



**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](http://www.southernshores-nc.gov)

**PITTS CENTER**

**Tuesday, June 01, 2021 at 5:30 PM**

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**AGENDA**

**Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

**Amendments to / Approval of Agenda**

**Consent Agenda**

1. Approval of Minutes (emailed to Council)
2. Budget Amendment-Seasonal Cut thru Traffic Measures (No left turn weekend-June 26 & 27)

**Staff Reports**

**General Public Comment (Limit: 3 minutes per speaker.)**

**Old Business**

**New Business**

3. Public Hearing -Town Manager's FY2021-22 Recommended Budget
4. Public Hearing-N.C.G.S. 160A-538.1 Reduction of Service Districts- Requests for Removal of Property from the Town's Beach Erosion Control and Flood and Hurricane Protection Works Municipal Service District.
5. Public Hearing-279 Hillcrest Dr. Preliminary Subdivision Plat
6. Public Hearing-ZTA 21-02 Eaves
7. Public Hearing-ZTA 21-05 Use & Occupancy

**General Public Comment (Limit: 3 minutes per speaker.)**

**Council Business**

**Adjourn**

**File Attachments for Item:**

2. Budget Amendment-Seasonal Cut thru Traffic Measures (No left turn weekend-June 26 & 27)

**Town of Southern Shores  
Budget Amendment Number # 28**

Public Works Increases			Public Works Decreases		
<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-34600	<b><u>Revenues</u></b> Occupancy Tax	\$3,800			
59-50120	<b><u>Expenditures</u></b> PW Contracted Services	\$3,800			

Explanation: Cost of No Left Turn Weekend June26-27, 2021

Recommended By:

Cliff Ogburn, Town Manager

Approved By:

Tom Bennett, Mayor

Date \_\_\_\_\_

**File Attachments for Item:**

3. Public Hearing -Town Manager's FY2021-22 Recommended Budget





## AGENDA ITEM SUMMARY

**MEETING DATE:** June 1, 2021

**ITEM TITLE:** Public Hearing -Town Manager's FY2021-22 Recommended Budget

**ITEM SUMMARY:**

The Public Hearing is being held on the Manager's Recommended Budget which was presented to the Council at its May 4 Council Meeting. The recommended budgeted has been available and meets the requirements listed in the below General Statute.

NCGS § 159-12. Filing and publication of the budget; budget hearings.

(a) On the same day that he submits the budget to the governing board, the budget officer shall file a copy of it in the office of the clerk to the board where it shall remain available for public inspection until the budget ordinance is adopted. The clerk shall make a copy of the budget available to all news media in the county. He shall also publish a statement that the budget has been submitted to the governing board and is available for public inspection in the office of the clerk to the board. The statement shall also give notice of the time and place of the budget hearing required by subsection (b) of this section.

(b) Before adopting the budget ordinance, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear. (1927, c. 146, s. 7; 1955, cc. 698, 724; 1971, c. 780, s. 1; 2020-3, s. 4.27(a).)

As a result of the budget workshop discussion held by the Town Council on May 18, 2021, the following adjustments to the Manager's recommended budget are presented for your consideration.

1. Ad valorem taxes increase from \$3,449,975 to \$4,332,526. The adjustment is due in large part to the inclusion of revenue generated from the tax increases for both municipal service districts and town wide beach nourishment. Vehicle tax revenues were calculated twice. Increases to budgeted revenues for Interest Income (\$1,000), Building Permits (\$35,000), Occupancy (\$25,000), Sales (\$30,000) and Land Transfer taxes (\$25,000) to make up the difference.
2. In order to increase the contract service for Limb and Branch removal by \$25,000, Storm Debris Removal and Brush Trimming were reduced by \$12,500 each
3. Previously, the Council approved the purchase of radio communication equipment from current year funds, reducing next fiscal year Police budget from \$1,902,726 to \$1,848,776.

These adjustments represent no increase in taxes or fees.

**STAFF RECOMMENDATION:**

Staff recommends approval of the May 4 recommended budget with adjustments presented here. However, staff also recognizes that the budget officer's recommendations in the proposed budget are simply recommendations that the Council may accept, modify, or reject. Further consideration should also be given to the recommended municipal service district tax rates as well as the town wide tax increase for the purpose of paying debt service on the planned 2022 beach nourishment project

**REQUESTED ACTION:**

Conduct Public Hearing on the Manager's Recommended Budget for fiscal year 2021-2022.

**ATTACHMENTS:**

FY 2021-2022 Budget 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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Ordinance No. 2021-06-01

## **An Ordinance of the Southern Shores Town Council Adopting a Budget and Tax Rate for FY 2021-22**

**BE IT ORDAINED** by the Town Council of the Town of Southern Shores, North Carolina that the following be the various budgets for FY 2021-22:

### **SECTION I. GENERAL FUND**

- A. Appropriations: The following amounts are appropriated for the operation of the Town government and its activities for the fiscal year beginning July 1, 2021 and ending June 30, 2022:

Administration Department	\$ 1,065,058
Code Enforcement & Inspections Department	\$ 323,989
Fire Department	\$ 964,378
Ocean Rescue Services	\$ 176,000
Police Department	\$ 1,848,776
Public Works Department	* \$ 572,145
Public Works Department – Streets, Bridges, Beaches & Canals	* \$ 1,220,416
Sanitation Services	\$ 852,198
Contribution to Capital Investment Fund-Beach Nourishment	\$ 1,824,628
Contribution to Capital Reserve Fund for Canals	\$ 20,000
<b>Total General Fund Appropriations</b>	<b>\$ 8,867,588</b>

- B. Estimated Revenues: It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2021 and ending June 30, 2022 to meet foregoing appropriations:

Property Taxes- Current Year	\$ 3,122,004
Vehicle Taxes (NCVTS)- Current Year	\$ 97,894
Special Assessment	\$ 30,000
MSD 1 Taxes	\$ 348,252
MSD 2 Taxes	\$ 169,422
Town Wide – Beach Nourishment	\$ 556,954
Property & Vehicle Taxes- Prior Years, Penalties and Interest	\$ 8,000
Subtotal: Property and Vehicle Taxes	\$ 4,332,526
Land Transfer	\$ 325,000
Local Option Sales Tax	\$ 1,045,000
Occupancy Tax	\$ 1,060,000
Other Intergovernmental Revenues	\$ 655,243
Building Permits & Fees	\$ 168,700
Unassigned Fund Balance	\$ 1,270,519
Other Revenues	\$ 10,600
	\$ 4,535,062

**Total General Fund Revenues**

**\$ 8,867,588**

## **SECTION II. CAPITAL RESERVE FUND AND EXPENDITURES**

FY 21-22 Appropriations Authorized:

Transfer OUT from General Fund to Capital Reserve Fund "Canal and Channel Maintenance"	\$ 20,000
Transfer OUT from General Fund to Capital Reserve Fund-Beach Nourishment	\$ 1,824,628
	<b>\$ 1,844,628</b>

FY 21-22 Revenues Anticipated:

Transfer IN from General Fund for "Canal and Channel Maintenance"	\$ 20,000
Transfer IN from General Fund to Capital Reserve Fund-Beach Nourishment	\$ 1,824,628
	<b>\$ 1,844,628</b>

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Notes:

-Capital Reserve Fund Balance (as of 4/30/21)	\$ 457,444
-FY 21-22 appropriation from General Fund to Capital Reserve Fund for "Canal and Channel Maintenance"	+ \$20,000
-FY 21-22 appropriation from General Fund to Capital Reserve Fund for Beach Nourishment	+1,824,628
-Capital Reserve Fund Balance (as of 7/1/21)	\$ 2,302,072
-Balance upon adoption comprised of:	
- Reserved for Canal and Channel Maintenance	\$ 138,000
- Reserved for Beach Nourishment	\$2,074,628
- Total estimated remaining balance for non-Canal capital projects	\$ 89,444

### **SECTION III. CEMETERY FUND**

Appropriations Authorized:

Cemetery Maintenance and Beautification	\$ 3,140
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Revenues Anticipated:

[illegible]

#### **SECTION IV. TAX RATE ESTABLISHED**

There is hereby levied a property tax of nineteen point fifty-eight cents (\$0.1958) on each one hundred dollars (\$100) valuation of real and personal taxable property in the Town of Southern Shores, as listed for taxes as of January 1, 2021 by the Dare County Tax Department, for the purpose of raising revenue included in "Property Taxes – Current Year" and "Vehicle Taxes – Current Year" in the General Fund, being Section I. B. of this Ordinance.

The rate of tax is based on an estimated total valuation of real and personal property for the purpose of taxation of \$ 1,584,244,221 (taxable property value) with an estimated collection rate of 99.65%, and an estimated total valuation of vehicles of \$49,997,071, with an estimated collection rate of 99.96%. The estimated rate of collection is based on the fiscal year 2019-20 collection rate pursuant to NCGS §159-13(b)(6).

There is hereby levied a property tax of twelve cents (\$0.12) on each one hundred (\$100) valuation of real and personal taxable property located in MSD 1 in the Town of Southern Shores for beach nourishment, three cents (\$0.03) on each one hundred (\$100) valuation of real and personal taxable property located in MSD 2 in the Town of Southern Shores and three point forty-two cents (\$0.0342) on each one hundred (\$100) valuation of real and personal taxable property located in the Town of Southern Shores, as listed for taxes as of January 1, 2021 by the Dare County Tax Department, for the purpose of raising revenue included in "Property Taxes- Current Year" and "NCVTS" in the General Fund, being Section I.B. of this ordinance.

The tax rate is based on an estimated total valuation of real and personal property for the purpose of taxation in MSD 1 as \$290,213,400, MSD 2 as \$564,745,100 and Town Wide as \$1,584,244,221 with an estimated collection rate of 99.65%. The estimated rate of collection is based on the fiscal year 2019-20 collection rate pursuant to NCGS 159-13(b)(6).

#### **SECTION V. EXPENDITURES**

All expenditures must be made in accordance with governing North Carolina General Statutes and adopted Town policies regarding purchasing and bidding. The Budget Officer is authorized to expend funds consistent with the governmental functions and amounts shown as appropriated and to execute such documents necessary for same.

Notwithstanding Town policies regarding purchasing and bidding, the Budget Officer is authorized to execute documents for the following items or services in accordance with the specific appropriations established by this Ordinance or as the budget may be amended during the fiscal year: Multi-year lease, lease-purchase, or purchase of vehicles and equipment.

#### **SECTION VI. LEASE REVENUES**

The Budget Officer is hereby authorized to negotiate in the best interest of the Town and execute such documents necessary for the realization of revenues or other consideration from lease or use of any Town property with a term not to exceed three years.

### **SECTION VII. FIRE SERVICES**

An amount of \$ 314,020 is included (as shown on adopted line item budget) in the total amount appropriated in Section 1. A. for "Fire Department". This funding is for reimbursement to the Southern Shores Volunteer Fire Department, Inc. (SSVFD) for that entity's debt service costs incurred during FY 2021-22 for funding for a new fire station as described in the effective contract for fire services between the Town and the SSVFD.

### **SECTION VIII. BUDGET OFFICER LINE TRANSFER AUTHORIZATION**

The Budget Officer is authorized to re-allocate intra-departmental appropriations among the various objects of expenditures as he considers necessary for effective budget performance and is also authorized to affect inter-departmental transfers within the same Fund for effective budget performance. The Budget Officer is also authorized to affect, within the same Fund, intra-departmental and inter-departmental transfers from a Departmental contingency line appropriation established in accordance with NCGS §159-13(b)(3), with such contingency line transfers being in accordance with NCGS §159-13(b)(3).

### **SECTION IX. BUDGET OFFICER RESTRICTIONS**

No salary increases may be made without approval of the Town Council. Inter-fund transfers not established in this budget document may only be performed by authorization of the Town Council.

### **SECTION X. UTILIZATION OF BUDGET AND BUDGET ORDINANCE**

This Ordinance and the Budget Document shall be the basis of the financial plan for operations of the Town of Southern Shores, North Carolina Municipal Government during the fiscal year 2020-21. Copies of this Budget Ordinance shall be furnished to the Clerk of the Town Council and to the Budget Officer and Finance Officer and is to be kept on file by them for their direction in the disbursement of funds.

ADOPTED this \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Mayor Tom Bennett

ATTEST:

\_\_\_\_\_  
Sheila Kane, Town Clerk

seal

**File Attachments for Item:**

4.

Public Hearing-N.C.G.S. 160A-538.1 Reduction of Service Districts- Requests for Removal of Property from the Town's Beach Erosion Control and Flood and Hurricane Protection Works Municipal Service District.



## AGENDA ITEM SUMMARY

**MEETING DATE:** June 1, 2021

**ITEM TITLE:** Public Hearing-N.C.G.S. 160A-538.1 Reduction of Service Districts- Requests for Removal of Property from the Town's Beach Erosion Control and Flood and Hurricane Protection Works Municipal Service District.

**ITEM SUMMARY:**

Two requests for removal from the established Municipal Service Districts have been received from Jeanne Motosko for 26 Tenth Avenue, and Timothy Panoff for 104 Ocean Blvd. Both requests are attached here.

The North Carolina General Statutes provide an opportunity for property owners within the boundaries of an established MSD to request removal.

**§ 160A-538.1. Reduction of service districts.**

(a) Reduction by City Council. – Upon finding that there is no longer a need to include within a particular service district any certain tract or parcel of land, the city council may by ordinance redefine a service district by removing therefrom any tract or parcel of land which it has determined need no longer be included in said district. The city council shall hold a public hearing before adopting an ordinance removing any tract or parcel of land from a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing.

**(a1) Request for Reduction by Owner.** – A property owner may submit a written request to the city council to remove the owner's tract or parcel of land from a service district. The owner shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in need of the services, facilities, or functions of the proposed district to a demonstrably greater extent than the remainder of the city, and provide any other additional information the owner deems relevant. Upon receipt of the request, the city council shall hold a public hearing as required by subsection (a) of this section. If the city council finds that the tract or parcel is not in need of the services, facilities, or functions of the district to a demonstrably greater extent than the remainder of the city, the city council may, by ordinance, redefine the service district by removing therefrom the tract or parcel.

(b) Effective Date. – The removal of any tract or parcel of land from any service district shall take effect at the end of a fiscal year following passage of the ordinance, as determined by the city council.



(b1) Passage of Ordinance. – No ordinance reducing a service district as provided for in this section shall be finally adopted until it has been passed at two meetings of the city council by majority vote of the voting members present, and no service district shall be reduced except by ordinance.

(c) Historic District Boundaries Reduction. – A service district which at the time of its creation had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter may only have its boundaries reduced to exclude territory which has been removed from the historic district. (1977, c. 775, s. 3; 1987, c. 621, s. 3; 2016-8, s. 4.)

#### **STAFF RECOMMENDATION:**

Staff recommends denial of both requests. The boundaries of Municipal Service Districts One and Two were drawn to include properties that are in greater need and receive greater benefit from the beach nourishment project than those properties not in a Municipal Service District. Consistent with the recommendation to not exclude properties from the MSDs prior to their establishment, staff finds nothing unique about these properties that distinguishes them from the rest of the district. The Town Council passed an ordinance establishing the Municipal Service Districts by finding that each of the proposed districts is in need of the beach nourishment project to a demonstrably greater extent than the remainder of the town to meet the needs and goals of the project due to, among other things, their increased need for beach erosion, flood control and hurricane protection works; their proximity to the Atlantic Ocean; their general elevation and topography; the influence of the ocean on the use of the properties within each district; their substantial tax base; their location seaward of the primary thoroughfare, NC12, and associated infrastructure; and the historic significance of the area and properties within the districts. Staff finds that the two properties requesting removal fit the needs described above.

#### **REQUESTED ACTION:**

At the completion of the public hearing, a motion to approve or deny the request for removal would be appropriate.

May 7, 2021

Jeanne Motosko  
26 Tenth Avenue  
Southern Shores, NC  
27949

Town of Southern Shores  
5375 N Virginia Dare Trail  
Southern Shores, NC  
27949

To who it may concern,

We are respectfully requesting our property located at 26 Tenth Avenue, Parcel #021253000, be remove from the MSD 2 tax zone. The property will not receive any additional benefits from the beach nourishment plan. It sits approximately ¼ of mile from the nearest beach access and does not have any ocean view.

If proximity to the beach is a factor to increase benefits from beach nourishment, why was Duck Road used as a boundary? Many homes west of Duck Road are much closer to the beach than my property. Furthermore, my house it is not in the flood plain, so the nourishment project will not make the home any safer from harm. While the nourishment plan of ocean front may increase value of oceanfront homes and possibly homes 1 or 2 from the beach, the property located at 26 Tenth Avenue will not see an increase in value any greater than any home on the West side. In fact, homes located on the west side of Duck Road in the area of 163 Duck Road, sit closer to the ocean than 26 Tenth and have ocean views which may possibly causes these properties to have a larger increase in value.

Furthermore, my house it is not in the flood plain, so the nourishment project will not make the home any safer from harm.

While the nourishment plan of ocean front may increase value of oceanfront homes and possibly homes 1 or 2 from the beach (factual numbers from Nags Head), the property located at 26 Tenth Avenue will not see an increase in value any greater than any home on the West side. The town and its representatives have not factually demonstrated in any manner where beach nourishment provides any greater advantage to one section of the town than others.

There are several properties not in MSD 1 or 2 that that will benefit from beach nourishment in any way. All of the rental properties west of Duck Road will most likely have increase rentals(benefit) due to nicer beaches. It is my understanding that revenue generated from rental homes is shared equally by the town. Since you are charging MSD 1 and MSD 2 extra for the beach nourishment, do you plan to change how the tax revenue is distributed? Your method of establishing MSD1 and MSD 2 is arbitrary and unfair.

It was stated by the Town that the beach nourishment will protect the towns economy (the entire town) Why did you fail to include businesses? If there is more tourism, their sales will increase. Also generating additional sales tax, which again benefits the entire town,state, and county.

If distance to the beach was a factor in determining MSD 1 and MSD 2 properties as far west as Juniper Trail and most of Chicahauk should have also been in MSD 2.

To raise a properties taxes based on which side of Duck Road it rest on rather than proximity to the beach and sharing that revenue with the entire town is arbitrary and unfair. For these factual reason my property should be removed from MSD 2.

Sincerely,



Jeanne Motosko

**From:** [TIMOTHY PANOFF](#)  
**To:** [Tom Bennett](#); [Elizabeth Morey](#); [Jim Conners](#); [Leo Holland](#); [Matt Neal](#); [Cliff Ogburn](#)  
**Subject:** No MSD vote.  
**Date:** Tuesday, May 4, 2021 7:34:49 AM

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I know you all have received the below I copied from another property owner. I continue to struggle with the concept that I am receiving a demonstrative greater benefit. Reading the below it seems clear that the town has a double standard on how to fund projects in Southern shores. The dredging of a canal provided absolutely no benefit to my property. But yet I helped fund this project through property taxes.

I continue to read responses from neighbors and from the town. It's clear that we all have no issue supporting the beach nourishment. But to pay a disproportionate amount in taxes on a false claim of the ocean front property gets more benefit is wrong. And the fact that a canal project was paid for equally based on property values but now the town wants to charge ocean front disproportionately more is just unjust and quite frankly upsetting.

This is a double standard.

Please do the right thing and vote No.

Please ensure this is part of the public record and my request for exemption from the MSD if this vote passes.

MSDs are bad policy and have no place in Southern Shores. All town projects should be financed through ad valorem taxes (the normal uniform town wide tax rate), as was done with the canal dredging project in 2014 which was the largest multi-million dollar town project to date. In describing the town canal dredging project the Town Council stated, ***"We are very fortunate to have now completed this project as it will have a positive impact on all property values in the Town and will ultimately benefit all our citizens through the effect of a growing property base. This was the largest single infrastructure improvement project ever undertaken by our Town. The project's successful completion is a credit to the citizens who worked with Town staff to make it possible. It only adds to the attractiveness of the Town of Southern Shores as a place to live and visit."*** Please see the link below on the town website for this article.

[Dredging | Town of Southern Shores, NC \(southernshores-nc.gov\)](#)

MSDs were not used to fund this very expensive multi-million dollar canal town project and should not be used now for any other town project. MSDs are simply not necessary. The canal dredging project was financed through the ad valorem taxes (the normal uniform town wide tax rate). The rationale that was used by the Town Council for the canal dredging projects should be the same rationale for the beach nourishment and all other future projects in Southern Shores. There was no need for an MSD then, and there is certainly no need for one now. There are 7.5 miles of canals in Southern Shores for which everyone paid. There are only 3.7 miles of oceanfront in Southern Shores for which everyone should pay as well. Taxpayers should be treated equally by the Town Council. Vote NO to MSDs. ALL TAXES

SHOULD BE BASED ON PROPERTY VALUES WITH THE SAME TAX RATE TOWN WIDE.

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**File Attachments for Item:**

5. Public Hearing-279 Hillcrest Dr. Preliminary Subdivision Plat



## AGENDA ITEM SUMMARY

**MEETING DATE:** June 1, 2021

**ITEM TITLE:** Public Hearing-279 Hillcrest Dr. Preliminary Subdivision Plat

**ITEM SUMMARY:**

The Town's Subdivision Ordinance establishes a review process for subdivisions that requires Planning Board and Town Council review of all preliminary and final subdivision plats (except for exempted subdivisions). The applicant is requesting to subdivide the lot located at 279 Hillcrest Dr. into two new lots. The existing single-family dwelling and other improvements currently situated at 279 Hillcrest Dr. are proposed to be located on new Lot 4A with a lot size of 65,393 sq. ft. and the remaining property is proposed to be located on new Lot 4B with a lot size of 34,720.3 sq. ft. Both lots as proposed meet the Town's minimum lot size requirement of 20,000 sq. ft. and lot width of 100 ft. Both lots also meet the Town's frontage requirement by providing at least 30 ft. of frontage that abuts a public right-of-way or easement. With respect to access, a minimum pavement width of 16 ft. and a minimum 20 ft. turnaround area should be provided. The Town Planning Board recommended approval of the preliminary plat at their May 17, 2021 meeting with the following conditions:

1. Prior to the approval of the final plat, an improved access shall be installed with a minimum pavement width of 16ft. and a minimum 20 ft. turnaround area in accordance with Section 30-76(1) and subject to approval by the Southern Shores Volunteer Fire Dept.
2. The public easement specifics, including maintenance, shall be shown on the final plat or in a separate document to be recorded.
3. A 15 ft. side setback requirement shall apply to Lot 4A along the easement and turnaround area.
4. Maintenance of the easement area shall be the responsibility of the property owners.

Conditions 2, 3, and 4 are not based on specific Sections from the Town's Subdivision Ordinance with which the preliminary plat does not comply. Town Staff recommends approval of condition 1 and the following:

5. A note shall be provided on the final plat that dedicates the access easement for public use with the option for the Town to accept maintenance in the future.

**STAFF RECOMMENDATION:**

Approval of the preliminary subdivision plat for 279 Hillcrest Dr.

**REQUESTED ACTION:**

Motion to approve the preliminary subdivision plat for 279 Hillcrest Dr. with Town Staff's recommended conditions.



## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** June 1, 2021  
**Case:** PSP-21-01  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### **GENERAL INFORMATION**

**Applicant/Owner:** Lauren Van Riper  
 279 Hillcrest Dr.  
 Southern Shores, NC 27949

**Requested Action:** Approval of Preliminary Subdivision Plat for 279 Hillcrest Dr.

**PIN #:** 986813240382

**Location:** 279 Hillcrest Dr.

**Zoning:** RS-1, Single-Family Residential District

**Existing Land Use:** “Residential”

#### **Surrounding Land Use & Zoning:**

**North-** Residential; RS-1, Single-Family Residential District

**South-** Residential; RS-1, Single-Family Residential District

**East-** Residential; RS-1, Single-Family Residential District

**West-** Residential; RS-1, Single-Family Residential District

**Physical Characteristics:** Developed

**Applicable Regulations:** Chapter 30, Subdivisions: All Articles; Town Zoning Ordinance: Article III, Interpretation and Definition of Terms; Article IV, Application of Regulations; Article VII, Schedule of District Regulations.

### **ANALYSIS**

The Town’s Subdivision Ordinance establishes a review process for subdivisions that requires Planning Board and Town Council review of all preliminary and final subdivision plats (except for exempted subdivisions). The applicant is requesting to subdivide the lot located at 279 Hillcrest Dr. into two new lots. The existing single-family dwelling and other improvements currently situated at 279 Hillcrest Dr. are proposed to be located on new Lot 4A with a lot size of 65,393 sq. ft. and the remaining property is proposed to be located on new Lot 4B with a lot size of 34,720.3 sq. ft. Both lots as proposed meet the Town’s minimum lot size requirement of 20,000 sq. ft. and lot width of 100 ft. Both lots also meet the Town’s frontage requirement by providing at least 30 ft. of frontage that abuts a public right-of-way or easement. With respect to access, a minimum pavement width of 16 ft. and a minimum 20 ft. turnaround area should be provided.

### **RECOMMENDATION**

The Town Planning Board recommended approval of the preliminary plat at their May 17, 2021 meeting with the following conditions:

1. Prior to the approval of the final plat, an improved access shall be installed with a

minimum pavement width of 16ft. and a minimum 20 ft. turnaround area in accordance with Section 30-76(1) and subject to approval by the Southern Shores Volunteer Fire Dept.

2. The public easement specifics, including maintenance, shall be shown on the final plat or in a separate document to be recorded.
3. A 15 ft. side setback requirement shall apply to Lot 4A along the easement and turnaround area.
4. Maintenance of the easement area shall be the responsibility of the property owners.

Conditions 2, 3, and 4 are not based on specific Sections from the Town's Subdivision Ordinance with which the preliminary plat does not comply. Town Staff recommends approval of condition 1 above and the following:

5. A note shall be provided on the final plat that dedicates the access easement for public use with the option for the Town to accept maintenance in the future.



# Town of Southern Shores

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

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info@southernshores-nc.gov

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Item 5.

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

Date: 4/14/21

Filing Fee: \$100/lot

Receipt No. \_\_\_\_\_ Application No. \_\_\_\_\_

**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 Lauren Van Riper

Address: 279 Hillcrest Dr.

S. Shores NC 27949

Phone 255-1957 Email LLKVR75@GMAIL.COM

### Applicant's Representative (if any)

Name \_\_\_\_\_

Agent, Contractor, Other (Circle one)

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Involved:** ☒ Southern Shores ☐ Martin's Point (Commercial only)

Address: 279 Hillcrest Dr. Zoning district SS RS-1

Section \_\_\_\_\_ Block 94 Lot 4 Lot size (sq.ft.) 100,113 sqft (2.3 ac)

**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 ☐ Zoning Ordinance

Signature

Date

\* Attach supporting documentation.



LINE TABLE:

L-1:	N08°02'59"W	2.72'
L-2:	S72°13'24"W	3.93'
L-3:	N34°26'55"W	57.54'
L-4:	N34°26'55"W	23.31'
L-5:	N09°18'52"E	6.39'
L-6:	N34°56'29"W	11.80'
L-7:	N67°02'49"W	28.14'
L-8:	N42°25'56"W	64.07'

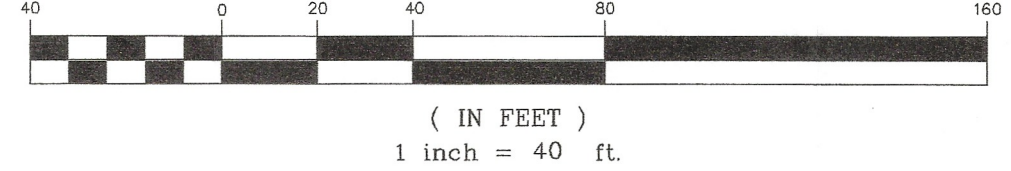
NOTES:

Addresses to be assigned.  
Zoning District is RS-1.  
Setbacks shown are as per Zoning.  
New PIN Numbers are to be assigned.  
Certifier hereon is not responsible for utilities and/or features that are not visible at the time of the survey, nor any additional setbacks that are not shown.

CURVE DATA:

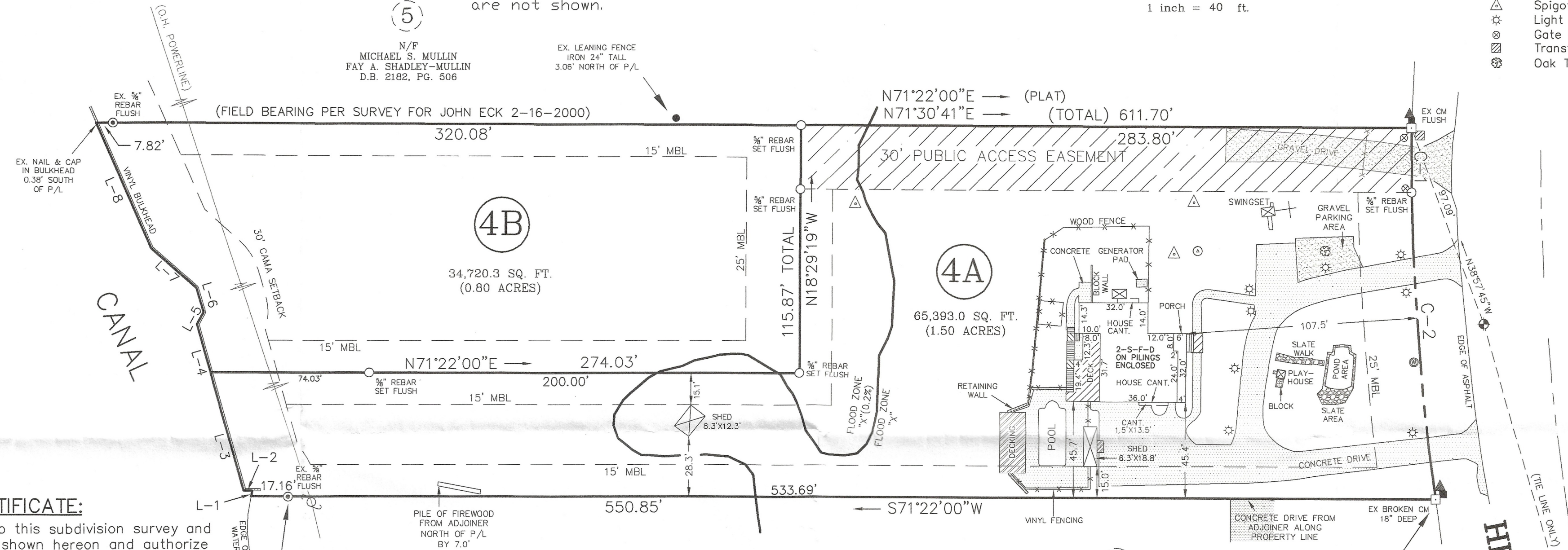
C-1	R= 1,176.28' L= 30.00' C= S19°02'34"E 30.00'
C-2	R= 1,176.28' L= 143.81' C= S23°16'34"E 143.72'

GRAPHIC SCALE



LEGEND:

- Ex. Rebar
- Ex. S.S.S. Nail & Washer
- Water Meter
- Phone Ped.
- CATV
- Fire Hydrant
- Power Pole & OH Lines
- Ex. CM
- U.G. Gas Tank
- Spigot Post
- Light Post
- Gate Post
- Transformer
- Oak Tree



OWNER CERTIFICATE:

I hereby agree to this subdivision survey and plat of my land shown hereon and authorize this plat to be recorded in the Dare County Register of Deeds.

Owner \_\_\_\_\_ Date \_\_\_\_\_

NOTARY PUBLIC:

North Carolina \_\_\_\_\_ County  
I, \_\_\_\_\_, A notary public for said county and state, do hereby certify that \_\_\_\_\_ personally appeared before me this date and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public  
My Commission expires \_\_\_\_\_

CERTIFICATE of APPROVAL:

The Town of Southern Shores Town Council has reviewed and approved this subdivision and found it to be in compliance with Chapter 30 of the Southern Shores Town Code.

Mayor \_\_\_\_\_ Date \_\_\_\_\_

SURVEYOR'S CERTIFICATE:

I, M. Douglas Styons Jr., certify that this plat was drawn under my supervision from an actual survey made under my supervision; using the description found in M.B. 2, PG. 268, that the boundaries not surveyed are clearly indicated as drawn from information found in D.B. 1367, PG. 182; that the ratio of precision as calculated is at least 1: 10,000; and that this plat was prepared in accordance with G.S. 47-30 as amended. I also certify to one or more of the following as indicated:

- X a. That this plat is of a survey that creates a subdivision of land within a county or municipality that has an ordinance that regulates parcels of land;

Witness my original signature and seal this 14th day of April, 2021.

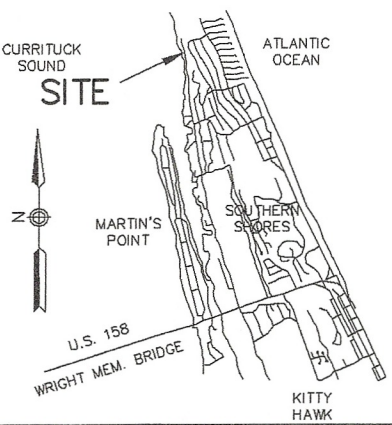
*[Signature]*  
P.L.S.  
NORTH CAROLINA  
PROFESSIONAL  
SEAL  
L-3227  
M. DOUGLAS STYONS JR.  
LAND SURVEYOR

- 1) Class of Survey: Urban
- 2) Positional Accuracy: 0.10
- 3) Type of GPS Field Procedure: RTN NETWORK
- 4) Dates of Survey: 4-13-21
- 5) Datum/Epoch: NAD 83/2011
- 6) Published/Fixed Control Use: NGS Y 254 1981
- 7) Geoid Model: 2012
- 8) Combined Grid Factor: 0.99998574
- 9) Units: Survey Feet

*Styons Surveying Services*

2700 N. Croatan Hwy. Kill Devil Hills, NC. 27948 C-1697  
Phone: (252) 441-1415 Fax: (252) 480-1182

VICINITY MAP (N.T.S.)



CERTIFICATE of APPROVAL:

The Town of Southern Shores Planning Board has reviewed and approved this subdivision and found it to be in compliance with Chapter 30 of the Southern Shores Town Code.

Chairperson \_\_\_\_\_ Date \_\_\_\_\_

REVIEW OFFICER:

State of North Carolina  
County of Dare

I, \_\_\_\_\_ Review Officer of Dare County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer \_\_\_\_\_ Date \_\_\_\_\_

PRELIMINARY PLAT OF A DIVISION OF LOT 4, SOUNDSIDE BLOCK 94, SOUTHERN SHORES			
SCALE: 1" = 40'	SURVEYED FOR <b>JOHN A. VAN RIPER, III &amp; LAUREN L. KIRBY-VAN RIPER</b>		
FILE NO.: 21-053	ATLANTIC TOWNSHIP SOUTHERN SHORES DARE COUNTY NORTH CAROLINA		
DWG NO.: 21053D	DATE: 3-25-21 REV. DATE:	REC. REF. M.B. 2, PG. 268 D.B. 1951, PG. 273	SHEET: 1 OF 1
FLOOD ZONE: SEE PLOT	PIN NO.: ORIGINAL PIN 20986813240382	F.I.R.M. DATE: 3720 9868 00 K	F.I.R.M. DATE: 6-19-2020



**From:** [Edward Limbacher](#)  
**To:** [Wes Haskett](#)  
**Subject:** Re: FW: 279 Hillcrest Dr. Subdivision Plat  
**Date:** Friday, May 21, 2021 9:31:42 AM

---

Wes,

I looked at 279 Hillcrest first thing this morning, really no concerns here, the apparatus are approximately 11' wide so the access would be fine assuming they keep the landscaping in check. Honestly, I would be hard pressed to put an apparatus in there, however if I did we would most likely just back out. For what it's worth the closest hydrant is at 276 Hillcrest. Sorry for the delay, but when I got back yesterday there were a ton of things going on here.

Take care,  
Ed

On Thu, May 20, 2021 at 10:34 AM Wes Haskett <[whaskett@southernshores-nc.gov](mailto:whaskett@southernshores-nc.gov)> wrote:

Good morning, Chief. Have you had a chance to review the attached plat? The Planning Board recommended approval of the plat at their meeting on Monday. One of the recommended conditions of approval is that an improved access shall be installed with a minimum pavement width of 16ft. and a minimum 20 ft. turnaround area subject to approval by the Southern Shores Volunteer Fire Dept. Please let me know your thoughts.

Wes Haskett

Deputy Town Manager/Planning Director

Town of Southern Shores

(252) 261-2394 (ph)

(252) 255-0876 (fx)

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)



---

**From:** Wes Haskett  
**Sent:** Tuesday, May 11, 2021 2:40 PM  
**To:** David Kole <[dkole@southernshores-nc.gov](mailto:dkole@southernshores-nc.gov)>; Edward Limbacher

<[elimbacher@ssvfd.net](mailto:elimbacher@ssvfd.net)>

**Subject:** 279 Hillcrest Dr. Subdivision Plat

Good afternoon. See attached preliminary subdivision plat for 279 Hillcrest Dr. and please provide any comments that come to mind. I'm mostly interested in your thoughts about emergency access to Lot 4B. I'm still looking into our requirements to see how wide the access/road has to be within the easement and a potential turnaround area. The Planning Board will be considering the plat on May 17<sup>th</sup>. It will also have to be reviewed by Council and go back to the PB and TC again for final approval.

Wes Haskett

Deputy Town Manager/Planning Director

Town of Southern Shores

(252) 261-2394 (ph)

(252) 255-0876 (fx)

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

image001



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Edward J. Limbacher  
Fire Chief  
Southern Shores Fire Department  
15 S. Dogwood Trail  
Southern Shores, NC 27949  
Office: (252) 261-2272  
Cell: (252) 489-1529  
[elimbacher@ssvfd.net](mailto:elimbacher@ssvfd.net)



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This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

**From:** Benjamin M. Gallop  
**To:** Wes Haskett  
**Cc:** Peter Rascoe  
**Subject:** RE: Subdivision Of 279 Hillcrest  
**Date:** Monday, December 19, 2011 4:33:24 PM

---

Wes,

I have reviewed the Town Code in consideration of your question regarding the subdivision of the proposed lots we discussed on Thursday. For reference, I will use the following descriptions:

1. Lot 1 will mean the entire lot currently owned by the proposed applicant at 279 Hillcrest
3. Lot 1A will mean the lot on which the current owners' residence is located and which will front directly on Hillcrest if the subdivision is approved.
2. Lot 1B will mean the lot which will not front directly Hillcrest if the subdivision is approved.
3. For orientation purposes, I will assume Hillcrest runs N to S along the eastern boundary of Lot 1 and/or Lot 1A.

When we spoke on Thursday, you were considering having the applicant provide a 30ft access easement (the "Access Easement") running E to W from Hillcrest, along the northern property line of Lot 1A to the eastern boundary of Lot 1B. Under the current wording of the subdivision and zoning ordinances, it is my opinion that such a subdivision would be approvable assuming it meets any other requirements which we have not discussed. For the purpose of this email, I am assuming all other such requirements can be met. In order to determine whether or not a proposed subdivision can be allowed, one first looks to the Town's subdivision ordinance in Chapter 30 of the Town Code. Initially it is important to note that the subdivision ordinance provides that "[a]ll lots shall front upon a public road or access easement." (Sec. 30-96(f)). Additionally, it requires that "[a]ll lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. (Sec. 30-97(2)).

Section 36-95 of the zoning ordinance requires: (i) that a lot have "30 feet of frontage"; (ii) that it abuts "either a public right-of-way or a private street or or easement"; and (iii) that it has "access to a public street or highway" via a recorded instrument. In the RS-1 zoning district, the lot width measured at the building setback line must be 100ft, (Sec. 36-202(d)(2) and structures must be set back 25 feet from the property line in the "front yard." A front yard is "[a] yard extending between side lot lines across the front of a lot adjoining the public street." The zoning ordinance provides the following definitions:

**A. Street** means any permanently dedicated public right-of-way which has been accepted for maintenance by the state department of transportation or the town or, any other open area providing the principal means of access for vehicles or pedestrians from a public right-of-way to a building or use of land and which has been approved by the town council as a street to satisfy the requirements of this chapter.

**B. Public right-of-way** means the entire area between property boundaries, which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use; and includes without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking or parking strip, planting strip, and any public way.

The frontage requirements of Section 36-95 and Section 30-96(f) cannot reasonably be read to disallow a lot to front on an access easement. Lot 1B would have 30 ft of frontage on the Access Easement and have access to Hillcrest across the Access Easement. Hillcrest is clearly a public right-of-way and a public street. Presumably, the Access Easement would be recorded. The Access Easement would be an "open area providing the principal means of access for vehicles or pedestrians" from Hillcrest to the residential use and house to be located on Lot 1B. Therefore, it is likely that the Access Easement is a "street."

So, the question comes down to whether the Access Easement is a "public" street from which the front yard setback can be measured. The Town Code does not define "public street." Using common terms and the definition of street in the zoning ordinance, a public street would be a street which the public can use for access. The owner/applicant could potentially make the Access Easement a public street by providing for public access to and over the easement in the easement deed. If the owner does this, the Access Easement would arguably be a public street. The front yard would be measured from the the point where the access easement hits Lot 1B's eastern boundary, the building setback line would be 25ft from



that eastern boundary and there would be more than 100ft of lot width at that point. Therefore, the proposed subdivision would be approvable.

There is also an argument that Lot 1B just doesn't have a front yard or the associated front yard setback. The zoning ordinance defines a "front yard" with specific criteria. However, it does not require a "front yard" to exist. It merely provides for a setback of 25ft IF there is a front yard. In that case, the reference to "adjoining a public street" would not be a requirement, but part of the criteria for determining whether a front yard exists. Without the front yard setback, the building setback line would be the eastern boundary of Lot 1B. Again, the proposed subdivision would be approvable.

Given these potential avenues of determining the building setback line along with the potential for inconsistency with the frontage requirements of Sections 36-95 and 30-96(f), I do not think the building setback line should be calculated from Hillcrest. Instead, it should be calculated from where the Access Easement contacts the eastern boundary of Lot 1B.

Let me know if you have any further questions on this issue. As an aside, the code is more complicated on this issue than it should be. This is primarily due to overlapping and slightly inconsistent language between right-of-ways, easements, streets and their public and private counterparts. It may be worth reconsidering what the Town actually trying to accomplish with these provisions and seeking some additional consistency in the language.

Thanks,

-Ben

Benjamin M. Gallop, Attorney at Law  
Hornthal, Riley, Ellis & Maland, LLP  
PO Box 310, Nags Head, NC 27959-0310  
2502 S. Croatan Highway, Nags Head, NC 27959  
T: (252) 441-0871  
F: (252) 441-8822  
E: <mailto:bmgallop@hrem.com>  
W: <http://www.hrem.com>

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Thank you.

-----Original Message-----

**From:** Wes Haskett [<mailto:WHaskett@southernshores-nc.gov>]  
**Sent:** Thursday, December 15, 2011 3:41 PM  
**To:** Benjamin M. Gallop  
**Cc:** Peter Rascoe  
**Subject:** Subdivision Of 279 Hillcrest

As we discussed, my question is can the property owner subdivide the parcel so that the existing house is on one parcel and the remnant be vacant behind it with access running to Hillcrest along the northern property line. Section 30-97, (2) of the Subdivision Ordinance requires all new lots to conform with the zoning requirements of the district in which the subdivision is located. Section 36-95 (a) of the Zoning Ordinance requires 30 feet of frontage on a public right-of-way, private street, or easement. Section 36-202, (d) requires a minimum lot width of 100 feet measured at the building setback line. Section 36-57 defines building setback line and the applicable setback in this case is 25 feet. My thoughts are that all new lots shall be 100 feet wide 25 feet from the right-of-way which prohibits the property owner from subdividing. Is this interpretation correct in your opinion?

**Wes Haskett**

**Town Planner/Code Enforcement Officer**

**Town of Southern Shores**

**(252) 261-2394 (ph)**

**(252) 255-0876 (fx)**

**[www.southernshores-nc.gov](http://www.southernshores-nc.gov)**

**File Attachments for Item:**

6. Public Hearing-ZTA 21-02 Eaves



## AGENDA ITEM SUMMARY

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**MEETING DATE:** June 1, 2021

**ITEM TITLE:** Public Hearing-ZTA 21-02 Eaves

**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 Section 36-57, Definition of Specific Terms and Words are a result of direction from the Planning Board at the March 15, 2021 Planning Board meeting. The proposed amendments allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of only from the building setback line (front setback).

**STAFF RECOMMENDATION:**

Approval of ZTA-21-02.

**REQUESTED ACTION:**

Motion to approve ZTA-21-02.

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** June 1, 2021  
**Case:** ZTA-21-02  
**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 36-57

### 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 Section 36-57, Definition of Specific Terms and Words are a result of direction from the Planning Board at the March 15, 2021 Planning Board meeting. The proposed amendments allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of only from the building setback line (front setback).

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 (6-0) recommended approval of the application at the May 17, 2021 Planning Board meeting.



# 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

www.southernshores-nc.gov

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

**Date:** 4 / 5 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-02

**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 Hunt  
Signature

4-5-21  
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  
 www.southernshores-nc.gov

ZTA-21-02

Ordinance 2021-06-02

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. 36-57. Definition of specific terms and words.** Be amended as follows:

**Sec. 36-57. - Definition of specific terms and words.**

...

*Building setback line* means a line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three feet of any uncovered porches, steps, eaves, gutters and similar fixtures.

...

*Yard* means a required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, from 30 inches above the ground level of the graded lot upward, provided, however, that the outermost three feet of eaves (as of the date of adoption), fences, walls, poles, posts, ocean dune platforms, walks, accessible ramps, steps and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility or any other requirements of this chapter.

...

#### **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



1  
2  
3 APPROVED AS TO FORM:  
4

5 \_\_\_\_\_  
6 Town Attorney  
7

8 Date adopted:  
9

10 \_\_\_\_\_  
11 Motion to adopt by Councilmember:  
12

13 \_\_\_\_\_  
14 Motion seconded by Councilmember:  
15  
16  
17

Vote: \_\_\_AYES\_\_\_NAYS

## **Local Setback Requirements for Eaves**

### **Dare County:**

Building setback line - A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building, excluding the outermost three feet of any uncovered porches, step, eaves, gutters and similar fixtures.

### **Manteo:**

Building setback line. A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between such right-of-way and the nearest portion of any building. All efforts shall be made when siting buildings and residences to contain all features within these setbacks. Exceptions can be made, at the discretion of the zoning administrator, to allow the outermost three feet of any uncovered porches, steps, decks, eaves, gutters, similar fixtures and an HVAC unit or series of units not to exceed ten tons to encroach into side or rear setbacks but shall not exceed five feet from the building setback line. Uncovered steps may encroach three feet into the front setback.

### **Nags Head:**

8.6.3.6. Exclusions from Yard Requirements.

8.6.3.6.1. The inner edge of the front, rear, or side yard shall be measured from the building foundation and may exclude the outermost three feet of eaves, gutters, uncovered handicapped ramps, or uncovered steps. This exclusion may also apply to cargo lifts for single-family or duplex dwellings only, and built-in railing benches constructed in accordance with Appendix B, "Town of Nags Head Residential Design Guidelines".

### **Kill Devil Hills:**

§ 153.082 EXCEPTIONS.

(b) Chimney flues, ornamental features and eaves provided that none of these shall project into a minimum yard setback more than 24 inches.

### **Kitty Hawk:**

Sec. 42-504. - Yards generally.

(g) Minimum yard requirements. Minimum yard requirements for all zoning districts shall be open and unobstructed from 30 inches above the general ground level of the graded lot upward, except for the following intrusions: roof eaves or overhangs, firewalls as required by the state building code, elevated bay windows, elevated fireplace projections, and light fixtures, may project in the minimum yard not more than two feet.

(h) The outermost edge of any uncovered porches, steps, eaves, gutters, and similar fixtures can encroach up to four feet into the required minimum front yard setback.

**Duck:****§ 156.002 DEFINITIONS.**

**BUILDING SETBACK LINE.** A line parallel to or concentric with the street right-of-way establishing the minimum allowable distance between the right-of-way and the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, step, eaves, gutters and similar fixtures.

**§ 156.051 BUILDING FEATURES PERMITTED AS EXCEPTIONS TO SETBACKS OR MINIMUM YARD REQUIREMENTS.**

- (A) Sills, cornices and similar ornamental features as well as roof eaves and overhangs may project not exceeding 12 inches into any required front, side or rear yard or beyond any required front, side or rear setback or building restriction line;
- (C) No ornamental feature, bay window, stoop, stairs, eave, overhang or similar feature of an accessory structure shall project into any required front, rear or side setback or building restriction lines applicable to accessory structures;

**Existing Structures with Eaves Three Feet or More**

- 163 Wax Myrtle Trl.: 3 ft.
- 223 Wax Myrtle Trl.: 3 ft. 11 inches
- 245 Wax Myrtle Trl.: 3 ft. 11 inches
- 21 Third Ave: 3.5 ft.
- 22 Porpoise Rn.: 4 ft.
- 155 Ocean Blvd: 4 ft.
- 155A Ocean Blvd.: 4 ft.

**File Attachments for Item:**

7. Public Hearing-ZTA 21-05 Use & Occupancy



## AGENDA ITEM SUMMARY

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**MEETING DATE:** June 1, 2021

**ITEM TITLE:** Public Hearing-ZTA 21-05 Use & Occupancy

**ITEM SUMMARY:**

At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption, Town Staff determined that Section 36-89 should have been included in ZTA-21-04 to establish that permitted, conditional, and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove the requirement that any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.

**STAFF RECOMMENDATION:**

Approval of ZTA-21-05.

**REQUESTED ACTION:**

Motion to approve ZTA-21-05.

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** June 1, 2021  
**Case:** ZTA-21-05  
**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 36-89, Use, Occupancy and Construction.

### ANALYSIS

At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption, Town Staff determined that Section 36-89 should have been included in ZTA-21-04 to establish that permitted, conditional, and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove the requirement that any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.

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 (6-0) recommended approval of the application at the May 17, 2021 Planning Board meeting.



# 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

www.southernshores-nc.gov

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

**Date:** 5 / 5 / 21 **Filing Fee:** \$200 **Receipt No.** N/A **Application No.** ZTA-21-05

**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 ☒ Zoning Ordinance

W. W. Henth  
Signature

4-5-21  
Date

\* Attach supporting documentation.





## Town of Southern Shores

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ZTA-21-05

Ordinance 2021-06-03

### 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. 36-89. Use, occupancy and construction.** be amended as follows:

**36-89. Use, occupancy and construction.**

...

(b) Permitted, ~~prohibited~~ and conditional uses are listed by district, within the schedule of district regulations. ~~Any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.~~

**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:

1  
2  
3

Vote: \_\_\_AYES\_\_\_NAYS