north of the intersection of J Swain Boulevard and NC HWY 211 and directly south of the Rivermist community. The property is located within the incorporated city limits of the City of Southport. The two subject properties are in the process of being combined.

Staff received an updated site plan on the afternoon of January 11th, 2023. That site plan addressed many of the requirements listed as outstanding. Due to time constraints and other factors beyond Staff's control, Staff has been unable to review the updated site plan to determine the compliance of those modifications with the applicable standards of the Unified Development Ordinance as of the publishing of the agenda. Staff's progress toward those determinations shall be provided in the presentation to the Planning Board.

The dimensional requirements applicable within the HC Highway Commercial zoning district are as follows: front setback of 25 feet, rear setback of 20 feet, side setback of 8 feet, and a maximum building height of 40 feet. As noted in the attached Staff comments, there are places on the submitted site plan denoted as side setbacks where they should be listed as rear setbacks. However, based on the site plan and submitted scale, the proposal appears to meet the dimensional requirements, with the caveat that the setback notes shall be updated prior to final zoning approval.

For building height, a finished floor elevation of 27.5 feet is noted, and the maximum height of 40 feet in the HC, Highway Commercial zoning district is correctly noted multiple times in site notes on multiple pages. However, Appendix A of the UDO requires the proposed building height to be demonstrated on the proposed site plan. Building height shall be reviewed further at the time at which building permits are reviewed.

Access to the site is proposed from two (2) access points along the southern and western boundaries of the subject properties, with one access point provided on each of J Swain Boulevard and Eason Street, respectively, with access to NC HWY 211 provided by J Swain Boulevard at a signal-controlled intersection approximately 450 feet south of the subject properties. Both J Swain Boulevard and Eason Street are owned and maintained by the City of Southport. Both driveways shall be designed and installed by the UDO. Upon completion of the driveway, they shall be inspected by a representative of Public Services for conformance to those and all other applicable standards.

Traffic generation calculations were not provided on the first submitted site plan. However, conversations with the Applicant revealed that the proposal would generate roughly 1,500 daily trips as it is currently proposed. Per Section 3.13 of the Unified Development Ordinance, a Traffic Impact Study shall be performed if the proposal generates more than 500 daily trips. A Traffic Impact Analysis was performed for the Dutchman Village project in 2000. As of the publishing of this report, the Applicant is exploring the applicability of that Analysis to this project and is exploring the possibility of requesting an

exemption from the Traffic Impact Study requirements through the process outlined in the Unified Development Ordinance, which vests the authority of the granting of an exemption with the Board of Aldermen. Should the exemption not be pursued, or the request denied, a Traffic Impact Study meeting the requirements of Section 3.13 shall be required, with approval authority resting with the Planning Board.

Based upon the Staff's review of the proposal, the project is found to be in compliance with the Parking Standards and Requirements. All Tree and Landscape Requirements will be reviewed, as well as the signage standards.

Staff recommends establishing a Review Committee to review the Plan in more detail.

Vice-Chair Hewett, Chris Jones, and Scott Jones volunteered for the Review Committee.

## J. Other Business

### 1. Presentation of Conditional Zoning

Director Henley presented a PowerPoint on the Definition and the Procedures and Process of Conditional Zoning as it currently works in accordance with the UDO as follows:

*What is Conditional Zoning?*

- Conditional Zoning is a **process** by which the zoning designation of a property can be changed with a specific use or uses openly disclosed, allowing for consideration of the impacts of those uses by Planning Staff, Elected and Appointed Officials, and the Public at large.
- Conditional Zoning is designed for projects that have a **high degree of certainty** of being constructed if approved.

*What is Conditional Zoning not?*

- It is not a guarantee.
- It does not set precedent.
- It is not an authorization to begin construction.
- Also true of PUDs

*What is Conditional Zoning in Southport today?*

- A Conditional Zoning District can only be asked for if one owns a property currently zoned in one of the non-residential zoning districts (O/I, CBD, BD, HC, LI, HI).
- Conditional Zoning Districts must be tied to an existing zoning district: (Ex: BD-CZ, or "Conditional BD zoning district"), and the Applicant must abide by the dimensional standards and use allowances within the underlying zoning district.

*How are Conditional Zoning districts reviewed and approved?*

- The Submittal of the Application
- Conditional Zoning Application + Rezoning Application
- A "Master Development Plan" + supporting information and text that specifies the use or uses intended for the property, dimensional standards, and any development standards to be approved concurrently with the rezoning application (Applicant-proposed conditions).
- Staff determines completeness of the application – if an application is not deemed complete, it is not accepted and is not reviewed.

### *The Public Input Meeting*

- *Required to be conducted by the Applicant – mailed public notice requirements mirror public hearing notice requirements.*
- *The form and function of the meeting is case-dependent and at the discretion of the Applicant.*
- *A report outlining the facts of the meeting shall be submitted prior to presentation to the Planning Board and shall include, among other things:*
- *Attendance Roster*
- *Summary of items discussed*
- *Any changes to the proposal based on input received*

### *How are Conditional Zoning Districts Reviewed and Approved?*

- *Staff presents the proposal to the Planning Board with their recommendation.*
- *Upon the Planning Board also reaching a recommendation, the entirety of the case is presented to the Board of Aldermen in a public hearing.*
- *The Planning Board and Board of Aldermen share the same review criteria.*
- *The application's consistency to the general policies and objectives of the City's Comprehensive Plan\*, any other officially adopted plan that is applicable, and the UDO*
- *The potential impacts and/or benefits on the surrounding area and adjoining properties*
- *The report of results from the public input meeting*
- *Conditions of approval\* may be added to the case – conditions should generally reference the review criteria applicable to Conditional Rezoning and the proposal's merits under those review criteria*
- *Ultimate decision-making authority rests with the Board of Aldermen, and they may approve, deny, or table the proposal or remand the case back to the Planning Board for further review.*
- *Approval of a Conditional Rezoning **IS NOT** authority for an Applicant to begin construction.*
- *If a Conditional Rezoning proposal is not executed within 3 years following approval, the Planning Board shall have the authority to recommend proceedings to rezone the property back to or to another zoning district.*

*\*Also true of PUD proposals*

### *Benefits of Conditional Zoning*

#### *To the City:*

- *Conditional Zoning is the most stringent development approval process.*
- *Affords the ability to identify impacts brought on by development proposals and effectively work with the Applicant and the public to mitigate those impacts.*
- *Affords the most discretion possible to decision-makers (legislative vs. administrative processes).*

#### *To the Public:*

- *Conditional Zoning is the most effective and impactful method for the public to participate in the review of a specific development proposal.*
- *The results of the required public input meeting are explicitly identified as one of the review criteria elected, and appointed officials must consider.*

#### *To the Applicant:*

- *Affords the flexibility to execute unique projects that do not fit into traditional zoning districts but are consistent with adopted plans regardless.*

### *Opportunities*

- *Current allowances are too restrictive to realize the benefits of Conditional Zoning.*
- *There is very little incentive for an Applicant to undertake the process with current restrictions.*
- *PUD process has many deficiencies and is superfluous with an expanded Conditional Zoning section.*

### *Staff Recommendations to the Planning Board*

- *Allow Conditional Rezoning proposals to be considered from all zoning districts other than open space.*
- *Include PUD requirement for 20% protected open space in proposals with residential uses (other than within BD/CBD area).*
- *Uncouple Conditional Zoning districts from existing traditional zoning districts.*
- *Customize Dimensional Standards.*
- *Can choose existing zoning + conditional district if desired by the Applicant.*
- *Require Applicant-held public input meeting to be conducted prior to submission of the application.*
- *Other clarifying and process-improvement amendments throughout Section 2.11.*

### *Feedback from the Planning Board*

- *Process Improvement*
- *Minimum acreage before someone can request?*
- *Just from residential? Or everyone?*
- *PUD- considerations*
- *Require mixed uses at a certain threshold?*
- *Incentives?*

Mr. Henley said that once the Applicant submits the proposal, Staff will present the proposal to the Planning Board and make a recommendation. He said that the recommendation is based in accordance with the UDO and agreement with the Land Use Plan.

Mr. Mibelli had some concerns with Conditional Zoning. He said that Conditional Zoning provides flexibility to facilitate development in jurisdictions that are eager to grow. In his view, Southport is in a different situation - as more than investments, it needs to maintain its character. He sees CZ with no density constraints, which could trigger difficult-to-control builders' expectations. Mr. Mibelli questioned the limits of CZ and what would be considered the ceiling. Mr. Henley said that the Land Use Plan is the ceiling. All the standards and regulations will have to be met as they currently exist. He asked if there could be unpredictability, a property not knowing what will be built next door. Current zoning plans may become obsolete as anything could be built, setting aside citywide, overarching criteria provided in these instruments. It could pinpoint quasi-spot zoning changes, affecting specific locations and depending on specific negotiations, resulting from unknown future conditions. The monumental burden would be placed on the Planning Board and Staff to study and negotiate projects -- huge decision-power that could be used positively but also dangerously. He said the Planning Board has fundamental tasks to address: the UDO and other regulatory tools have to be updated; and the Hwy 211 growth detrimentally impacting Southport that will require non-traditional planning approaches. He said we should put our efforts into resolving *those* issues and not let Conditional Zoning distract us.

Mr. Henley said that after consideration for approval, the Board must adopt a Statement of Consistency that states whether the Board recommends approval or denial to the Board of Aldermen and provide the reasons why. The recommendation review process must follow the Land Use Plan and the limits and standards it abides by. He said more discussion needs to happen before any decisions are made. He said this meeting's presentation on Conditional Zoning is intended to start the conversation and get feedback from the Board and the public on how to proceed.

## **2. Update on N. Caswell Street Partial Alley Abandonment**

Director Henley reported that Staff is working on proper site visits and has met with one of the adjacent neighbors of the Applicant requesting the abandonment. There is a question on water lines that have been detected that may or may not be in the alleyway. Mr. Henley said that the process would only

move forward with input from the Director of Public Services, Tom Stanley. He said another Review Committee Meeting consisting of Vice-Chair Hewett, Mr. Jones, and Mr. Joyner would be scheduled.

### 3. Update On Oakton Preliminary Plat

Mr. Henley said that Staff has talked to the Applicant and discussed some concerns. The Applicant was provided with a list of these concerns. He said the Developers would get back with a response on the matters in regard, including the access points on Stuart Avenue and the Stormwater Management.

### 4. Update on 115 N. Howe Street

Mr. Henley stated that Staff had received an updated Site Plan. After Review, the Staff outlined some concerns that need to be readdressed. He said that Staff would review the revised plan to ensure that the project has been thoroughly completed. Mr. Henley noted that Staff needs 30 days to review, and when the Applicants return the corrections that have been corrected, the 30-day time clock period will restart (clarifying that the 30-day requirement is for the UDO Administrator rather than the Planning Board). Mr. Mibelli noted that the review time should be reasonable and balance flexibility, communication, and negotiations.

### 5. Update on 101 E. Moore Street

City Planner Meehan requested additional information from the Applicant that has yet to be received. She said that Staff has some concerns and issues with the Parking area. The Review Committee consisting of Mr. Scott Jones, Chair Sue Hodgins, and Mr. Fred Fiss will be kept updated.

### 6. Update on Review Process Committee

Mr. Henley said the Committee is continuing to work on the Review Process. He said that he sees little of this procedure in the Shoppes at Dutchman Village Major Site Plan Review. He believes this will be an excellent plan to start with to ensure that the applications and plans are in a better position for review before they are presented to the Planning Board. Chair Hodgins said she likes the Memo Format and looks forward to the checklist's refinement to show all elements of an application having been fully submitted before presentation to the Board.

### K. Announcements

Mr. Donnie Joyner announced the 2023 Brunswick County Black History Symposium on February 17, 18, and 19<sup>th</sup>. He said there would be more information to come.

Without further business or comments, Chair Hodgins asked for a Motion to Adjourn.

Vice-Chair Hewett made a motion to Adjourn the meeting and was seconded by Mr. Joyner.

***Unanimous vote; motion carried.***

Adjournment: 8:18 P.M.

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Chair, Sue Hodgins

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Deputy Clerk, Tanya Shannon