



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

www.southernshores-nc.gov

PITTS CENTER

Tuesday, December 07, 2021 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

PRESENT

Mayor Tom Bennett / Mayor-Elect Elizabeth Morey

Council Member Jim Connors

Council Member Leo Holland

Council Member Matt Neal

Council-Elect Paula Sherlock

Amendments to / Approval of Agenda

Motion made by Council Member Holland to approve the December 7, 2021 agenda, Seconded by Council Member Connors. Motion passed unanimously (5-0).

Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Connors, Council Member Holland, Council Member Neal

Consent Agenda

The consent agenda consisted of the following items:

1. Minutes-November 9, 2021
2. Pickups and Releases
3. Municipal Records Retention and Disposition Schedule (NC Department of Natural and Cultural Resources 2021 update)

Motion made by Mayor Bennett to approve the consent agenda as presented, Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Bennett, Mayor pro tem Morey, Council Member Connors, Council Member Holland, Council Member Neal

Presentations

Southern Shores Police Department Recognition-Dare County Motorcycle Toy Run-Terry Gray with Dare County Motorcycle Toy Run presented Police Chief David Kole a plaque in recognition for his department's help with the annual event.

Recognition of Outgoing Council Members & Remarks

Mayor Tom Bennett- Mayor Bennett served two consecutive terms 2013-2021. Mayor Bennett thanked the Town Manager (both past and present), staff, the first responders and all the vendors and contractors who served the Town throughout all his years as Mayor. He stated it was an honor and privilege to work with all the other Council Members.

Council Member Jim Conners- Jim Conners served one term 2017-2021. Council Member Conners echoed the mayor's sentiments. The Town staff has been an invaluable help during his term. This Council has made some great accomplishments these past four years, the main one being the new fire station. There are new sidewalks throughout town and many new/improved code text amendments. Mr. Conners thanked and recognized the past and present Town Managers for doing an excellent job.

Oath of Office Administered to Incoming Members

Before taking her oath of office as Mayor, Council Member Morey offered her resignation as Council Member. This will leave two years remaining of a four-year term.

Motion made by Council Member Holland to accept Council Member Morey's resignation, Seconded by Council Member Conners. The motion passed unanimously (4-0).

Voting Yea: Mayor Bennett, Council Member Conners, Council Member Holland, Council Member Neal

Certification of the Municipal Elections for Southern Shores

Mayor-Elect Elizabeth Morey-725 votes

Council-Elect Paula Sherlock-538 votes

Mayor-Elect Elizabeth Morey was sworn into office as Mayor by Town Clerk Sheila Kane. Mayor Morey thanked the outgoing Mayor and Council for their valuable work for the Town and the positive impact it has had on the community. She stated she would like to start regular "chats with the mayor" on a designated day of the month.

Council-Elect Paula Sherlock was sworn into office as Council Member by Town Clerk Sheila Kane. Council Member Sherlock stated that her priorities were to be responsive to residents, to cooperate with neighboring communities on common interests and problems, to take all steps possible to insure that the Mid-Currituck Bridge is constructed and to maintain residents' perception that each of them live on the best street in Southern Shores.

-Mayor Morey called for a 10-minute recess at 5:53 p.m.

The meeting reconvened at 6:03 p.m.

Organization of Council and 2022 Meetings

Election of Mayor Pro Tempore

Mayor Morey called for nominations. Council Member Sherlock **moved** to nominate Council Member Matt Neal as Mayor pro tem, Seconded by Council Member Holland. The motion passed unanimously (4-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock

County & Regional Council Committee Appointments

Dare County Gov-Ed Access Channel Committee

Mayor Morey requested nominations to the Gov-Ed channel be tabled until the Council vacancy is filled. **By Consensus of all Council Members**, the agenda item to nominate a Southern Shores representative to the Gov-Ed Channel board was tabled.

Albemarle Rural Planning Organization (ARPO)

Mayor Morey **moved** to nominate Council Member Sherlock to represent Southern Shores on the ARPO, Seconded by Council Member Holland. The motion passed unanimously (4-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock

2022 Council Meeting Schedule-Resolution #2021-12-01

Council Member Sherlock **moved** to approve the 2022 Council Meeting Schedule Resolution 2021-12-01 as illustrated on page 10, Seconded by Mayor pro tem Neal. The motion passed unanimously (4-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock

Consideration and/or Discussion of Council Vacancy

Town Manager Ogburn explained the vacancy created by Council Member Morey being elected as Mayor can be filled by a vote to nominate, or motion by ballot. There is no required deadline and staff is prepared to move forward as Council directs.

Mayor Morey stated the Town consists of an amazing array of individuals and felt the process should be easy and open.

Council Member Sherlock stated she was in favor of resident's self-nominating.

Both Mayor pro tem Neal and Council Member Holland agreed with self-nomination, allowing the community an opportunity to apply.

Town Attorney Gallop stated Council could certainly just make a motion to appoint a person to the vacancy, eliminating the application route but if Council does solicit applicants, there should not be a deadline on the application, and it should be kept simple.

It was **consensus of Council to seek applications**. Mayor pro tem Morey directed the Town Manager to advertise a council vacancy application without a deadline and to place further discussion of the vacancy on the January 4, 2022, meeting agenda.

Mayor pro tem Neal stated Council can discuss the vacancy and process at the January 4th meeting and then a possible nomination at the January mid-month meeting. If there is a tie, other towns have used the coin toss method to decide.

Staff Reports

Deputy Town Manager/Planning Director Wes Haskett presented his department's report for the month of November. The Planning Board's next meeting is December 20th at 5:00 p.m. at which time they will discuss Chapter 26, Solid Waste.

Mr. Haskett further stated that the Town has retained its class 6 rating which provides a discount to homeowners for flood insurance. Although the entire CRS process was new to Permit Officer Marcey Baum, she did an excellent job and was instrumental in the ability to retain this rating.

Police Chief David Kole presented his monthly report for November. He also thanked outgoing Mayor Bennett and Council Member Conners for their service.

Fire Chief Ed Limbacher presented the SSVFD report for November.

Town Manager Ogburn thanked Mayor Tom Bennett and Councilman Conners for their service and support. He provided a quick update to the following:

- Disabled fishing boat- The Town is monitoring and in communication with Dare County Emergency Management and the Coast Guard on the status of the disabled fishing boat in the vicinity of the Trout Run beach access. All crew was safely removed, and efforts are underway to safely remove the boat.

- The Local Government Commission (LGC) did approve our financing application for the beach nourishment funding and closing on the financing is scheduled for December 14th.

General Public Comment

Dave Barker-226 N. Dogwood-lives at the Dogwoods intersection and 45 trees were cut down when the road was widened. He has since planted Russian Olives, Cypress Trees and built a shed to eliminate the headlights of vehicles. The road widening/repair has increased the speed of vehicles and most ignore the stop sign. More police presence and coverage is needed on weekends.

Andy Ward-147 Bayberry Trl-Recognized Mayor Tom Bennett and Council Member Conners for their service to the Town and all their accomplishments.

Old Business

None

New Business

Budget Amendment #15-Funds for DCTB Tourism Impact Grant

The Dare County Tourism Bureau, with approval of the Dare County Board of Commissioners, has awarded the Town \$30,260 of the \$35,600 contract amount to purchase traffic data software to summarize traffic patterns and vehicle use of residential streets for cut-through purposes. The guidelines for the Tourism Impact Grant do not require there to be a match for projects at a cost below \$50,000. However, due to limited funds as compared to fund requested for grant applicants, our project was not able to be fully funded.

Town Manager Ogburn stated the project could be scaled back to reduce the cost. The current project turnaround time is approximately eight weeks.

Mayor Morey stated it is possible to have the item placed back on a future agenda with a smaller scale option. She emphasized that it is going to take more than the Town of Southern Shores to mitigate the adverse impacts with traffic.

Mayor pro tem Neal was not in favor of scaling back the scope of work stating that all the data is needed, and he would prefer a greater scope if it was available.

Council Member Holland stated he consistently brought the traffic numbers supplied by the Police Chief up with the Tourism Board and eventually they started to listen. Monica Tibideou of Duck has stepped up the issue. The Tourism Board awarded a reduced grant amount, but we need to choose our battles.

Council Member Sherlock felt the scope of work would be beneficial. If you are going to attack the environmental lawsuit with the Mid Currituck bridge, statistics help.

Mayor pro tem Neal was inclined to move forward without reducing the scope of work.

Mayor Morey **moved** to approve budget amendment #15, Seconded by Council Member Holland. The motion carried unanimously (4-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock

General Public Comment

None

Council Business

Mayor pro tem Neal wished everyone a Merry Christmas and thanked Mayor Bennett and Council Member Conners.

Council Member Holland congratulated Elizabeth Morey and Paula Sherlock on their elected positions. He presented the Tourism Board numbers for the month of September. Occupancy was up 15%, 38% year to date. Meals were up 22%, 58% year to date. He reflected on the 80th anniversary of Pearl Harbor, began the formation of a great generation.

Mayor Morey thanked the residents for coming and staff for their work and called for any other business. Hearing none, Mayor Morey called for a motion to adjourn.

Adjourn

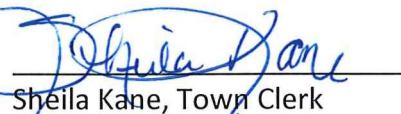
Motion to adjourn by **consensus**. The time was 7:09 p.m.

ATTEST:


Elizabeth Morey, Mayor



Respectfully submitted,


Sheila Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.



Town of Southern Shores

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MEMORANDUM

To: Mayor and Town Council
 From: Cliff Ogburn, Town Manager
 Date: December 30, 2021
 Re: Manager's Report

Provided below is a brief summary of items I plan to discuss during my staff report at your January 4, 2022, Council meeting.

1. Mid- Currituck Bridge – As stated on the NC DOT webpage – “On Dec. 13, 2021, the N.C. Department of Transportation received notification that the U.S. District Court for the Eastern District of N.C. decided in favor of NCDOT and the Federal Highway Administration. A lawsuit was filed in April 2019 by the Southern Environmental Law Center (on behalf of the North Carolina Wildlife Federation and No MCB-Concerned Citizens and Visitors Opposed to the Mid-Currituck Bridge) challenging the FHWA and NCDOT’s environmental analysis and decision document for the project. The court ruled that NCDOT and FHWA complied with applicable federal laws and regulations. The project team is evaluating the schedule and working on next steps to move forward”.

Though it remains to be seen, it has been reported in the local news outlets that the SELC plans to appeal the decision.

The Council may want to discuss with the Town’s Attorney what action or steps, if any, the Council may want to pursue.

2. Potential Council Retreat – If the Council has a desire to schedule a retreat this winter with a facilitator, it would be wise to decide dates before facilitator calendars fill up.

A one- or two-day retreats could be used to:

- Provide an opportunity for board members to learn more about each other's motivations, interests, and work preferences,
- Clarify their mutual expectations, goals, and identity as a governing board,
- Establish broad priorities,
- Define what "success" or "progress" will look like, and/or
- Set budget priorities for the coming fiscal year.

3. Pavement Maintenance Implementation Plan – I will provide an update of the progress with SEPI engineering to begin the process of street maintenance for the coming year.

4. Town Bridge Inspections - We received notification from NC DOT that they are currently preparing for the 2022 inspection cycle. The bridges to be inspected are located at S. Dogwood and Snow Goose Canal, E. Dogwood and Great Blue Heron Canal, and Yaupon Trail and Pelican Canal. The Federal Highway Administration covers 80% of the inspection cost. The remaining 20% or \$650 is our cost. We inquired about adding the Trinitie Trail culvert to these inspections, but it does not qualify due to its narrower width. We are working to get a quote from the DOT contractor as well as the engineering firm who last inspected the culvert in 2014.



AGENDA ITEM SUMMARY FORM

MEETING DATE: January 4, 2022

ITEM TITLE: Public Hearing- ZTA-21-09

ITEM SUMMARY:

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Sections 36-202 (d)(6), 36-203 (d)(6), 36-204 (d)(6), and 36-205 (d)(6) are a result of comments provided by the Town Attorney regarding the use of the first line of stable natural vegetation on oceanfront lots for determining lot coverage. His comments referred to N.C.G.S. 77-20 which establishes that the seaward boundary of oceanfront properties is the mean high water mark. The proposed amendments are an effort to make it clear that the Town's lot coverage requirements for lots where the boundary is the Atlantic Ocean only use the first line of stable natural vegetation to establish lot coverage by using a portion of the lots, not for establishing the seaward boundary or area of the lots. If approved, the proposed amendments would not change how lot coverage is calculated on lots where the boundary is the Atlantic Ocean (see lot coverage information on enclosed as-built survey).

STAFF RECOMMENDATION:

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at the November 15, 2021 Planning Board meeting. The proposed language was drafted with the assistance of Professor David Owens with the UNC School of Government. The language suggested by Professor Owens clarifies that the first line of stable natural vegetation is used to establish lot coverage by using a portion of the lots, not for establishing the seaward boundary or area of the lots.

REQUESTED ACTION:

Motion to approve ZTA-21-09.

STAFF REPORT

To: Southern Shores Town Council
Date: January 4, 2022
Case: ZTA-21-09
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-202 (d)(6), 36-203 (d)(6), 36-204 (d)(6), and 36-205 (d)(6).

ANALYSIS

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Sections 36-202 (d)(6), 36-203 (d)(6), 36-204 (d)(6), and 36-205 (d)(6) are a result of comments provided by the Town Attorney regarding the use of the first line of stable natural vegetation on oceanfront lots for determining lot coverage. His comments referred to N.C.G.S. 77-20 which establishes that the seaward boundary of oceanfront properties is the mean high water mark. The proposed amendments are an effort to make it clear that the Town's lot coverage requirements for lots where the boundary is the Atlantic Ocean only use the first line of stable natural vegetation to establish lot coverage by using a portion of the lots, not for establishing the seaward boundary or area of the lots. If approved, the proposed amendments would not change how lot coverage is calculated on lots where the boundary is the Atlantic Ocean (see lot coverage information on enclosed as-built survey).

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at the November 15, 2021 Planning Board meeting. The proposed language was drafted with the assistance of Professor David Owens with the UNC School of Government. The language suggested by Professor Owens clarifies that the first line of stable natural vegetation is used to establish lot coverage by using a portion of the lots, not for establishing the seaward boundary or area of the lots.



Town of Southern Shores

Item 4.

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
www.southernshores-nc.gov

**PLANNING BOARD
GENERAL APPLICATION FORM
TOWN OF SOUTHERN SHORES, NC 27949**

Date: 10 / 13 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-09

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores
Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949
Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____
Agent, Contractor, Other (Circle one)
Address _____
Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____
Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

W. Whaskett
Signature

10-13-21
Date

* Attach supporting documentation.



Town of Southern Shores

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ZTA-21-09

Ordinance 2022-01-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, and general welfare for the Town to amend the Town’s Zoning Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART I. That **Sec. 36-202. RS-1 single-family residential district.** Be amended as follows:

Sec. 36-202. RS-1 single-family residential district.

...

(d) *Dimensional requirements.*

1 ...

2

3 (6) Maximum allowable lot coverage.

4 a. Maximum allowable lot coverage shall be 30 percent, except for town-
5 owned facilities and fire stations;

6 b. Maximum allowable lot coverage shall be 85 percent for town-owned
7 facilities and fire stations.

8 c. Gravel walkways shall not contribute to lot coverage.

9 d. Open-slatted decks that allow water to penetrate through to pervious
10 material, not exceeding a total of 25 percent of the total footprint area of
11 the attached single-family dwelling, shall not contribute to lot coverage.

12 e. Those allowances and/or exemptions listed in subsection d. of this
13 paragraph (6) shall be available only to an applicant for a building/zoning
14 permit for a single-family dwelling or attached open-slatted deck over
15 pervious material, upon presentation of a survey with all applicable
16 requirements including plan certification, for a lot disturbance and
17 stormwater management permit as described in subsection 36-171(3) of
18 the Town Code of Ordinances.

19 In the case of ~~an oceanfront~~ a lot where the boundary is the Atlantic Ocean,
20 only that portion of the lot area landward of the first line of stable natural
21 vegetation (as defined by CAMA) shall be used for ~~calculating~~ the calculation
22 of lot coverage as it pertains to impervious surface limits included in the
23 maximum allowable lot coverage constraints.

24

25 **PART II.** That **Sec. 36-203. RS-8 multifamily residential district.** Be amended as
26 follows:

27

28 **Sec. 36-203. RS-8 multifamily residential district.**

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30 ...

31 (d) *Dimensional requirements.*

32

33

34 ...

35

36 (6) Maximum allowable lot coverage by principal use and all accessory structures:
37 30 percent. In the case of ~~an oceanfront~~ a lot where the boundary is the Atlantic
38 Ocean, only that portion of the lot area landward of the first line of stable
39 natural vegetation (as defined by CAMA) shall be used for ~~calculating~~ the
40 calculation of lot coverage as it pertains to impervious surface limits included
41 in the maximum allowable lot coverage constraints.

1 **PART III.** That **Sec. 36-204. RS-10 residential district.** Be amended as follows:

2

3 **Sec. 36-204. RS-10 residential district.**

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5 ...

6

7 (d) *Dimensional requirements.*

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9 ...

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11

(6) Maximum allowable lot coverage: 30 percent. In the case of ~~an oceanfront~~ a lot where the boundary is the Atlantic Ocean, only that portion of the lot area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for ~~calculating~~ the calculation of lot coverage as it pertains to impervious surface limits included in the maximum allowable lot coverage constraints.

16

17

18 ...

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20 **PART IV.** That **Sec. 36-205. R-1 low-density residential district.** Be amended as follows:

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22

23 **Sec. 36-205. RS-1 low-density residential district.**

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25 ...

26

27 (d) *Dimensional requirements.*

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(6) Maximum allowable lot coverage.

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- a. Maximum allowable lot coverage shall be 30 percent, except for town-owned facilities and fire stations;
- b. Maximum allowable lot coverage shall be 85 percent for town-owned facilities and fire stations; and
- c. Maximum allowable lot coverage shall be 40 percent for school facilities. In the case of ~~an oceanfront~~ a lot where the boundary is the Atlantic Ocean, only that portion of the lot area landward of the first line of stable natural vegetation (as defined by CAMA) shall be used for ~~calculating~~ the calculation of lot coverage as it pertains to impervious surface limits included in the maximum allowable lot coverage constraints.

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ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town’s adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____ day of _____, 2021.

Tom Bennett, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ___AYES___NAYS



AGENDA ITEM SUMMARY FORM

MEETING DATE: January 4, 2022

ITEM TITLE: Public Hearing- ZTA-21-10

ITEM SUMMARY:

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. At the May 4, 2021 Town Council meeting, Council adopted ZTA-21-04 which established prohibited uses in the Town. One of the prohibited uses was produce stands and Council directed the Planning Board to recommend a ZTA that would allow produce stands in the Commercial zoning district. The proposed ZTA establishes produce stands as a permitted use in the Commercial zoning district and it includes requirements that address setbacks, hours of operation, parking, signage, trash receptacles, and vehicular and pedestrian traffic safety.

STAFF RECOMMENDATION:

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at the November 15, 2021 Planning Board meeting.

REQUESTED ACTION:

Motion to approve ZTA-21-10.

STAFF REPORT

To: Southern Shores Town Council
Date: January 4, 2022
Case: ZTA-21-10
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores

Requested Action: Amendment of the Town Zoning Ordinance by amending Section 36-207 (b), Permitted Uses and Section 36-209, Prohibited Uses in all Districts.

ANALYSIS

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. At the May 4, 2021 Town Council meeting, Council adopted ZTA-21-04 which established prohibited uses in the Town. One of the prohibited uses was produce stands and Council directed the Planning Board to recommend a ZTA that would allow produce stands in the Commercial zoning district. The proposed ZTA establishes produce stands as a permitted use in the Commercial zoning district and it includes requirements that address setbacks, hours of operation, parking, signage, trash receptacles, and vehicular and pedestrian traffic safety.

The Town’s currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder’s original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town’s currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA. The Town Planning Board unanimously (5-0) recommended approval of the application at the November 15, 2021 Planning Board meeting.



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PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 11 / 2 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-10

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores

Address: 5375 N. Virginia Dare Trl.
Southern Shores, NC 27949

Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

Applicant's Representative (if any)

Name _____

Agent, Contractor, Other (Circle one)

Address _____

Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____

Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

Request: ___ Site Plan Review ___ Final Site Plan Review ___ Conditional Use ___ Permitted Use
___ PUD (Planned Unit Development) ___ Subdivision Ordinance ___ Vested Right ___ Variance

Change To: ___ Zoning Map **X** ___ Zoning Ordinance

Wm A. Hutt
Signature

11-2-21
Date

* Attach supporting documentation.



Town of Southern Shores
5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
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ZTA-21-10 Ordinance
2022-01-03
11-17-2021

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, and general welfare for the Town to amend the Town’s Zoning Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART I. That **Sec. 36-207.C general commercial district.** Be amended as follows:

Sec. 36-207. C general commercial district.

...

(b) *Permitted uses.* The following uses shall be permitted by right:

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(11) Produce stands. The retail sale of fruits, vegetables, and plants subject to the following requirements:

- a. All stands shall meet the yard requirements for the C general commercial district;
- b. No sales shall be conducted between 8:00 p.m. and 7:00 a.m.;
- c. No additional lighting shall be allowed;
- d. All stands shall comply with all applicable Dare County Health Department requirements;
- e. Only one stand per lot shall be allowed;
- f. When located on a lot with fifty (50) or more existing parking spaces, no additional parking spaces will be required. When located on a lot with fewer than fifty (50) existing parking spaces, a minimum of three (3) off-street parking spaces shall be provided. When located on a vacant lot, parking spaces shall be provided on an adjacent lot with existing parking spaces that is under same ownership;
- g. One freestanding sign not exceeding 32 square feet in area or 6 feet in height shall be allowed.
- h. If applicable, a building and/or electrical permit shall be obtained;
- i. The display, storage and/or sale area shall not impede vehicular or pedestrian traffic and parking;
- j. On-site garbage or trash receptacles must be provided and properly maintained at all times;
- k. May operate from April 15th to November 15th. Any structures, stands and accessory materials shall be removed and the property cleaned up within 3 days upon seasonal closure.

PART II. That **Sec. 36-209. Prohibited uses.** Be amended as follows:

Sec. 36-209. Prohibited uses in all districts.

(a) The following uses shall be prohibited in all districts:

...

- (36) Produce stands;
- (376) Satellite dish farms;

- 1 (~~387~~) Sexually oriented businesses;
- 2 (~~398~~) Shooting ranges;
- 3 (~~4039~~) Slaughterhouses;
- 4 (~~410~~) Smoke and vapor shops;
- 5 (~~421~~) Solar Energy farms;
- 6 (~~432~~) Storage or processing of radioactive or infectious waste;
- 7 (~~443~~) Tattoo, body piercing, and body art establishments;
- 8 (~~454~~) Taxi and pedicab storage and dispatch; or
- 9 (~~465~~) Use of a boat, houseboat, or other floating structure as a temporary or
- 10 permanent residence (this shall not prevent the overnight occupancy of a vessel
- 11 temporarily moored while in transit on navigable waters).

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13 ...
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15 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
16 **Reasonableness.**

17
18 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted
19 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
20 is applicable. For all of the above-stated reasons and any additional reasons supporting the
21 Town’s adoption of this ordinance amendment, the Town considers the adoption of this
22 ordinance amendment to be reasonable and in the public interest.

23
24 **ARTICLE V. Severability.**

25
26 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
27 hereby repealed. Should a court of competent jurisdiction declare this ordinance
28 amendment or any part thereof to be invalid, such decision shall not affect the remaining
29 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
30 Town of Southern Shores, North Carolina which shall remain in full force and effect.

31
32 **ARTICLE VI. Effective Date.**

33
34 This ordinance amendment shall be in full force and effect from and after the ____ day of
35 _____, 2021.

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Tom Bennett, Mayor

39 ATTEST:

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Town Clerk

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APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ___AYES___NAYS

Kitty Hawk:

Produce stand. The retail sale of fruits, vegetables, flowers, containerized house or bedding plants, herbs and other agricultural food products, such as jam, jelly, vinegar, eggs, cheese or honey, subject to the following terms and conditions:

- a. The project site must have frontage along U.S. Highway 158 or N.C. Highway 12;
- b. No produce, plants or related products shall be located within the town or state right-of-way or in designated parking spaces or fire lanes;
- c. The activity may not utilize on-site required parking spaces to conduct retail activities or storage;
- d. No sales shall be conducted after 10:00 p.m. and prior to 7:00 a.m.;
- e. No music shall be produced on the site which music is audible beyond the property lines of the lot on which the sales are being conducted;
- f. Any signs must meet the current standards of this chapter and applicable sign permit requirements;
- g. No additional lighting shall be allowed on the site;
- h. Trailers or vehicles used to transport produce and materials to the site shall be concealed from observation from town streets and state rights-of-way;
- i. Prior to issuance of a conditional use permit, the applicant shall present a scaled site plan illustrating the location of all vendor display and storage areas, pedestrian circulation areas and ways, and location of required parking;
- j. Any structures must meet wind construction standards and tie-down standards per state building code;
- k. One paved off-street parking stall shall be required for each 300 square feet of occupied retail space. For purposes of this section, retail space shall be that area occupied for the display, sale or storage of goods;
- l. The required parking shall not be allowed in public or private rights-of-way, fire lanes or travel lanes designated on approved site plan;
- m. Any tent occupying over 200 square feet of the site shall require approval from the fire chief;
- n. Sanitary facilities shall be required in a manner consistent with the International Building Code for a similarly sized retail space and shall be located on the subject property and within 200 feet of the market;
- o. On-site garbage or trash receptacles must be provided and properly maintained at all times.

Nags Head:

Section 7.76 Outdoor Stands, Accessory to Shopping Centers and Group Development.

Outdoor stands, accessory to shopping centers and group development, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.76.1. The principle sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, fudge, and reservations or ticket sales.

7.76.2. Sites less than ten (10) acres in area shall be allowed only one stand. Sites ten (10) acres in area and greater shall be allowed up to two outdoor stands with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. The stands shall not be required to be a permanent structure and may, with the exception of stands for reservations or ticket sales, be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

7.76.3. The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice, fudge, and reservations or ticket sales stands.

Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures, except that stands for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

7.76.4. Produce and reservations or ticket sales stands shall be temporary and may be operated for a period of time not to exceed 180 days annually; the dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

7.76.5. All stands shall comply with applicable Dare County Health Department regulations and permitting requirements.

7.76.6. When located on a site with fifty (50) or more existing parking spaces, no additional parking spaces will be required. When located on a site with less than fifty (50) parking spaces a minimum of three (3) off-street parking spaces in accordance with parking regulations of this UDO shall be provided.

7.76.7. When the regulations contained in the subsection are in conflict with the general regulations of Town Code Section 12, Article III, Peddlers and Itinerant Merchants, the provisions of this UDO shall prevail.

Duck:

(C) Operational standards for the temporary outdoor display, storage and sale of produce goods and holiday goods sold at independent stands.

(1) Produce goods shall include fruits and vegetables and other similar goods, subject to approval of the Zoning Administrator.

(2) Holiday goods shall include, but are not limited to, Christmas trees and pumpkins, as determined by the Zoning Administrator.

(3) The outdoor display, storage and/or sale of produce goods and/or holiday goods shall be permitted for a period not to exceed 30 consecutive days 4 times per year.

(4) A temporary occupancy permit for outdoor storage shall be obtained prior to the commencement of any outdoor display, storage and/or sale of goods, except for outdoor storage facilities appurtenant to retail facilities with approved permanent outdoor storage facilities, governed by division (E) below.

(5) Prior to the issuance of any temporary occupancy permit for outdoor storage, a plan shall be submitted to the Zoning Administrator that designates the display, storage and sale area to be used. The plan shall include the property owner's written permission and shall indicate compliance with setbacks and parking requirements. In addition, the plan shall illustrate the location of any proposed signage, structures and/or stands.

(6) The proposed display, storage and/or sale area shall not impede vehicular or pedestrian traffic and parking.

(7) The designated display, storage and/or sale area shall not be located within required landscape areas.

(8) A refundable cleanup fee in accordance with the adopted fee schedule of the town shall be deposited prior to the issuance of a temporary nonresidential use permit for outdoor storage, display or sales. Any structures, stands and accessory materials shall be removed and the property cleaned up within 3 days of the temporary occupancy permit termination date in order for the deposit to be refunded.

(9) If applicable, building, electrical, fire prevention code and hazardous use permits shall be obtained.

(10) No temporary occupancy permit shall be issued until the applicant provides a signed statement indicating his or her knowledge of and intention to comply with business license and peddlers permit requirements.

(11) The requirements for fees and permits are not applicable to displays that are incidental to the main retail business operating at the site.

Currituck County:

V. Produce Stands

The sale of fresh vegetables and produce, as defined in the North Carolina General Statutes, from curbside stands or in a similar fashion shall:

- (1) Be located on the same lot as a principal use;
- (2) Be limited to retail sale of agricultural or horticultural products;
- (3) Be located outside sight triangles or other areas that may result in visual obstructions to drivers;
- (4) Not exceed 1,000 square feet in area; and
- (5) Provide adequate ingress/egress and off-street parking

PRODUCE STAND OR PRODUCE SALES

A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include “pick your own” establishments where customers gather their own produce from the fields for purchase and off-site consumption.



AGENDA ITEM SUMMARY

MEETING DATE: January 4, 2022

ITEM TITLE: Capital Project Ordinance for Beach Nourishment

ITEM SUMMARY:

The Capital Project Ordinance will recognize revenues and appropriate expenditures for the beach nourishment project going forward and track the cost for each part of the project over multiple years without adopting a beach nourishment budget each year. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year. However, each year the budget officer will include in the budget, information detailing adopted project ordinances which will have appropriations available for expenditure during the budget year. The Council can, and most likely will, amend the ordinance as costs change or new line items are added. This doesn't impact the Council's ability to adjust tax rates each year.

STAFF RECOMMENDATION: Staff recommends approval.

REQUESTED ACTION: A motion to approve the attached Capital Project Ordinance for Beach Nourishment

ATTACHMENTS: Draft copy of the Capital Project Ordinance



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
info@southernshores-nc.gov
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BEACH NOURISHMENT PROJECT ORDINANCE #2022-01-01

BE IT ORDAINED by the Governing Board of the Town of Southern Shores, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance as adopted January 4, as follows:

Section 1. The project authorized is a locally funded beach nourishment project to be financed by the sale of special obligation bonds to be repaid from one of the following sources: contributions from Dare County, ad valorem revenues, grant funds from the North Carolina Department of Environmental Quality, or other sources of revenue.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the bond resolution and the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Engineering and Construction Oversight	\$678,604
Mobilization/Demobilization	\$1,700,345
Pumping Costs	\$8,050,500
Benthic Monitoring	\$40,000
Turtle Monitoring	\$15,674
Sand fencing	\$183,600
Professional Fees	\$121,338
Contingency	\$535,128

Section 4. The following revenues are anticipated to be available to complete this project:

Proceeds from special obligation bonds	\$5,545,541
NC Department of Environmental Quality Grant	\$1,408,247
Contribution from Dare County	\$4,371,401

Section 5. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy federal, state, and local regulations. The terms of the bond resolution should also be met.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues in this capital project in every budget submission made to this Board.

Section 9. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project.

Adopted this 4th day of January 2022.

Elizabeth Morey, Mayor

ATTEST:

Sheila Kane, Town Clerk