



Town of Southern Shores

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

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www.southernshores-nc.gov

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9 **MEETING MINUTES**

10 **PLANNING BOARD-MAY 19, 2022, 5:00 P.M.**

11 **LOCATION: PITTS CENTER-5377 N VIRGINIA DARE TRAIL, SOUTHERN SHORES, NC 27949**

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14 **I. CALL TO ORDER:**

15 Chairperson Andy Ward called the meeting to order at 5:00 pm. Planning Board Members Lynda
16 Burek, Ed Lawler, Robert McClendon, Tony DiBernardo (Vice Chairperson), Andy Ward
17 (Chairperson), Jan Collins (alternate) and Deputy Town Manager/Planning Director Wes Haskett
18 were present.

19

20 **II. PLEDGE OF ALLEGIANCE:**

21 Chairperson Ward led the Pledge of Allegiance and asked for a moment of silence for Richard
22 Galganski.

23

24 **III. APPROVAL OF AGENDA:**

25 Planning Board Vice Chairperson DiBernardo moved to approve the agenda as presented,
26 Seconded by Planning Board Member Burek. The motion passed unanimously (5-0).

27

28 **IV. APPROVAL OF MINUTES:**

29 Vice Chairperson DiBernardo moved to accept the minutes of April 18, 2022, as presented,
30 Seconded by Planning Board Member Burek. The motion passed unanimously (5-0).

31

32 **V. PUBLIC COMMENT**

33 None

34

35 **VI. OLD BUSINESS**

36

37 **VII. New Business**

38 ZTA-22-05- Planning Director Wes Haskett presented the staff report for ZTA 22-05 which read,
39 the applicant is proposing to amend Section 36-202(d)(6) in an effort to allow a maximum lot
40 coverage of 35% for lots that are less than 20,000 square feet provided that the total lot
41 coverage does not exceed 6,000 square feet. In 2020, a Certificate of Occupancy/Compliance
42 was issued for a new single-family dwelling on property owned by the applicant located at 9
43 Tenth Ave. In 2021, Town Staff observed that landscaping work had taken place at 9 Tenth Ave.
44 that included additional concrete around the driveway, a concrete walkway, and a gravel
45 walkway with stepping stones. After review of the as-built survey of the property, it was
46 determined that the additional coverage exceeded the Town's maximum allowable 30% lot

47 coverage requirement, as established in Section 36-202(d)(6). Since that time, Town Staff has
48 discussed potential solutions to the lot coverage issue with the applicant and a local engineering
49 firm. If approved, a maximum allowable lot coverage of 35% would be permitted in the Town's
50 RS-1 zoning district for lots that are less than 20,000 square feet provided that the total lot
51 coverage does not exceed 6,000 square feet.

52

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

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

60

61 There are 847 residential lots that are less than 20,000 sq. ft. in the Town (about 28% of the total
62 number of residential lots). The lots are considered legally nonconforming with respect to lot
63 size and they can be developed provided that all other requirements can be met, including lot
64 coverage. Historically, the Town's 30% lot coverage requirement has applied to all lots in the RS-
65 1 zoning district, regardless of the lot size, since adoption of the Town's zoning ordinance. Town
66 Staff has determined that the proposed amendments are inconsistent with the Town's currently
67 adopted Land Use Plan and Town Staff recommends that the Planning Board recommend
68 disapproval of the application to the Town Council.

69

70 Stacia & Marc LeBlanc presented a PowerPoint presentation which highlighted the following:

71

- 72 • Built a 4-bedroom split level home on a 17,365 sq. ft. lot on 10th Ave.
- 73 • As the home neared completion, owners saw there was only 2 feet of concrete around
74 the pool. They were told that we could not have more solid concrete around pool
75 because they were close to reaching allowable "lot coverage".
- 76 • They now recognize the effect of the Town Code as it is written.
- 77 • The LeBlanc's were informed that they made impermissible changes to the as-built
78 survey; addition of concrete to the front of house, pavers on top of gravel walkway,
79 added concrete to backyard. They acknowledged the addition of concrete to front,
80 surprised that pavers on gravel walkway were a problem, but denied that concrete was
81 added the back.
- 82 • They would like to be able to add additional pavers/concrete around the pool in order to
83 keep debris from entering swimming pool.
- 84 • The experts suggested replacing driveway with all-gravel or permeable materials to
85 reduce lot coverage.
- 86 • Code requires every driveway have a 10 x 10 turnaround. LeBlanc's claim the turnaround
87 in driveway isn't functional or used and it takes up valuable lot coverage. They would
88 rather use rock.
- 89 • The proposed ZTA goes beyond personal interest, it will help other owners, is consistent
90 with, and furthers the Town's development principles.
- 91 • Town Code only allows Commercial developers, not homeowners, to use permeable
materials to get 7% increase in lot coverage.

- 92 • The proposed ZTA adds a new Subsection f to 36-202(d)(6): For lots less than 20,000
93 square feet as set forth in Section 36-202(d)(1), the maximum allowable lot coverage is
94 35 percent, provided total lot coverage does not exceed 6,000 square feet.
95 The Code is silent on lot coverage for nonconforming lots-Ch. 36 ARTICLE V. –
96 NONCONFORMITIES at 36-132(a) Allows the sale of nonconforming lots without
97 recombination.
- 98 • Conclusion- This ZTA would provide clarity in the regulation regarding nonconforming
99 lots, give some flexibility regarding lot coverage for residents that need it, allows
100 residents to make modest improvements using the additional 5%, encourages the
101 development of the few irregular remaining lots, does not negatively impact the density
102 of development, does not conflict with any other Code provisions, offers the flexibility
103 found in neighboring communities zoning regulations. Specifies when adjacent
104 nonconforming lots must be recombined, Dictates the requirements for sale of adjacent
105 lots under same or related ownership, modestly adjusts setback requirements,
106

107 Chairman Ward reviewed the lot coverage history that he has been documenting

- 108
- 109 ○ July 7, 1981- first zoning ordinance passed with 30% lot coverage
 - 110 ○ March 7, 1995-Amended to define lot coverage and lasted until Sept 5, 2018 (23.5 years)
 - 111 ○ February 2016 Code Wright survey
 - 112 ○ September 5, 2017- ZTA 17-03 (lot coverage) brought to Town Council with public
113 hearing, failed to move forward with 3-2 vote.
 - 114 ○ July 10, 2018 -Town Council meeting ZTA 18-04 up for consideration with public hearing.
115 Chairperson Ward asked Town Council to have another look at it, which they did.
 - 116 ○ August 20, 2018- Planning Board revisions deleted exception for driveways/parking areas,
117 eave language in its entirety, and swimming pool coverage
 - 118 ○ September 5, 2018 -Town Council passed revised and still current lot coverage ZTA 18-04
 - 119 ○ April 5, 2022 -Town Council passed revised (ZTA 22-01) allowing full dwelling footprint at
120 25% open slat deck credit to lot coverage for existing and new construction and does not
121 have to be attached.
- 122
123

124 Vice Chairperson DiBernardo stated lot coverage has been bounced around for as long as he has
125 been attending meetings, 15-20 years, and the argument that there are not that many existing
126 lots is the same argument made 15 years ago. In effect there are a lot of lots left, there were
127 then and there are now. This ordinance would affect the entire town. This would put more
128 structure on a smaller lot which in effect would take away from the environment to some
129 degree, and make the lots look crowded. It goes against what we have been trying to do for the
130 last twenty years, maintaining Southern Shores in its current atmosphere. The text amendment
131 may help individuals but not the town as a whole.

132

133 Planning Board Member Burek stated she agreed with Vice Chairperson DiBernardo. She stated
134 when someone is building a house, they must get approval from the town and would be aware if
135 they were over lot coverage or close to it. She doesn't understand why it would be a shocking
136 surprise.
137

138 Planning Board Member McClendon stated in the vein of our 25% open slatted deck allowance
139 that was passed recently and the points the LeBlanc's made allowing for pervious pavers and
140 other engineered mechanisms to increase lot coverage for commercial property, he could look
141 more favorably moving to 35% if that last 5% was pervious pavers or some other engineered
142 mechanism. Keep the 6,000 sq. foot maximum but make some allowances for pervious
143 pavements. He disagreed that it should only be for lots under 20,000 sq. feet. Any lot in RS-1,
144 30% lot coverage and can go to 35% using certain measures.

145
146 Planning Board Member Lawler stated permeable pavement/pavers requires maintenance and it
147 is easier to enforce in commercial areas than it would be in residential.

148
149 Planning Board Member McClendon stated these would be small areas on residential properties
150 and is not concerned with the maintenance of it.

151
152 Vice Chairperson DiBernardo stated aesthetically and environmentally there is no positive to the
153 amendment, not to the town itself.

154
155 Planning Board Alternate Collins stated septic and draining fields need to really be taken into
156 consideration on small lots. She agrees with Mr. McClendon with the permeable materials and
157 allowing water to drain through it, but she also built a house in Southern Shores with the same
158 restrictions.

159
160 Planning Board Member McClendon stated everyone that builds here are subject to the same
161 restrictions and juggle around designs that fit into the 30% lot coverage; it is unfortunate that
162 the LeBlanc's were not aware of the lot coverage restriction when building.

163
164 Chairperson Ward stated that 30% lot coverage has been the rule since 1981. The open-slatted
165 deck ordinance opened the door to increasing lot coverage a little bit, but just saying the smaller
166 lots get preferential treatment for getting 35% coverage, he is not in favor.

167
168 Chairperson Ward read the Town's currently adopted Land Use Plan Policy 2 that is applicable to
169 the proposed ZTA before calling for a motion.

170
171 • Policy 2: The community values and the Town will continue to comply with the
172 founder's original vision for Southern Shores: a low-density residential community
173 comprised of single-family dwellings on large lots (served by a small commercial district
174 for convenience shopping and services located at the southern end of the Town. This
175 blueprint for land use naturally protects environmental resources and fragile areas by
176 limiting development and growth.

177
178 **Motion** made by Vice Chairperson DiBernardo not to approve ZTA-22-05, it does not comply with
179 the Land Use Plan, Seconded by Planning Board Member Burek. The motion passed unanimously
180 (5-0).

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182 Staci LeBlanc stated she doesn't understand why the town doesn't feel obligated to encourage
183 the environmental management of our water runoff, pollution of the sound, other waterways
184 and ponds.

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Chairperson Ward thanked the LeBlanc’s for their presentation and encouraged them to reach out to town staff to work with them to rectify the situation. He stated this board did not feel like this was the road they wanted to go down and thanked them again.

ZTA-22-06

The applicant is proposing a Zoning Text Amendment (ZTA) to amend Section 36-207(c) to allow the group development of commercial and residential buildings as a Conditional Use in the C, General Commercial zoning district. The use would be permitted through the issuance of a Conditional Use Permit (Special Use Permit per 160D Statutes). Section 36-207 currently allows the group development of commercial buildings only (the Marketplace and Southern Shores Crossing). Section 36-207 also currently allows residential uses including detached single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, and accessory buildings, but such uses would be limited to only one principal building and its customary accessory building on any lot. If approved, the ZTA would allow group developments consisting of multiple principal commercial and residential buildings subject to the following requirements:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. No more than 40% lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

The following properties could potentially meet the proposed requirements for group developments consisting of commercial and residential buildings:

- 5391 N. Virginia Dare Trl. (Stone property): 7.9 acres
- 5500 N. Croatan Hwy. (Marketplace): 18.1 acres
- 5355 N. Croatan Hwy. (Southern Shores Realty Maintenance): 4.1 acres
- 6195 N. Croatan Hwy. (Ginguite, LLC): 5.2 acres

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.

Planning Director Haskett further stated, questions and discussion should mainly focus on the ZTA and not on a potential site plan for the proposed use. Policy 2 of the Town’s Land Use Plan

231 establishes the commercial district as a small district for convenience shopping and services. The
232 Land Use Plan also establishes that incompatible uses in the commercial area are limited to
233 “residential (low density)”, educational, and conservation activities. Since commercial and
234 residential group developments will most likely consist of high-density residential development
235 mixed with commercial development, Town Staff has determined that the proposed
236 amendments are consistent with the Town’s currently adopted Land Use Plan. Town Staff and
237 Chairperson Ward have spent a considerable amount of time reviewing and discussing the
238 application. As a result, Chairperson Ward has suggested additional requirements to be added to
239 the proposed language that clarify the requirements for “mixed group developments” and
240 establish a 50% lot coverage requirement (net acreage) with the option of 55% if permeable
241 pavement is used in excess of 5% of the total lot coverage. Town Staff recommends that the
242 Planning Board recommend approval of the application to the Town Council with Chairperson
243 Ward’s suggestions.

244

245 Chairperson Ward called on the applicant to address the board.

246

247 Mr. Sumit Gupta presented a modified text amendment from the May 19th meeting which he
248 highlighted the following:

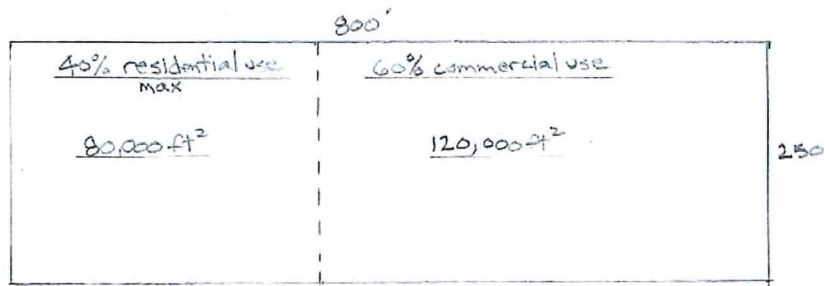
- 249 ○ Original idea was to develop a group development, commercial in nature.
- 250 ○ Felt it would be nice to take some of the allowable commercial space and trade it for
251 residential. They did not see it as an increase in density, more of a substitute taking
252 some commercial space and adding some multi-family. Although affordable housing is
253 needed in the area, this development would be luxury multi-family. They still feel it would
254 be a good mix for the area and would like to incorporate it. Both uses are allowed in this
255 zoning, just not mixed which would require a zoning text amendment to make that
256 change.
- 257 ○ The last meeting seemed positive to allow multi-family, but the board had some
258 concerns.
- 259 ○ Concern that it would be mostly residential taking advantage of the commercial
260 allowable lot coverage. RS-8 now has a density limitation which was passed recently. The
261 modified ZTA now limits the residential to no more than 40% (residential footprint and
262 parking).
- 263 ○ The use of a mix use should not have the lot coverage penalized; lot coverage should
264 remain as it is currently for commercial 60% -67%.
- 265 ○ The Planning Board has mentioned using “net-acreage” which is currently not the code
266 now. That would greatly limit the lot coverage from existing property. It would defeat the
267 whole purpose, for them, of bringing in this text amendment.

268

269

270 Chairperson Ward stated he was trying not to be site specific and offered his interpretation for
271 the following rendering. He asked the applicant what his thoughts on it is.

272



Based on 200,000 ft² net* parcel in the C commercial zone

If all commercial use @ 60% coverage

$$200,000 \text{ ft}^2 @ 60\% = \textcircled{A} 120,000 \text{ ft}^2$$

If all residential use (per RS-8 regs) @ 40% coverage

$$200,000 \text{ ft}^2 @ 40\% = \textcircled{B} 80,000 \text{ ft}^2$$

Avg. (mixed) 100,000 ft² which is 50% coverage of net parcel

$$A+B \div 2$$

- From Sec 36-57 definitions:

* Net acreage means total area to be developed minus any area covered by
- water ways, marshes or wetlands

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274

275 Applicant Sumit Gupta stated the 200,000 square foot parcel under group development you can
276 do up to 60% lot coverage if commercial (up to 67% with pervious) which comes to 120,000
277 square feet. If it was under this, then 40% no more than 80,000 square feet of coverage on the
278 whole parcel could go beyond residential footprints and associated parking. If that is maxed out
279 it still leaves 20% or a little over 20% commercial. If no commercial is done, currently you can go
280 up to 40%, which would remain the same.

281

282 Chairperson Ward asked to clarify in the ZTA that no more than 40% may be used as residential.
283 You still get to put 60% percent on that 40%. Mr. Gupta stated if 120,000 of coverage is allowed,
284 then no more than 80,000 would be residential in mix use.

285

286 Planning Board Alternate Jan Collins stated as far as traffic goes, it would behoove us to allow
287 more residential than commercial.

288

289 Applicant Sumit Gupta stated with the full lot coverage, their plan would be more of a 50/50 mix
290 but since residential is 40% that may fit better and would still be limited to 8 units per acre.

291

292 Planning Board Alternate Jan Collins asked if there was the proper amount of sewer available.
293 Mr. Gupta stated there currently was enough to do both the residential and commercial.

294

295 Engineer Mike Strader stated based off the last Planning Board meeting and allowing 60% lot
296 coverage, the applicant tried to control the residential by not allowing more than 40% residential
297 (of the 120,000 use).

298

299 Chairperson Ward stated what is ultimately being asked if 60% lot coverage of the whole parcel
300 for mix use. Mr. Gupta replied yes.

301
302 Planning Board Member McClendon stated that an ordinance may be needed to cover the
303 situation where the mixed-use parcel is developed with both uses in one building, which means
304 the square footage must be accounted for.

305
306 Applicant Sumit Gupta stated under this circumstance if you did a mix use building it would still
307 count as residential and it could be clarified more in the ZTA.

308
309 Vice Chairperson DiBernardo stated there is a loophole that would need to be closed. The 40%
310 residential is great but it says no more. It should be clarified to say no more than and no less
311 than a specified amount.

312
313 Chairperson Ward read comments submitted in writing from ETJ representative Finelli.

314
315 *May 5, 2022*
316 *To: Planning Board*
317 *Members From: John*
318 *Finelli*
319 *Subject: ZTA 22-06*
320 *I will probably be on vacation during the week of May 15 and unable to attend to*
321 *Planning Board meeting. So I want to take this opportunity to express my opposition to*
322 *ZTA 22-06 and offer some alternatives.*

323 *The text amendment that is proposed by Ginguite, LLC would allow mixed-use group*
324 *developments in the General Commercial District. I see no benefit to the Town in their*
325 *proposal and I see negative impacts to surrounding areas.*

326 *Right now, the Owner/Developer has the right to develop their property as residential,*
327 *commercial, or to subdivide the property and have a mix of residential and commercial*
328 *lots. So this isn't about mixed use. This is about density. And increased density doesn't*
329 *benefit anyone other than the Developer.*

330 *Development on this property will impact the surrounding areas. That's just the way it*
331 *is. But I don't want to make it worse. Higher density means more noise and light*
332 *pollution going into the residential areas of Martin's Point and Southern Shores. It*
333 *means more pollution going into Jean Guite Creek, which is designated by NC Wildlife*
334 *as a primary nursery area. And it means more traffic problems.*

335 *It will be very difficult to make a left hand turn from this property onto Hwy 158, and*
336 *virtually impossible during rush hour and the tourist season. That means that much of*
337 *the traffic exiting the site will turn right onto the highway and then right again into*
338 *Martin's Point where they will use the parking lots in our commercial area as a*
339 *turnaround. This is not fair to our property owners and makes a congested area even*
340 *worse.*

341 *In the Applicant's proposal, "No more than 40% lot coverage of the net parcel area can*
342 *be associated with building footprints containing residential uses and the required*
343 *parking for residential uses." That sounds like they are offering a lower density, but*
344 *that statement is meaningless, as far as I'm concerned, because it doesn't address the*
345 *overall density of the property. 40% coverage in the residential area could be offset by*
346 *80% coverage in the commercial area leading to 60 or 67% overall coverage, which*
347 *appears to be the Applicant's goal.*

348 *I am not against mixed-use group developments. If it is the desire of the Town Council to*
349 *amend the zoning ordinance to allow mixed use, there are ways to do this.*
350 *Most communities which offer mixed-use group developments have minimum standards*
351 *on the*
352 *amount of development that must be dedicated to residential or commercial. A*
353 *minimum of 25% residential is the most common number, but the Town can set*
354 *whatever minimum and maximum standards that they choose. Some communities*
355 *base their numbers on the footprints of the structures while others base it on floor*
356 *area. The footprint method can present problems because it does not adequately*
357 *address structures that are vertically mixed, and it is difficult to account for the*
358 *allocation of accessory structures, roads, driveways, etc.. So most communities use*
359 *floor area ratios. It can be heated space or it can include non-heated, decks and other.*

360 *If the Town wants to allow mixed-use group developments with a density lower than*
361 *what the Applicant is requesting, Lot Coverage in 36-207 will need to be addressed,*
362 *particularly 5 (b), which permits up to 67% coverage with the use of permeable pavers.*
363 *And it's important that all references to density and lot coverage calculations be based*
364 *on the "buildable area", not to include water, wetlands, and non-contiguous high*
365 *ground that is not buildable.*

366 *I had a phone call with Wes and Andy earlier this week, in which Andy offered some*
367 *good suggestions. Based on his comments and a review of the zoning ordinances of*
368 *other communities which have mixed-use group developments, I want to propose an*
369 *alternative as a basis for discussion, one that strikes a balance between 60%*
370 *commercial coverage and 40% for residential multi-family.*

371
372 **Group Development of commercial and residential buildings, provided:**

- 373 a. *Minimum size of any building shall be 2,500 square feet.*
- 374 b. *All buildings constructed within 35 feet of another building within the*
375 *development are to be connected by a breezeway or covered walkway.*
- 376 c. *Residential density shall be limited to RS-8 District allowances as established*
377 *within Sec. 36-203(a).*
- 378 d. *A minimum of 25% of the project's heated floor area must be developed and*
379 *maintained as residential uses.*
- 380 e. *A minimum of 25% of the project's heated floor area must be developed and*
381

382 maintained as commercial uses.

383

384 f. Maximum allowable Lot Coverage shall be 50%. Mixed-Use Group
385 Developments which incorporate the use of permeable pavement, as outlined
386 in 36-207 5(c), in excess of five percent of the total lot coverage shall be
387 allowed a maximum allowable lot coverage by principal use and all accessory
388 structures of no greater than 55 percent.

389 **or**

390 Maximum allowable Lot Coverage shall be (40% of the residential heated floor area
391 divided by the total heated floor area) plus (60% of the commercial heated floor area
392 divided by the total heated floor area). Mixed-Use Group Developments which
393 incorporate the use of permeable pavement, as outlined in 36-207 5(c), in excess of
394 five percent of the total lot coverage shall be allowed an additional 5% allowable
395 lot coverage by principal use and all accessory structures.

396 For reference:

397 **Sec. 36-207. - C general commercial district**

398 (5) Maximum allowable lot coverage by principal use and all accessory structures shall
399 be 60 percent except as allowed under the following conditions:.

400 a. Commercial lots shall be allowed the use of permeable pavement as defined
401 by the NCDENR Stormwater BMP Manual ("Manual"). Employment of this
402 permeable solution shall be granted the Built Upon Area (BUA) Credit as
403 specified in the Manual.

404 b. Group Developments which incorporate the use of permeable
405 pavement as outlined above in excess of five percent of the total lot coverage
406 shall be allowed a maximum allowable lot coverage by principal use and all
407 accessory structures of no greater than 67 percent.

408 Sincerely,

409 John Finelli ETJ Representative

410

411 Applicant Sumit Gupta stated he sees this as a commercial development and lot coverage is very
412 important and the current ordinance is not "net acre" right now, which would be a very big
413 change. For their project it would not work if it was net acre and he just wanted to be clear on
414 that.

415

416

417 Chairperson Ward submitted a list of recommendations in addition to the proposed ZTA.

418

419 Dimensional requirements (per RS-8 and C general commercial district)

- 420 1. Minimum front yard (setback) 25 feet.
- 421 2. Minimum side yard (setback) 15 feet. An additional five-foot-yard adjacent to the
422 street is required for a corner lot.
- 423 3. Minimum rear yard (setback) 20 feet.
- 424 4. Maximum building height shall be 35 feet, measured from the average of the
425 existing, undisturbed grade at the building corners.

- 426 5. No building or other facility (such as parking areas, incinerators, trash collection
427 areas, etc.) shall be located nearer than 50 feet to boundaries of residential districts
428 6. Where a mixed-use group development abuts a residential zone, a buffer of dense
429 vegetative planting or natural vegetation is required. (see requirements in section 36-207
430 dimensional requirements, (8).

431
432 Lot coverage for mixed use group development
433 This language incorporates the applicant's lot coverage proposal in ZTA- 22-06 and is no
434 less restrictive than what is currently being proposed by the applicant.
435 See sketch for clarification.

- 436
437 1. Maximum allowable lot coverage of the net parcel area (see Sec. 36-57 definitions,
438 net acreage) by principal use and all accessory structures, in the aggregate, for the entire
439 mixed use group development, shall be 50 percent.
440 2. Mixed use group developments which incorporate the use of permeable
441 pavement, as outlined in 36-207 5(c), in excess of 5% of the total lot coverage shall be
442 allowed a maximum allowable lot coverage by principle use and all accessory structures,
443 of no greater than 55 percent.

444
445 Vice Chairperson DiBernardo asked Planning Director Haskett how he would calculate the 60%
446 commercial and 40% residential. Mr. Haskett stated it would be the engineer or surveyor that
447 would do that calculation. He would make sure that they are shown, and the calculations were
448 correct.

449
450 Vice Chairperson DiBernardo stated he believes Chairperson Ward's concern and or question is,
451 are they using 60% and including the residential in with the 60%? What is happening is they are
452 essentially getting a gift of 10%. Chairperson Ward stated they want to be able to use the net
453 acreage as the commercial would allow, and up to 60%/67% as the commercial allows and there
454 is no reciprocity with the commercial side of things, it is all slanted towards the commercial.

455
456 Both Chairman Ward and Planning Board Member McClendon stated 50% coverage was a
457 compromise.

458
459 Planning Board Member McClendon stated we need more residential than we do commercial.
460 He would lean towards being more generous with lot coverage in order to allow mix use.

461
462 Chairperson Ward stated you can do all residential, all commercial, or a mix use. Lot coverage
463 should not be slanted towards commercial.

464
465 Planning Board Alternate Jan Collins asked Chairperson Ward to explain the net acreage again.
466 Mr. Ward stated net acreage is spoken to in the RS8 but is not addressed in commercial, so what
467 Mr. Gupta is maintaining is if he did all commercial, they could get up to 67% with permeable
468 pavement. If it is residential; use, then the net acreage would remove all the wetlands, and
469 marsh area when calculating.

470
471 Chairperson Ward stated he felt strongly that the dimensional requirements per the RS8 and the
472 general commercial district need to be in place and would be a recommendation.

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Planning Board Member Lawler asked why the net parcel area didn't apply to commercial.
Planning Director Haskett stated it is not currently in the ordinance.

Chairperson Ward stated in essence we are being asked to create another zoning district within the existing C. General Commercial and 50% lot coverage is a good compromise. We are all in favor of the mix use, but parameters need to be set.

Vice Chairperson DiBernardo stated the board seems to be stuck. The applicant has complied with what was asked, and now we are on a fourth version. As a Planning Board we should come up with something concerning the lot coverage, and the residential minimal amount.

Chairperson Ward recommended 50% lot coverage.

Planning Board Member McClendon stated we are only talking about four parcels in town that meet the requirements we are talking about for mix use development. We should encourage the mix use development and if the 50% coverage is an issue, they should be encouraged to seek a variance.

Applicant Sumit Gupta stated while that may be what the board wants and good for Southern Shores, it limits their parcel, and they would just do a commercial development. However, he stated that they could possibly work with 50% coverage if the net is taken out.

Chairperson Ward stated it comes down to lot coverage, 50% of the net parcel is reasonable and staff and this board would agree that more needs to be included in ZTA-22-06.

MOTION: Planning Board Vice Chairperson DiBernardo moved to deny ZTA-22-06 as written and is consistent with policy two of the Town's Land Use Plan, Seconded by Chairperson Ward. The motion passed unanimously (5-0).

MOTION: Chairperson Ward moved to recommend additional conditions for "mixed use" group development per items on dimensional requirements items 1-6, lot coverage for mixed use group development and is consistent with the current Land Use Plan. The items are to be added to items a-d, leading with e, Seconded by Planning Board Member Lawler.

MOTION: Chairperson Ward amended his motion to leave item "e" and include a minimum residential of 25% but no more than 40% to item "e", Seconded by Vice Chairperson DiBernardo. The motion passed 4-1; Planning Board Member McClendon casting the sole opposed vote.

VIII. Public Comment

Stacia & Marc LeBlanc-The process of the two ZTA's seemed inconsistent. The board allowed more interaction with ZTA 22-06 than the ZTA they presented.

Chairperson Ward stated ZTA 22-06 has been going on for several meetings and it was not by design that there was or seemed to be more interaction.

520 IX. Planning Board Member Comments

521 None

522

523 X. Announcements

524 Planning Director Wes Haskett stated the next meeting is Tuesday, June 20th at 5:00 p.m.

525 Items on the agenda will include ZTA 21-08 Town Code Section 36-165, Regulations Governing

526 Signs. Member terms will also be discussed.

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529 XI. Adjourn

530 Hearing no further business, **motion** made by Vice Chairperson DiBernardo to adjourn, Seconded

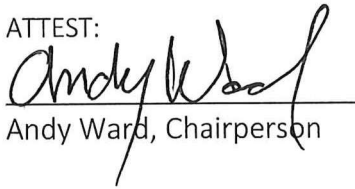
531 by Planning Board Burek. Motion passed unanimously. The time was 7:47 P.M.

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535 ATTEST:


Andy Ward, Chairperson



Respectfully submitted,


Sheila Kane, Town Clerk

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