



Town of Southern Shores  
Regular Council Meeting  
January 8, 2019

The Town of Southern Shores Town Council met in the Pitts Center located at 5377 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, January 8, 2019.

COUNCIL MEMBERS PRESENT: Mayor Bennett, Mayor pro tem Chris Nason and Council Members Fred Newberry, Jim Conners and Gary McDonald.

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Town Attorney Ben Gallop, Town Manager Peter Rascoe and Town Clerk Sheila Kane

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE**

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

**AMENDMENTS / APPROVAL OF AGENDA**

**MOTION:** Councilman McDonald moved to approve the January 8, 2019 agenda as presented. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

**CONSENT AGENDA**

The consent agenda consisted of the following items:

- o Council Meeting Minutes – December 11, 2018

**MOTION:** Councilman McDonald moved to approve the consent agenda as amended. The motion was seconded Mayor pro tem Nason. The motion passed unanimously (5-0).

**PRESENTATION**

Tim Sweeney, Dean of the College of the Albemarle-Dare County Campus, gave a presentation on certification pathways offered to High School Students and the Community.

## **STAFF REPORTS**

The following Department Heads presented Department reports for the month:

- Town Planner Wes Haskett presented the Planning Department's monthly report for December. CodeWright will hold a public forum on the Town Code Update Project January 31, 2019 from 5:30-7:00 p.m. The Planning Board's next meeting is January 22<sup>nd</sup>.
- Police Chief David Kole presented his Department's monthly report for December.
- Fire Chief Limbacher presented the Fire Department's monthly report for December and reported demo on the Fire Department was set to start.
- The Town Manager presented the Manager's report on operations highlights:
  - Town Parking passes are now available at Town Hall and are good through 2020.
  - The CIIP Committee will be meeting on January 30<sup>th</sup> at 2:00 pm in the Pitts Center.
  - Juniper Trail road improvement was just completed but a 25 x 20-foot section has been damaged by boring. An insurance claim has been filed with the responsible subcontractor.
  - Yaupon Trail road improvement project has created an increased land area, now providing room for a turnaround
  - The Council-approved beach vulnerability study is complete and viewable online at the Town's website and will be on the February 26<sup>th</sup> Council agenda.
  - The Council-approved Facilities Assessment will also be briefed at the February 26<sup>th</sup> Council meeting.
- Town Attorney Gallop had nothing to report.

## **PLANNING BOARD REPORT**

Elizabeth Morey gave a brief report of ongoing deliberations of the Planning Board regarding a ZTA addressing large homes. She confirmed, no recommendation by the Planning Board on either ZTA is being formally reported to the Council tonight.

## **GENERAL PUBLIC COMMENT**

Mayor Bennett called for public comment and the following citizens offered comment:

1. Patricia Farinholt-69 Ocean Blvd-lives across from Mr. Love's property which was vandalized, and she has great respect for her neighbor. Fully supports the Planning Department. The Town is in good hands.

## **OLD BUSINESS**

None

## **NEW BUSINESS**

### **PLANNING BOARD APPOINTMENT**

**MOTION:** Councilman McDonald moved to nominate Ed Lawler to serve on the Planning Board. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (4-1) with Mayor Bennett, Mayor pro tem Nason, Councilman Newberry and Councilman McDonald voting affirmative; Councilman Conners opposed

**Next Agenda Item**

PROPOSED CHANGES TO THE DOMINION ENERGY LOAD BALANCING PROJECT IN SOUTHERN SHORES- LUCIAN GREGORY, DOMINION ENERGY PROJECT MANAGER

Lucian Gregory with Dominion Power gave a briefing on project 409F. In order to avoid installing a 60ft pole, Dominion Power is asking for an easement granting additional Town Right of Way, placing lines underground.

**MOTION:** Councilman McDonald moved to approve the easement upon the Town Attorney's review. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

**Next Agenda Item**

RESOLUTION 2019-01-01- RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY TO CONSIDER ADOPTION OF CERTAIN LEGISLATION RELATING TO REGULATING THE DENSITY OF POPULATION AND OCCUPANCY BY LIMITING THE NUMBER OF BEDROOMS IN ONE- AND TWO-FAMILY STRUCTURES WITHIN THE TOWN'S JURISDICTION

Mayor Bennett stated this was a resolution requesting the North Carolina General Assembly to consider adoption of certain legislation relating to regulating the density of population and occupancy by limiting the number of bedrooms in one- and two-family structures within the town's jurisdiction. This was a consideration that he has brought forth to Council previously.

**MOTION:** Mayor Bennett moved to adopt Resolution 2019-01-01 *Resolution Of The Town Council Of The Town Of Southern Shores, North Carolina Requesting The North Carolina General Assembly To Consider Adoption Of Certain Legislation Relating To Regulating The Density Of Population And Occupancy By Limiting The Number Of Bedrooms In One- And Two-Family Structures Within The Town's Jurisdiction*. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

**GENERAL PUBLIC COMMENT**

Mayor Bennett again called for public comment and no citizen spoke.

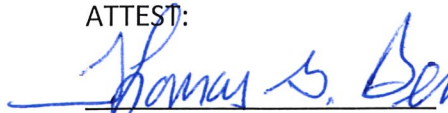
**MAYOR COMMENTS & COUNCIL COMMENTS**

Mayor Bennett and Council had no other comments.

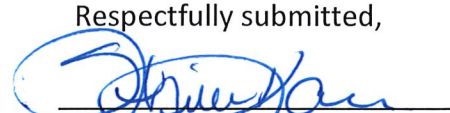
**ADJOURN**

**MOTION:** Councilman McDonald moved to adjourn the meeting. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0). The times was 6:42 p.m.

ATTEST:

  
Thomas G. Bennett, Mayor



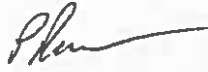
Respectfully submitted,  
  
Sheila Kane, Town Clerk

January 2, 2019

**MEMORANDUM FOR MEETING PACKETS**

To: Town Council

From: Town Manager



Re: Council Appointment Process - Planning Board

Due to the recent vacancy on the Planning Board, applications from interested Town residents seeking appointment have been received. Those applications are attached (along with the current schedule of appointment terms for each seated and alternate member), and in accord with Section 14 of the Council-adopted Rules of Procedure are being *presented to the Council for discussion, nomination and a vote*. As a reminder, the process of appointment of a member to the Planning Board is a Council function pursuant to Sec. 24-24 of the Town Code. The Council may establish its own process for specific board and committee appointments.



*BOARD MEMBER STATUS AS OF 1/2/19*

[illegible]

**TOWN OF SOUTHERN SHORES  
BOARD VOLUNTEER APPLICATION**

DATE: 12/11/18

Municipal Board(s) or Committee(s) interested in: SS Town Planning Board

NAME: Patrick Regan PHONE: (HOME) \_\_\_\_\_  
PHONE: (WORK) (816) 665-2797  
Email: pregan123@gmail.com

ADDRESS: 1 Ninth Avenue

OCCUPATION (Past & Present)

30+ Years Food Industry General Mgmt

EMPLOYER

Unilever, AIPC, Ralcorp, ConAgra Foods

Currently retired

EDUCATIONAL BACKGROUND

| School(s)                           | Dates            | Area of Study                | Cert or Degree          |
|-------------------------------------|------------------|------------------------------|-------------------------|
| <u>New Jersey Institute of Tech</u> | <u>9/79-6/83</u> | <u>Business, Engineering</u> | <u>Bachelor Science</u> |
|                                     |                  |                              |                         |
|                                     |                  |                              |                         |

Specific experiences, training or interest, which you have that you feel would be useful in the work of this Board or Committee: (Use additional pages if needed)

- General Manager in business which requires organization, leadership, interpersonal, communication and decision making skills.
- Played support role with SSVFD Fire Chief to professionally plan, design, communicate and execute a new Fire Station for the Town.
- On Board of Directors at Beach Food Pantry driving fund raising to find, buy and remodel a permanent building for the BFP to operate in.
- Involved with Caring Hands, a faith-based group that provides maintenance and repairs for Dare County residents that are unable to afford them.

**TOWN OF SOUTHERN SHORES  
BOARD VOLUNTEER APPLICATION**

DATE: 12-19-2018

Municipal Board(s), Commission(s), or Committee(s) interested in:

Planning Board

NAME: Anthony DiBernardo PHONE: (HOME) 261-4365

PHONE: (WORK) \_\_\_\_\_

Email: Anthony081949@ICloud.com

ADDRESS: 329 Ave W Southern Shores

OCCUPATION (Past & Present)

EMPLOYER

Retired  
State Parole agent, Supervisor,  
Deputy District Director, Hearing Examiner  
for the State of Pa.

Commonwealth of PA.

EDUCATIONAL BACKGROUND

| School(s)        | Dates             | Area of Study       | Cert or Degree |
|------------------|-------------------|---------------------|----------------|
| <u>Temple U.</u> | <u>Grad. 1972</u> | <u>Anthropology</u> | <u>BA</u>      |
| <u>CCU</u>       | <u>Grad 1968</u>  | <u>Liberal Arts</u> | <u>AA</u>      |

Specific experiences, training or interest, which you have that you feel would be useful in the work of this Board, Commission, or Committee: (Use additional pages if needed)

Hearing Examiner - Legally Review cases, Rule on cases and either sentence or  
Release Accused. Review the eligibility of inmates for Parole

S.S. Vegetation Board/Committee - Developed Vegetation Ordinance for the Town

ARB Civic Association - Chairman for 3 years of ARB which  
Reviews construction and Renodel Applications  
for compliance with covenants.

Historical Landmark Commission - Vice Chair since its inception  
Reviews and evaluates applications for  
acceptance as a Historical Landmark property

**TOWN OF SOUTHERN SHORES  
BOARD VOLUNTEER APPLICATION**

DATE: 12/05/18

Municipal Board(s), Commission(s), or Committee(s) interested in:  
Planning board

NAME: Ed Lawler PHONE: (HOME) 261-5482  
PHONE: (WORK) 216-8354  
Email: edward.lawler@icloud.com

ADDRESS: 81 Gravey Pond Lane

OCCUPATION (Past & Present) EMPLOYER  
Project Manager Self

**EDUCATIONAL BACKGROUND**

| School(s)                            | Dates            | Area of Study         | Cert or Degree          |
|--------------------------------------|------------------|-----------------------|-------------------------|
| <u>College of William &amp; Mary</u> | <u>1972-1976</u> | <u>Marine Science</u> | <u>M. A. Marine Sci</u> |
| <u>Belmont Abbey College</u>         | <u>1967-1972</u> | <u>Biology</u>        | <u>Biology</u>          |

Specific experiences, training or interest, which you have that you feel would be useful in the work of this Board, Commission, or Committee: (Use additional pages if needed)

Treasurer - Chicahauk Property Owners Assoc.  
Project Manager- LKC Engineering  
Project Manager- Hobbs, Upchurch & Assoc.



## Peter Rascoe

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**From:** Jason A Hathcock <jason.a.hathcock@dominionenergy.com>  
**Sent:** Tuesday, December 11, 2018 12:27 PM  
**To:** Peter Rascoe  
**Subject:** Proposed changes to the Dominion Energy load balancing project in Southern Shores  
**Attachments:** SKETCH 1.pdf; SKETCH 2.pdf; SKETCH 3.pdf

Hello Peter. I am writing to inform you that Dominion Energy has proposed some field changes to Phase 1 of the Load Balancing project in Southern Shores in an effort to underground additional overhead lines and create a more reliable system. Sketches of the proposed changes are attached.

The field changes would involve drilling an additional underground primary power line from transformer HL37 on Dogwood Trail to transformer GK52 located on Tall Pine Lane. Another piece of primary cable would also be drilled from Dogwood Trail near transformer EN86 to Yaupon Trail and over to Sassafras Lane ending at transformer GA11. This field change would allow for the removal of the overhead line from HO18 to GO06 that crosses the canal on Yaupon Trail. In order to complete this field change, we would need to acquire additional right of way from Southern Shores along the proposed path.

We would like to share our proposed field changes with you to discuss any concerns or questions that you or the community may have with this change. If Southern Shores and the residents are in favor of this field change, we would like to move forward with obtaining the additional right of way easements from Southern Shores to accommodate the field changes. Please let me know what I can provide you in order for the Southern Shores community to make a decision on these field changes. Once we have agreement from Southern Shores and the residents, we will forward the easement for your review and signature. Thanks Peter.

Have a great day.

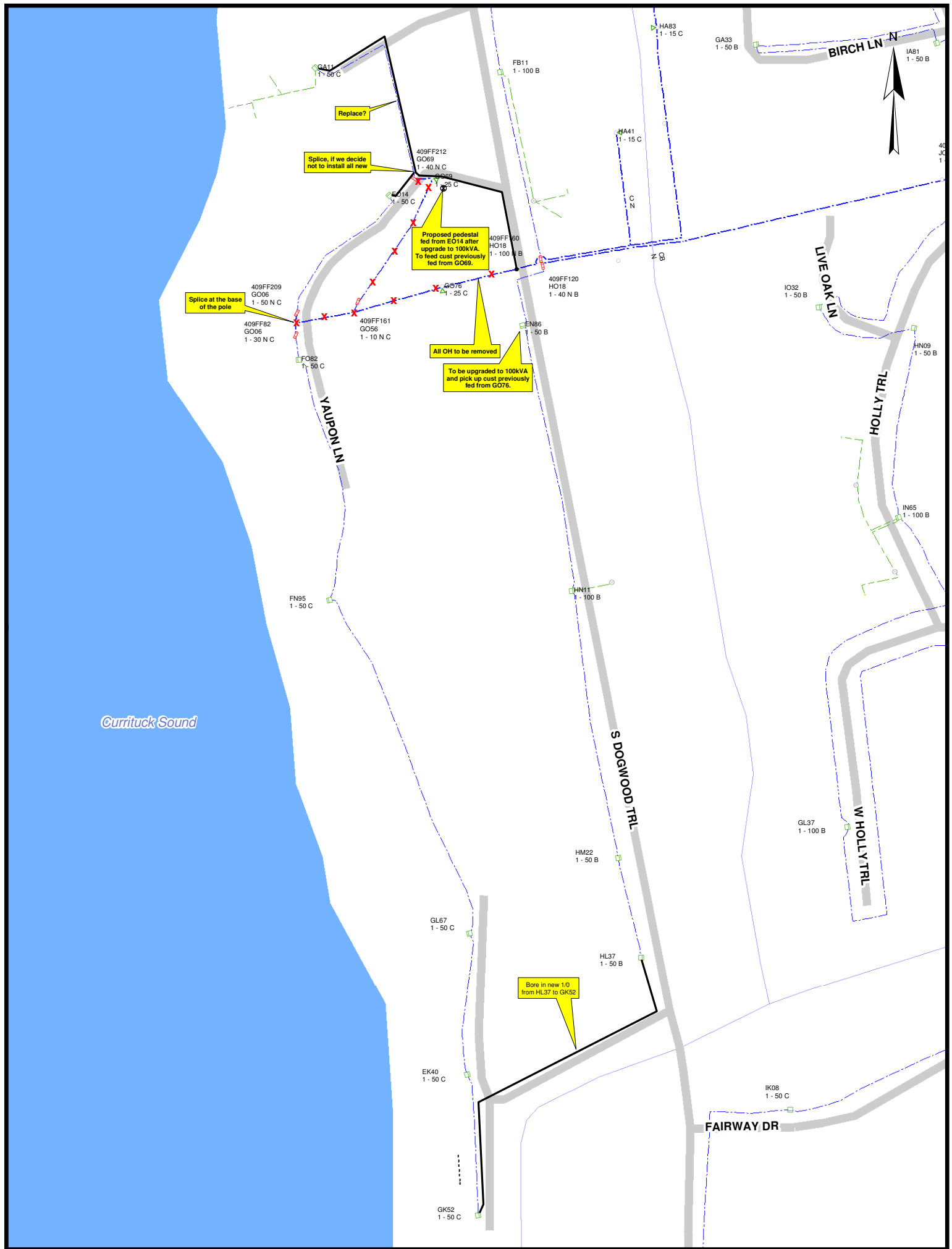
**Jason Hathcock**  
Electric Distribution Project Designer  
Power Delivery Group

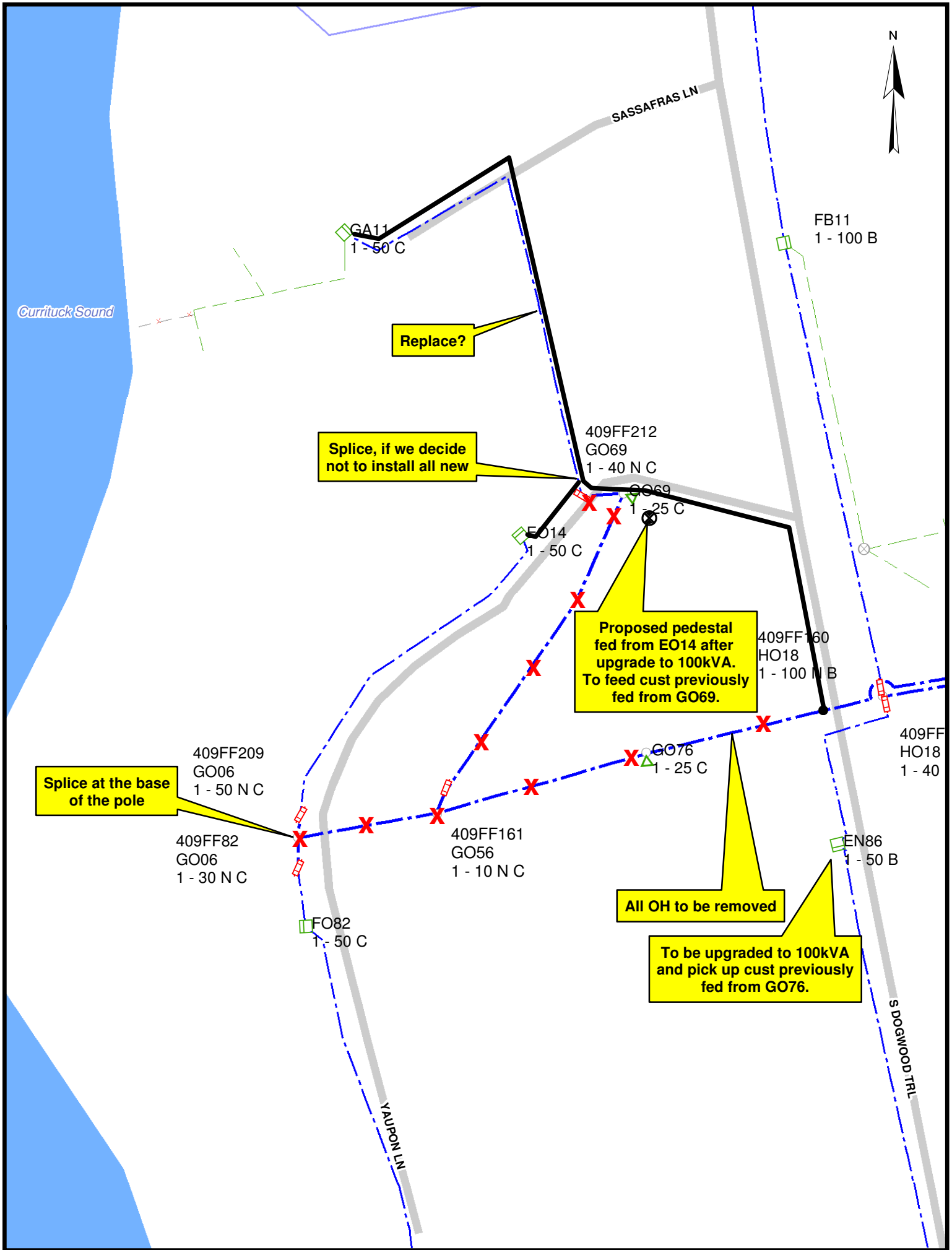
Dominion Energy North Carolina  
5300 The Woods Rd.  
Kitty Hawk, NC 27949  
252-255-2559 (office)  
252-255-2171 (fax)  
<https://ebuilder.dom.com/>  
<https://www.dominionenergy.com/library/domcom/pdfs/business/load-letter>

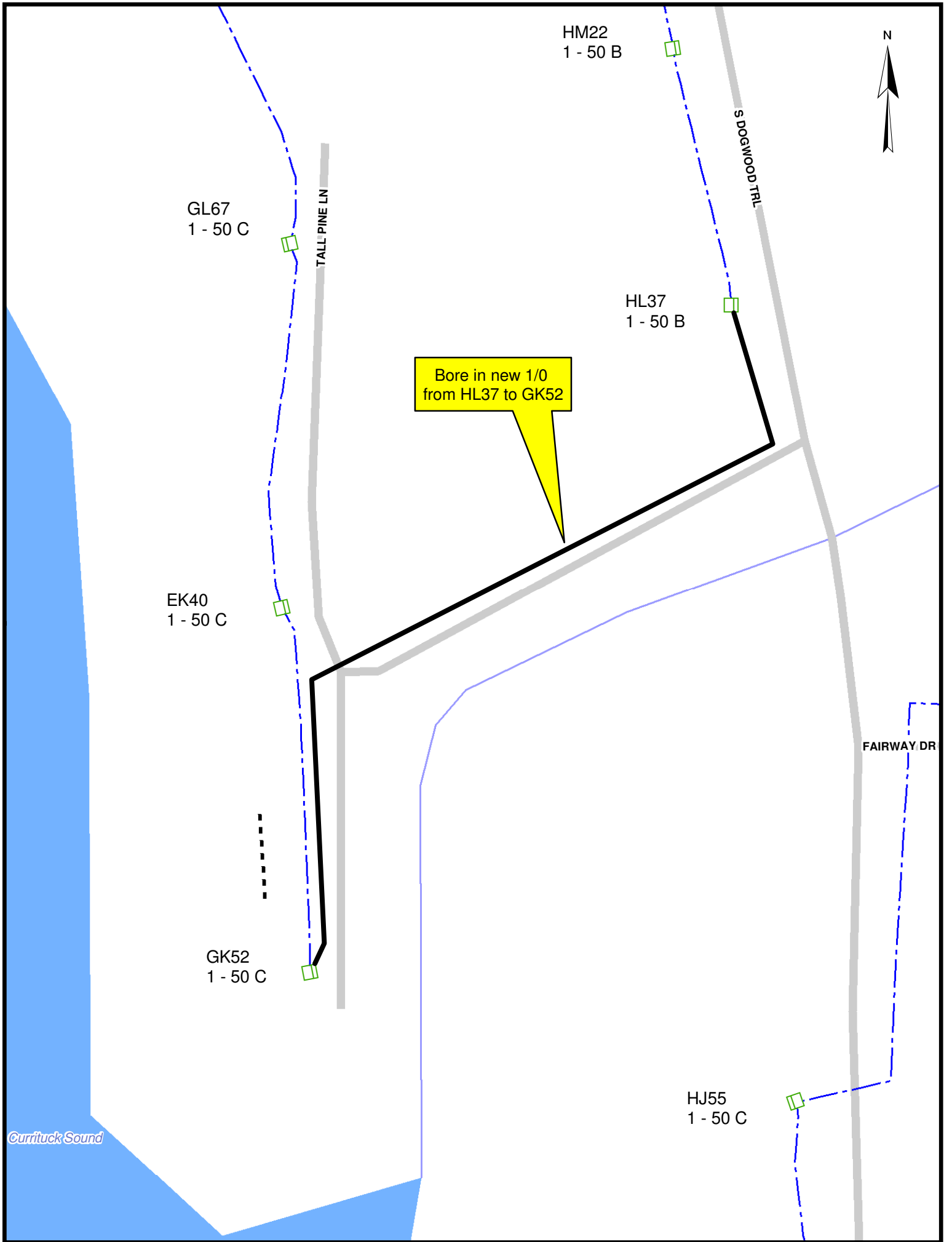


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**CONFIDENTIALITY NOTICE:** This electronic message contains information which may be legally confidential and or privileged and does not in any case represent a firm ENERGY COMMODITY bid or offer relating thereto which binds the sender without an additional express written confirmation to that effect. The information is intended solely for the









## 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](mailto:info@southernshores-nc.gov)

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

December 20, 2018

Hon. Bob Steinburg  
N.C. House of Representatives  
300 N Salisbury Street, Room 301B  
Raleigh, NC 27603-5925

Dear Representative Steinburg,

First, I would like to offer a more formal congratulation to you on your recent election to the NC State Senate representing District One.

As you may know, the Town of Southern Shores is a predominately residential community. Our residents and non-resident property owners alike, place great value in maintaining the character of our Town. Historically we relied on lot coverage, set-backs, and building height to control the actual size of residential structures on any given property. Concurrently, we relied on limiting the density of a residential structure's occupancy by limiting the design and construction to no more than seven bedrooms, along with permitted septic capacity for a maximum of fourteen persons. We believed these regulations were important for our Town to maintain its busy but not over-crowded public beach, which helps make us one of the most desirable family vacation destinations on the Outer Banks. Unfortunately, Senate Bill 25 enacted in 2015 and amending NCGS § 160A-381, effectively eliminated this ability for our Town to limit the occupancy of new residential construction, whether used as a residence or a vacation rental. We have struggled now for almost two years, trying to find ways to limit the occupancy of residences to our earlier accepted standards. Being able to do so would allow us to continue efforts to preserve the appealing character of our Town.

The most reasonable and least complicated way to resolve this would be to allow Southern Shores, and other Towns that may find it in their best self-interest, authority to regulate the number of bedrooms and septic capacity for new residential construction to control occupancy. This involves no specific design or architectural controls and does not limit home size or style. Attached is a draft resolution to be considered by our Town Council at its next meeting. I would appreciate the opportunity to meet with you, at your earliest convenience, to discuss this matter.

Respectfully,

Tom Bennett, Mayor

Cell: 252-619-5996 Email: [tbennett@southernshores-nc.gov](mailto:tbennett@southernshores-nc.gov)



# **Town of Southern Shores**

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**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES,  
NORTH CAROLINA REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY  
TO CONSIDER ADOPTION OF CERTAIN LEGISLATION RELATING TO  
REGULATING THE DENSITY OF POPULATION AND OCCUPANCY BY LIMITING  
THE NUMBER OF BEDROOMS IN ONE- AND TWO-FAMILY STRUCTURES  
WITHIN THE TOWN'S JURISDICTION**

**(Resolution #2019-01-01)**

**WHEREAS**, the Town of Southern Shores (the "Town") is a predominately single-family residential community for families and retirees, as well as a vacation destination for seasonal visitors who rent single-family dwellings; and

**WHEREAS**, The Town is a quiet seaside residential community comprised primarily of small low density neighborhoods consisting of single family homes primarily on large lots (i.e., at least 20,000 sq ft); and

**WHEREAS**, the Town has long desired to maintain its low density residential character by not permitting large oversized homes, increased commercial development and increased density. The Town recognizes that increases in density increase the need for public services related to safety, fire prevention, water supply, schools and traffic congestion; and

**WHEREAS**, the Town recognizes that a growing trend on the Outer Banks and other coastal areas in North Carolina and nationally, is to construct large buildings on residentially zoned properties which purport to be single-family dwellings, but which are often designed for and after construction and permitting advertised, maintained and used as vacation rentals or event facilities for large numbers of people; and

**WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of N.C.G.S. § 160A-381(h) which limited the Town's authority to regulated "building design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from regulating density, occupancy or use of residential structures through restrictions on the number of bedrooms as the Town historically has with a maximum limit of seven (7) bedrooms; and

**WHEREAS**, the Town finds that the inability to regulate the density of population within the Town via limitations on the number of bedrooms following the adoption of 2015 N.C. Sess. Law 86 has forced the Town to enact increasingly stricter regulations upon the size and bulk of residential structures within its jurisdiction.; 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, morals and general welfare for the Town to have the authority to regulate the density of population and occupancy by limiting the maximum number of bedrooms in residential structures so long as the limit adopted is not less than seven (7) bedrooms.

**NOW, THEREFORE BE IT RESOLVED**, the Town Council hereby respectfully requests that the North Carolina General Assembly consider and pass the attached proposed act entitled as follows:

“AN ACT TO ALLOW FOR THE TOWN OF SOUTHERN SHORES TO REGULATE DENSITY AND OCCUPANCY BY SETTING A MAXIMUM NUMBER OF BEDROOMS WITHIN ONE- AND TWO-FAMILY DWELLINGS”

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2019.

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

Attest:

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2019

SESSION LAW 2019-\_\_  
HOUSE BILL \_\_\_\_\_

AN ACT TO ALLOW FOR THE TOWN OF SOUTHERN SHORES TO REGULATE DENSITY AND OCCUPANCY BY SETTING A MAXIMUM NUMBER OF BEDROOMS WITHIN ONE- AND TWO-FAMILY DWELLINGS

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-381 is amended by adding a new subsection to read:

“(h1) To regulate density of population and limit occupancy, a zoning or unified development ordinance may limit the maximum number of bedrooms within structures subject to regulation under the North Carolina Residential Code for One- and Two-Family dwellings so long as the limit adopted is not less than seven (7) bedrooms.”

**SECTION 2.**

This act applies only within the zoning and development jurisdiction of the Town of Southern Shores.

**SECTION 3.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House of Representatives