



Town of Southern Shores
Regular Council Meeting
April 2, 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, April 2, 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 April 2, 2019 agenda as presented. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

CONSENT AGENDA

The consent agenda consisted of the following items:

- Council Meeting Minutes – February 26, 2019 & March 5, 2019
- Proclamation -Child Abuse Prevention Month, April 2019

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

Public Hearing - On Coastal Engineer's (APTIM) recommendations for beach nourishment in year 2022

Town Attorney Gallop opened the Public Hearing and called for comment:

1. Mark Peters-#2 Seventh Ave- Supports Beach Nourishment in Southern Shores
2. Richard Waters-#13 Seventh Ave- Supports Beach Nourishment in Southern Shores
3. Jim Monroe-205 Ocean Blvd.-Supports Beach Nourishment in Southern Shores
4. Ken Fisher-256 Wax Myrtle Trl- Supports Beach Nourishment in Southern Shores
5. Ken Pohl-#24 Pelican Watch Way- Supports Beach Nourishment in Southern Shores
6. Misty DeZutter-#7 Pelican Watch Way- Supports Beach Nourishment in Southern Shores
7. Ursula Bateman-360 Sea Oats-If Nourishment was a one-time thing she could support, but it is not.
8. Kristie Mason-#4 Seventh Ave- Supports Beach Nourishment in Southern Shores
9. Joe Van Gieson-228 N Dogwood-data is all we should be referencing, not emotions, do the profile.
10. Yvonne Duitzer-#10 Kingfisher Trl.-before a decision is made on beach nourishment would like to know where the money is coming from.
11. Geri Sullivan-31 10th Ave-Not opposed to beach nourishment but would like a second assessment. Town has other costs on the table.
12. George Berry-237 N Dogwood-do the assessments of the beaches, we are a tourist town.
13. Sheryl Alford- #14 Seventh Ave- Supports Beach Nourishment in Southern Shores
14. Ann Sjoerdsma-69 Hickory Trl. -beaches come and go, and the beach will sustain itself.
15. Susan Dineen-61 Deerpath Lane-Not in favor of Beach Nourishment
16. Paul Borzellino-16 Seventh Ave- Supports Beach Nourishment in Southern Shores
17. Brian Forbes-10 Pelican Watch Way- Supports Beach Nourishment in Southern Shores
18. Jane Smallwood-8 Purple Martin Lane- Supports Beach Nourishment in Southern Shores

[Clerk's Note: Council Members were all provided copies of approximately 63 emails received at Town Hall in reference to Beach Nourishment in year 2022]

Town Attorney Gallop closed the public hearing.

Mayor Bennett stated Council will be discussing this issue in the coming months.

No further action from Council.

Consideration of Budget Amendment #11 – for APTIM to perform Beach Surveys in June 2019.

MOTION: Councilman Conners moved to approve Budget Amendment #11 for APTIM to perform beach surveys. The motion was seconded by Councilman Nason. The motion passed unanimously (5-0).

STAFF REPORTS

The following Department Heads presented Department reports for the month:

- Town Planner Wes Haskett presented the Planning Department's monthly report for March. The Planning Board's next meeting is April 15th, followed by a Special Meeting April 26th.
- Police Chief David Kole presented his Department's monthly report for March.
- Fire Chief Limbacher presented the Fire Department's monthly report for March and gave a brief construction update on the new Fire Department.
- The Town Manager presented the Manager's report on operations highlights:
 - The Town Manager stated the Public Works Department is currently doing pothole repairs and beautification to the median on Dogwood Trail.
 - The Yaupon Trail project continues.
 - Mallard Cove Association has requested the Town to take over ownership of the streets. The association does not want to transfer over the common area, but the street runs through it. This may be an agenda item in May.
- Town Attorney Gallop had no report.

GENERAL PUBLIC COMMENT

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

1. Steve Gudas-156 Wax Myrtle-April 27th is the Flat Top Tour.
2. Tom White-#20 Sixth Ave-elderly residents are being deprived of the beaches due to the difficulty of beach accesses.

OLD BUSINESS

None

NEW BUSINESS

Public Hearing - to consider ZTA-19-01 (ZTA 19-01 including ZTA 19-01CUP), a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-57, Definition of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; 36-204, RS- 10 Residential District; and 36-205, R-1 Low-density Residential District. [Council adoption was recommended by the Planning Board on March 18, 2019 for ZTA 19-01 / Planning Board did not recommend ZTA 19-01CUP.]

Town Attorney Gallop briefed the Council on ZTA-19-01 stating it creates a new use category, vacation cottage use, transient occupancy, which will require a different permitting process. This zoning text amendment also limits the septic capacity to 14 occupants.

Town Attorney Gallop opened the public hearing and called for comment:

1. Andy Ward-147 Bayberry Trl. speaking as a citizen, not Planning Board Member. When the Town removed the septic capacity back on January 22, 2016 it left the Town vulnerable to high density homes. Council needs to vote to pass the zoning text amendment and close this door to high density homes.
2. Matt Neal -163 Wax Myrtle Trl-register vacation rentals, there is software available for staff to monitor the rental registration.
3. Ann Sjoerdsma-69 Hickory-supports ZTA-19-01 but not the CUP version.

4. Dan Frank-code needs to be in clearer terms, too confusing. Just state what is permitted.
5. George Berry-239 N Dogwood-how is this enforced? Town is excluding a lot of families and reunions.
6. Sally Guda-156 Wax Myrtle-supports ZTA 19-01

Hearing no other wishing to speak, Town Attorney Gallop closed the public hearing.

Mayor Bennett addressed the gentleman that stated “keep it simple” by stating all zoning text amendments have glitches and can be tweaked forever, ZTA 19-01 PB should be considered.

MOTION: Councilman Conners moved to adopt ZTA 19-01 PB as amended; removing any reference to transient vacation cottages. The motion was seconded by Mayor Bennett. The motion failed 4-1 with Councilman Conners voting affirmative; Mayor Bennett, Mayor pro tem Nason, Councilman Newberry, Councilman McDonald opposing.

Councilman McDonald asked the Town Attorney if the State allows the reference of 14 overnight occupancy?

Town Attorney Gallop stated there is always a risk but less than referencing 14 occupancy septic capacity. The State did not say “density”. He further stated “use” is something you can regulate, and it is a new term. That’s why the amendment is regulating “rental cottages”. No other towns currently do this, but they may.

Town Manager Rascoe stated that once a Certificate of Occupancy is issued, staff can respond to noise, advertising and parking. But the staff cannot respond to weekend night occupancy head-counts and would require a policy by the Town Council of what staff is required to do to enforce.

Councilman Newberry asked if the ZTA effects anything in the building code? Town Attorney Gallop replied it did not.

MOTION: Councilman McDonald moved to adopt ZTA 19-01 as written. The motion was seconded by Councilman Newberry. The motion passed unanimously (3-2). Councilman McDonald, Mayor Bennett and Councilman Newberry voting affirmative; Councilman Conners and Mayor pro tem Nason opposing.

[Clerks Note: A supermajority is required to pass a zoning ordinance and thus will require a second reading. Placed on May 7, 2019 agenda]

NEXT AGENDA ITEM

Public Hearing - to consider ZTA-18-10, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by adding Sec 36-

209, RSOF-1 Single-family Ocean Front Overlay Residential District. [Council adoption was not recommended by the Planning Board on January 22, 2019.]

Councilman Conners stated he is not pushing this amendment tonight, but it does contain some good elements that would help control density impacts and perhaps can be revisited at another time.

MOTION: Councilman McDonald moved to withdraw the Town's application ZTA 18-10. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

GENERAL PUBLIC COMMENT

Mayor Bennett again called for public comment and no citizens offered comment.

MAYOR COMMENTS & COUNCIL COMMENTS

Mayor Bennett recently attended the Albemarle Rural Planning Meeting, providing a brief summary. He also stated Yaupon Trail residents have contacted the Town, wanting the unhealthy tree at the entrance to be removed for safety reasons. He will place this item on next month's agenda for consideration.

Mayor pro tem Nason stated the Tourism Board is doing a lot of great things in the community.

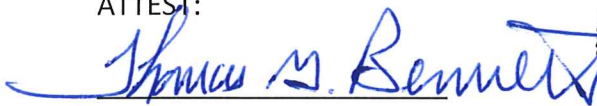
Councilman Newberry stated the Dare County Airport Authority is planning to work with the Tourism Bureau and the Airplane and Pilot's Association (AOPA) to have an AOPA Regional Fly-In 2020 or 2021.

Councilman Conners requested Appointing a 'Citizen Committee to Explore Possibility of a Branch Library' be added to the May agenda.

ADJOURN

MOTION: Councilman McDonald moved to adjourn the meeting. The motion was seconded by Mayor Bennett. The motion passed unanimously (5-0). The times was 7:55 p.m.

ATTEST:



Thomas G. Bennett, Mayor



Respectfully submitted,



Sheila Kane, Town Clerk



Town of Southern Shores

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

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

www.southernshores-nc.gov

Child Abuse Prevention Month, April 2019 Proclamation

Proclamation # 2019-04-01

Whereas, children are vital to our state's future success, prosperity and quality of life as well as being our most vulnerable assets;

Whereas, all children deserve to have safe, stable, nurturing homes and communities they need to foster their healthy growth and development;

Whereas, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community;

Whereas, communities that provide parents with the social support, knowledge of parenting and child development and resources they need to cope with stress and nurture their children ensure all children grow to their full potential;

Whereas, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies, and the business community;

Therefore, we, the Town of Southern Shores do hereby proclaim

April as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

Tom Bennett, Mayor
Town of Southern Shores

4/2/2019
Date

**Town of Southern Shores
Budget Amendment Number # 11**

Streets, Bridges & Canals
Increases

Decreases

Account Number	Description	Amount	Account Number	Description	Amount
Revenues					
40-39909	Unassigned Fund Balance	\$15,000			
Expenditures					
57-50138	Beach Surveys	\$15,000			

Explanation: To preform beach surveys in June 2019

Recommended By:

J. Peter Rascoe, III, Town Manager



Approved By:

Tom Bennett, Mayor

Date

4/2/2019

STAFF REPORT

To: Southern Shores Town Council
Date: March 20, 2019
Case: ZTA-19-01
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, Definition of Specific Terms and Words; 36-202, RS-1 Single-family Residential District; Section 36-204, RS-10 Residential District; and 36-205, R-1 Low-density Residential District

ANALYSIS

As requested by the Town Council, Town Staff is proposing to amend the Town Zoning Ordinance by amending Section 36-57, Section 36-202, Section 36-204, and Section 36-205 in an effort to effectively regulate the density of population within the Town by regulating the size and bulk of residential structures within its jurisdiction and the use of property as vacation cottages, particularly those having maximum overnight occupancy and/or septic capacity in excess of fourteen (14) persons. The proposed language would establish that detached single-family dwellings and vacation cottages are permitted uses in the RS-1 Single-family Residential District, the RS-10 Residential District, and the R-1, Low-density Residential District provided that such residential structures shall not be: (i) advertised to accommodate, designed for, constructed for or actually occupied by more than fourteen (14) overnight occupants when used as a vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14) overnight occupants. ZTA-19-01CUP includes the same proposed language in addition to establishing vacation cottages (high density) as Conditional Uses on lots that are at least 175,000 sq. ft.

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 and the Town Planning Board have determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan. The Town Planning Board unanimously (5-0) recommended approval of ZTA-19-01 PB at the March 18, 2019 Planning Board meeting which includes the addition of Section 36-204, RS-10 Residential District.



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: 2/15/19 Filing Fee: \$200 Receipt No. N/A Application No. ZTA-19-01

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 252-2394 Email whiskey@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

Wm Hunt
Signature

2-15-19
Date

* Attach supporting documentation.



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ZTA-19-01

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

ARTICLE I. Purpose(s) and Authority.

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 cottages or event facilities for large numbers of people; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances; and

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, 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

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
3 regulations to provide adequate light and air; to prevent the overcrowding of land; to
4 avoid undue concentration of population; to lessen congestion in the streets; to secure
5 safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision
6 of transportation, water, sewerage, schools, parks, and other public requirements. In
7 doing so, the Town may take into account the character of the Town's zoning districts
8 and their peculiar suitability for particular uses with a view to conserving the value of
9 buildings and encouraging the most appropriate use of land throughout the Town; and
10

11 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
12 N.C.G.S. § 160A-381(h) which limited the Town's authority to regulated "building
13 design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town
14 from regulating density or use of residential structures through restrictions on the number
15 of bedrooms as the Town has historically regulated such density. These changes require
16 that the Town's Zoning Ordinance be updated accordingly; and
17

18 **WHEREAS**, the Town finds that in order to effectively regulate the density of
19 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
20 must regulate the size and bulk of residential structures within its jurisdiction and the use
21 of property as vacation cottages, particularly those having maximum overnight
22 occupancy and/or septic capacity in excess of fourteen (14) persons; and
23

24 **WHEREAS**, the Town finds that vacation cottages, whether offered for rental or
25 not, with overnight occupancy or septic capacity of fourteen (14) persons or less should
26 be a permitted use in certain residential districts, and that vacation cottages having a
27 greater overnight occupancy or septic capacity should be prohibited in order to regulate
28 the density of population within the Town.
29

30 **WHEREAS**, the Town finds that such regulation will not result in a decrease in
31 value of buildings and lands within the Town and is consistent with the Town's unique
32 single-family residential nature and character; and
33

34 **WHEREAS**, the Town further finds that in accordance with the findings above it
35 is in the interest of and not contrary to the public's health, safety, morals and general
36 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
37 Ordinances as stated below.
38

39 **ARTICLE II. Construction.**

40
41 For purposes of this ordinance amendment, underlined words (underline) shall be
42 considered as additions to existing Town Code language and strikethrough words
43 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
44 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
45 ("...") shall remain as they currently exist within the Town Code.
46

1 **ARTICLE III. Amendment of Zoning Ordinance.**

2
3 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
4 Shores, North Carolina, that the Town Code shall be amended as follows:

5
6 **PART 1. That Sec 36-57. Definitions of specific terms and words.** be amended as
7 follows:

8 ...
9 *Dwelling, large home*, means any residential structure exceeding the maximum size,
10 maximum transient occupancy capacity or maximum septic capacity for such structures
11 in the zoning district in which it is located. Large home dwellings are not a permitted use
12 in any zoning district.

13 ...
14
15 Transient occupancy, means overnight occupancy in a residential structure for periods of
16 less than thirty (30) days for vacation, leisure, recreation or other purposes by a person or
17 persons who have a place of residence to which they intend to return including when such
18 property or structure is offered in whole or in part for rent or use by the day, week, or
19 other period of less than thirty (30) days.

20 ...
21
22 Vacation cottage, means the use of a property and associated single-family dwelling in
23 whole or in part for any part of a calendar year for the purpose of transient occupancy.
24 Any property or structure advertised in a manner meeting the definition of vacation
25 cottage shall be presumed to be actually in use as a vacation cottage.

26 ...
27
28 **PART 2. That Sec 36-202. RS-1 single-family residential district.** be amended as
29 follows:

30 (a) *Intent*. The RS-1 district is established to provide for the low-density development of
31 single-family detached dwellings in an environment which preserves sand dunes, coastal
32 forests, wetlands, and other unique natural features of the coastal area. The district is
33 intended to promote stable, permanent neighborhoods characterized by low vehicular
34 traffic flows, abundant open space, and low impact of development on the natural
35 environment and adjacent land uses. In order to meet this intent, the density of population
36 in the district is managed by establishment of minimum lot sizes, building setback and
37 height limits, parking regulations and maximum occupancy limits for single-family
38 residences used as vacation cottages.

39 ...
40 (b) Permitted uses. The following uses shall be permitted by right:
41 (1) Detached single-family dwelling and vacation cottages provided that such residential
42 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
43 actually occupied by more than fourteen (14) overnight occupants when used as a
44 vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than
45 fourteen (14) overnight occupants.

46 ...

1
2 **PART 3. That Sec 36-205. R-1 low-density residential district.** be amended as
3 follows:

4 (a) *Intent.* The R-1 district is intended to encourage the development of permanent low-
5 density residential neighborhoods and community facilities necessary for the health and
6 safety and general welfare of the community. In order to meet this intent, the density of
7 population in the district is managed by establishment of minimum lot sizes, building
8 setback and height limits, parking regulations and maximum occupancy limits for single-
9 family residences used as vacation cottages.

10 ...
11 (b) Permitted uses. The following uses shall be permitted by right:

12 (1) Detached single-family dwelling and vacation cottages provided that such residential
13 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
14 actually occupied by more than fourteen (14) overnight occupants when used as a
15 vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than
16 fourteen (14) overnight occupants.

17 ...
18
19 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
20 **Reasonableness.**

21
22 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
23 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
24 is applicable. For all of the above-stated reasons, any reasons stated during the meetings
25 at which this ordinance amendment was considered and any additional reasons
26 supporting the Town's adoption of this ordinance amendment, the Town considers the
27 adoption of this ordinance amendment to be reasonable and in the public interest.

28
29 **ARTICLE V. Severability.**

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

36
37 **ARTICLE VI. Effective Date.**

38
39 This ordinance amendment shall be in full force and effect from and after the ____ day of
40 _____, 2019.

41
42
43
44
45 _____,
46 Tom Bennett, Mayor

1
2
3 ATTEST:
4
5

6 _____
7 Town Clerk
8
9

10 APPROVED AS TO FORM:
11
12

13 _____
14 Town Attorney
15

16 Date adopted:
17

18 _____
19 Motion to adopt by Councilmember:
20

21 _____
22 Motion seconded by Councilmember:
23
24
25

Vote: __AYES__NAYS



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: 2 / 15 / 19

Filing Fee: \$200

Receipt No. N/A Application No. ZTA-19-01

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

CUP

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 Trail

Southern Shores NC 27949

Phone 252-2394

Email whaskette@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

Signature

W. Hunt

Date

2-15-19

* Attach supporting documentation.



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ZTA-19-01 CUP

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

ARTICLE I. Purpose(s) and Authority.

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 cottages or event facilities for large numbers of people; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances; and

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, 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

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
3 regulations to provide adequate light and air; to prevent the overcrowding of land; to
4 avoid undue concentration of population; to lessen congestion in the streets; to secure
5 safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision
6 of transportation, water, sewerage, schools, parks, and other public requirements. In
7 doing so, the Town may take into account the character of the Town's zoning districts
8 and their peculiar suitability for particular uses with a view to conserving the value of
9 buildings and encouraging the most appropriate use of land throughout the Town; and
10

11 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
12 N.C.G.S. § 160A-381(h) which limited the Town's authority to regulated "building
13 design elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town
14 from regulating density or use of residential structures through restrictions on the number
15 of bedrooms as the Town has historically regulated such density. These changes require
16 that the Town's Zoning Ordinance be updated accordingly; and
17

18 **WHEREAS**, the Town finds that in order to effectively regulate the density of
19 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
20 must regulate the size and bulk of residential structures within its jurisdiction and the use
21 of property as vacation cottages, particularly those having maximum overnight
22 occupancy and/or septic capacity in excess of fourteen (14) persons; and
23

24 **WHEREAS**, the Town finds that vacation cottages, whether offered for rental or
25 not, with overnight occupancy or septic capacity of fourteen (14) persons or less should
26 be a permitted use in residential and commercial districts, and that vacation cottages
27 having a greater overnight occupancy should only be allowed on large parcels of property
28 and only as a conditional use in order to regulate the density of population within the
29 Town.
30

31 **WHEREAS**, the Town finds that such regulation will not result in a decrease in
32 value of buildings and lands within the Town and is consistent with the Town's unique
33 single-family residential nature and character; and
34

35 **WHEREAS**, the Town further finds that in accordance with the findings above it
36 is in the interest of and not contrary to the public's health, safety, morals and general
37 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
38 Ordinances as stated below.
39

40 **ARTICLE II. Construction.** 41

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

1
2 **ARTICLE III. Amendment of Zoning Ordinance.**
3

4 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
5 Shores, North Carolina, that the Town Code shall be amended as follows:
6

7 **PART 1. That Sec 36-57. Definitions of specific terms and words.** be amended as
8 follows:
9

10 ...
11 Dwelling, large home, means any residential structure exceeding the maximum size,
12 maximum transient occupancy capacity or maximum septic capacity for such structures
13 in the zoning district in which it is located. Large home dwellings are not a permitted use
14 in any zoning district.
15

16 Transient occupancy, means overnight occupancy in a residential structure for periods of
17 less than thirty (30) days for vacation, leisure, recreation or other purposes by a person or
18 persons who have a place of residence to which they intend to return including when such
19 property or structure is offered in whole or in part for rent or use by the day, week, or
20 other period of less than thirty (30) days.
21

22 ...
23 Vacation cottage, means the use of a property and associated single-family dwelling in
24 whole or in part for any part of a calendar year for the purpose of transient occupancy.
25 Any property or structure advertised in a manner meeting the definition of vacation
26 cottage shall be presumed to be actually in use as a vacation cottage.
27

28 ...
29 Vacation cottage (high density), means a vacation cottage where the associated
30 residential structure: (i) advertised to accommodate, designed or constructed with a
31 maximum overnight occupant capacity of more than 14 persons, or (ii) having a
32 maximum septic capacity sufficient to serve more than fourteen (14) overnight occupants.
33 Any property or structure advertised in a manner meeting the definition of vacation
34 cottage (high density) shall be presumed to be actually in use as a vacation cottage (high
35 density).
36

37 **PART 2. That Sec 36-202. RS-1 single-family residential district.** be amended as
38 follows:
39

40 (a) Intent. The RS-1 district is established to provide for the low-density development of
41 single-family detached dwellings in an environment which preserves sand dunes, coastal
42 forests, wetlands, and other unique natural features of the coastal area. The district is
43 intended to promote stable, permanent neighborhoods characterized by low vehicular
44 traffic flows, abundant open space, and low impact of development on the natural
45 environment and adjacent land uses. In order to meet this intent, the density of population
in the district is managed by establishment of minimum lot sizes, building setback and

1 height limits, parking regulations and maximum occupancy limits for single-family
2 residences used as vacation cottages.

3 ...

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

5 (1) Detached single-family dwelling and vacation cottages provided that such residential
6 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
7 actually occupied by more than fourteen (14) overnight occupants when used as a
8 vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than
9 fourteen (14) overnight occupants.

10 ...

11 (c) *Conditional uses permitted.* The following uses are permitted, subject to the
12 requirements of this district and such additional regulations and requirements as may be
13 imposed by the town council, as provided in article X of this chapter:

14 ...

15 (8) Vacation cottages (high density).

16 (d) *Dimensional requirements.*

17 (1) Minimum lot size: 20,000 square feet generally and 175,000 sq. ft. for vacation
18 cottages (high density)

19 ...

20
21 **PART 3. That Sec 36-205. R-1 low-density residential district.** be amended as
22 follows:

23 (a) *Intent.* The R-1 district is intended to encourage the development of permanent low-
24 density residential neighborhoods and community facilities necessary for the health and
25 safety and general welfare of the community. In order to meet this intent, the density of
26 population in the district is managed by establishment of minimum lot sizes, building
27 setback and height limits, parking regulations and maximum occupancy limits for single-
28 family residences used as vacation cottages.

29 ...

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

31 (1) Detached single-family dwelling and vacation cottages provided that such residential
32 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
33 actually occupied by more than fourteen (14) overnight occupants when used as a
34 vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than
35 fourteen (14) overnight occupants.

36 ...

37 (c) *Conditional uses permitted.* The following uses are permitted, subject to the
38 requirements of this district and additional regulations and requirements imposed by the
39 town council, as provided in article X of this chapter:

40 ...

41 (9) Vacation cottages (high density).

42 ...

43 (d) *Dimensional requirements.*

44 (1) Minimum lot size.

45 a. Minimum lot size for all uses other than ~~counrty-club~~ those listed here
46 specifically shall be 20,000 square feet.

1 ...
2 c. For vacation cottages (high density), the minimum lot size shall be 175,000 sq.
3 ft.
4 ...
5

6 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
7 **Reasonableness.**
8

9 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
10 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
11 is applicable. For all of the above-stated reasons, any reasons stated during the meetings
12 at which this ordinance amendment was considered and any additional reasons
13 supporting the Town's adoption of this ordinance amendment, the Town considers the
14 adoption of this ordinance amendment to be reasonable and in the public interest.
15

16 **ARTICLE V. Severability.**
17

18 All Town ordinances or parts of ordinances in conflict with this ordinance amendment
19 are hereby repealed. Should a court of competent jurisdiction declare this ordinance
20 amendment or any part thereof to be invalid, such decision shall not affect the remaining
21 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
22 Town of Southern Shores, North Carolina which shall remain in full force and effect.
23

24 **ARTICLE VI. Effective Date.**
25

26 This ordinance amendment shall be in full force and effect from and after the ____ day of
27 _____, 2019.
28
29
30

31 _____,
32 Tom Bennett, Mayor
33
34
35

36 ATTEST:
37
38
39

40 _____
41 Town Clerk
42
43

44 APPROVED AS TO FORM:
45
46 _____

1 Town Attorney

2

3 Date adopted:

4

5

6
Motion to adopt by Councilmember:

7

8
Motion seconded by Councilmember:

9

10

11

12

Vote:___AYES___NAYS



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 19-01 PB

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

ARTICLE I. Purpose(s) and Authority.

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 cottages or event facilities for large numbers of people; and

WHEREAS, pursuant to North Carolina General Statutes § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances; and

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, 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

1
2 **WHEREAS**, pursuant to N.C.G.S. § 160A-383, the Town may use zoning
3 regulations to provide adequate light and air; to prevent the overcrowding of land; to avoid
4 undue concentration of population; to lessen congestion in the streets; to secure safety from
5 fire, panic, and dangers; and to facilitate the efficient and adequate provision of
6 transportation, water, sewerage, schools, parks, and other public requirements. In doing so,
7 the Town may take into account the character of the Town's zoning districts and their
8 peculiar suitability for particular uses with a view to conserving the value of buildings and
9 encouraging the most appropriate use of land throughout the Town; and

10
11 **WHEREAS**, 2015 N.C. Sess. Law 86 made substantial changes to the text of
12 N.C.G.S. § 160A-381(h) which limited the Town's authority to regulated "building design
13 elements." In particular, the changes to N.C.G.S. § 160A-381 prohibit the Town from
14 regulating density or use of residential structures through restrictions on the number of
15 bedrooms as the Town has historically regulated such density. These changes require that
16 the Town's Zoning Ordinance be updated accordingly; and

17
18 **WHEREAS**, the Town finds that in order to effectively regulate the density of
19 population within the Town following the adoption of 2015 N.C. Sess. Law 86 the Town
20 must regulate the size and bulk of residential structures within its jurisdiction and the use
21 of property as vacation cottages, particularly those having maximum overnight occupancy
22 and/or septic capacity in excess of fourteen (14) persons; and

23
24 **WHEREAS**, the Town finds that vacation cottages, whether offered for rental or
25 not, with overnight occupancy or septic capacity of fourteen (14) persons or less should be
26 a permitted use in certain residential districts, and that vacation cottages having a greater
27 overnight occupancy or septic capacity should be prohibited in order to regulate the density
28 of population within the Town.

29
30 **WHEREAS**, the Town finds that such regulation will not result in a decrease in
31 value of buildings and lands within the Town and is consistent with the Town's unique
32 single-family residential nature and character; and

33
34 **WHEREAS**, the Town further finds that in accordance with the findings above it
35 is in the interest of and not contrary to the public's health, safety, morals and general
36 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
37 Ordinances as stated below.

38
39 **ARTICLE II. Construction.**

40
41 For purposes of this ordinance amendment, underlined words (underline) shall be
42 considered as additions to existing Town Code language and strikethrough words
43 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the
44 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses
45 ("...") shall remain as they currently exist within the Town Code.
46

1 **ARTICLE III. Amendment of Zoning Ordinance.**

2
3 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
4 Shores, North Carolina, that the Town Code shall be amended as follows:

5
6 **PART 1.** That **Sec 36-57. Definitions of specific terms and words.** be amended as
7 follows:

8 ...
9 *Dwelling, large home,* means any residential structure exceeding the maximum size,
10 maximum transient occupancy capacity or maximum septic capacity for such structures in
11 the zoning district in which it is located. Large home dwellings are not a permitted use in
12 any zoning district.

13 ...
14
15 Transient occupancy, means overnight occupancy in a residential structure for periods of
16 less than thirty (30) days for vacation, leisure, recreation or other purposes by a person or
17 persons who have a place of residence to which they intend to return including when such
18 property or structure is offered in whole or in part for rent or use by the day, week, or other
19 period of less than thirty (30) days.

20 ...
21
22 Vacation cottage, means the use of a property and associated single-family dwelling in
23 whole or in part for any part of a calendar year for the purpose of transient occupancy. Any
24 property or structure advertised in a manner meeting the definition of vacation cottage shall
25 be presumed to be actually in use as a vacation cottage.

26 ...
27
28 **PART 2.** That **Sec 36-202. RS-1 single-family residential district.** be amended as
29 follows:

30 (a) *Intent.* The RS-1 district is established to provide for the low-density development of
31 single-family detached dwellings in an environment which preserves sand dunes, coastal
32 forests, wetlands, and other unique natural features of the coastal area. The district is
33 intended to promote stable, permanent neighborhoods characterized by low vehicular
34 traffic flows, abundant open space, and low impact of development on the natural
35 environment and adjacent land uses. In order to meet this intent, the density of population
36 in the district is managed by establishment of minimum lot sizes, building setback and
37 height limits, parking regulations and maximum occupancy limits for single-family
38 residences used as vacation cottages.

39 ...
40 (b) Permitted uses. The following uses shall be permitted by right:
41 (1) Detached single-family dwelling and vacation cottages provided that such residential
42 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
43 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
44 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
45 overnight occupants.

46 ...

1
2 **PART 3. That Sec 36-204. RS-10 residential district.** be amended as follows:

3 (a) *Intent.* The RS-10 district is established as an area in which the principal use of the
4 land is for high-density residential purposes not to exceed ten dwelling units per net acre.
5 The district also provides for the development of less intensive residential uses as well as
6 for compatible supporting uses. In order to meet this intent, the density of population in the
7 district is managed by establishment of minimum lot sizes, building setback and height
8 limits, parking regulations and maximum occupancy limits for single-family residences
9 used as vacation cottages.

10 ...
11 (b) Permitted uses. The following uses shall be permitted by right:

12 (1) Detached single-family dwelling and vacation cottages provided that such residential
13 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
14 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
15 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
16 overnight occupants.

17 ...
18
19 **PART 4. That Sec 36-205. R-1 low-density residential district.** be amended as follows:

20 (a) *Intent.* The R-1 district is intended to encourage the development of permanent low-
21 density residential neighborhoods and community facilities necessary for the health and
22 safety and general welfare of the community. In order to meet this intent, the density of
23 population in the district is managed by establishment of minimum lot sizes, building
24 setback and height limits, parking regulations and maximum occupancy limits for single-
25 family residences used as vacation cottages.

26 ...
27 (b) Permitted uses. The following uses shall be permitted by right:

28 (1) Detached single-family dwelling and vacation cottages provided that such residential
29 structure shall not be: (i) advertised to accommodate, designed for, constructed for or
30 actually occupied by more than fourteen (14) overnight occupants when used as a vacation
31 cottage; or (ii) have a maximum septic capacity sufficient to serve more than fourteen (14)
32 overnight occupants.

33 ...
34
35 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
36 **Reasonableness.**

37
38 The Town's adoption of this ordinance amendment is consistent with the Town's adopted
39 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
40 is applicable. For all of the above-stated reasons, any reasons stated during the meetings at
41 which this ordinance amendment was considered and any additional reasons supporting the
42 Town's adoption of this ordinance amendment, the Town considers the adoption of this
43 ordinance amendment to be reasonable and in the public interest.

44
45
46 **ARTICLE V. Severability.**

1
2 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
3 hereby repealed. Should a court of competent jurisdiction declare this ordinance
4 amendment or any part thereof to be invalid, such decision shall not affect the remaining
5 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
6 Town of Southern Shores, North Carolina which shall remain in full force and effect.
7

8 **ARTICLE VI. Effective Date.**
9

10 This ordinance amendment shall be in full force and effect from and after the ____ day of
11 _____, 2019.
12
13
14

15 _____,
16 Tom Bennett, Mayor
17
18
19

20 ATTEST:
21
22

23 _____
24 Town Clerk
25
26

27 APPROVED AS TO FORM:
28
29

30 _____
31 Town Attorney
32

33 Date adopted:
34
35

36 Motion to adopt by Councilmember:
37 _____

38 Motion seconded by Councilmember:
39
40
41
42

Vote: ____AYES ____NAYS