



TOWN OF SOUTHERN SHORES
TOWN COUNCIL REGULAR MEETING

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

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

www.southernshores-nc.gov

PITTS CENTER

Tuesday, June 06, 2023 at 5:30 PM

ACTION ITEMS

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Approval of Agenda

Motion: Council Member Sherlock

Second: Council member Holland

Vote: 5-0

Consent Agenda

1. Minute Approval
2. Budget Amendments
3. Budget Amendment- Capital Project Ordinance Budget Amendment #3
4. 2023 Street Improvement Projects Bid Award & Budget Amendment
5. Tax Pickups & Releases

Motion: Council Member Holland

Second: Council Member Sherlock

Vote: 5-0

Business

6. Public Hearing-ZTA-22-08, a Zoning Text Amendment application submitted by Casey Varnell on behalf of Pledger Palace, CDEC, Inc. to amend Town Code Sections 36-57 and 36-207(b) to allow Shared space-Occupancy Dwellings in the Commercial zoning district.

Motion: Council Member Sherlock moved to deny ZTA-22-08 for all reasons council discussed and that a ZTA is not appropriate in this case.

Second: Mayor Morey

Vote: 5-0

Motion: Mayor Morey moved to include a statement as part of the action to deny ZTA -22-08; the action that council just took to deny ZTA 22-08 is consistent with our Land Use Plan.

Second: Council Member Holland

Vote: 5-0

7. Public Hearing-on ZTA-23-04, a Zoning Text Amendment application submitted by Matthew Huband to amend Town Code Sections 36-207(c)(1)b., 36-207(c)(1.5)b., 36-207(c)(11)j., 36-207(c)(11)k., 36-207(d)(7), and 36-207(d)(8) to establish a 50 ft. setback requirement for restaurants from planned unit developments, a 50 ft. setback requirement for drive-through facilities or establishments (small) from planned unit developments, a 50 ft. setback requirement for mixed use group developments from planned unit developments and residential districts, a 50 ft. setback requirement for commercial buildings and facilities from planned unit developments, a 20 ft. buffer requirement where a mixed use group development abuts a residential district or planned unit

development, and a 20 ft. buffer requirement where a commercial use or zone abuts a residential district or planned unit development.

Motion: Council Member Batenic moved to deny ZTA-23-04 as presented and even though it is in compliance with the current Land Use Plan.

Second: Mayor pro tem Neal

Vote: 5-0

8. Public Hearing-ZTA-23-03, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend Town Code Sections 36-57, 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) to clarify the Town's current lot width requirements.

Motion: Mayor pro tem Neal moved to deny ZTA-23-03 with the recommendation to send it back to the Planning Board specifically addressing the setback requirement and the location of that setback requirement.

Second: Council Member Sherlock

Vote: 2-3, Opposed by Council Members Holland & Batenic & Mayor

The Town Attorney asked if there was a motion in the alternative.

MOTION: Mayor Morey moved to approve ZTA-23-03 and acknowledge it is consistent with the Land Use Plan.

Second: Council Member Batenic

Vote: 3-2, opposed by Mayor pro tem Neal and Council Member Sherlock

9. Town Manager's Recommended Budget FY2023-2024 -

- a. Public Hearing -purpose of receiving input from citizens wishing to comment on the proposed budget for FY2023-2024
- b. Consideration of Budget Ordinance #2023.06.01
- c. Amendment to the Unreserved Fund Balance Policy

Motion: Mayor Morey moved to adopt budget ordinance 2023.06.01 as presented (Budget Ordinance FY 2023-2024 Budget)

Second: Council Member Holland

Vote: 5-0

Motion: Mayor Morey moved to approve budget amendment #36 in the amount of 25,000 from the ARP funds and applied towards the canal maintenance -capital reserve fund.

Second: Council Member Holland

Vote: 5-0

Motion: Mayor Morey moved to adopt the amendments to the personnel policy as presented.

Second: Council Member Sherlock

Vote: 5-0

Motion: Mayor Morey moved to amend the fund balance policy as presented by Town Manager Ogburn on June 6, 2023.

Second: Council Member Batenic

Vote: 5-0

10. Consideration of Town Hall Complex Building Maintenance Contract Award & Budget Amendment

11. Consideration of Contract Amendment-HREM

Motion: Council Member Holland moved to approve the HREM Attorney contract amendment as presented.

Second: Council Member Batenic

Vote: 5-0

12. Beach Nourishment Monitoring Agreement-CPE

Motion: Council Member Batenic moved to authorize the town manager to sign the proposal for 2023 annual monitoring service with CPE.

Second: Council Member Holland

Vote: 5-0

13. Planning Board Appointment

Motion: Council Member Holland moved to reappoint Ed Lawler with a term that will expire June 30, 2026.

Second: Council Member Sherlock

Vote: 5-0

14. Discussion / Consideration of Speed Bumps

Council Business

Motion: Mayor Morey moved to amend the agenda and delay items #10 and #14 until June 20th at 9:00 a.m. and add N.C.G.S. § 143-318.11(a)(3) attorney Client privileged to the closed session.

Second: Council Member Batenic

Vote: 5-0

Closed Session- pursuant to N.C.G.S. § 143-318.11(a)(5) & N.C.G.S. § 143-318.11(a)(5)

Motion: Council Member Batenic moved to go into closed session pursuant to N.C.G.S. § 143-318.11(a)(5) & N.C.G.S. § 143-318.11(a)(5)

Second: Mayor Morey

Vote: 5-0

Adjourn

Motion: Council Member Holland moved to adjourn the meeting at 8:50 p.m

Second: Council Member Batenic

Vote: 5-0



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PITTS CENTER

Tuesday, June 06, 2023 at 5:30 PM

MINUTES

Call Meeting to Order

Pledge of Allegiance

Moment of Silence

Present

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Paula Sherlock

Council Member Mark Batenic

Approval of Agenda

Motion to approve the agenda as presented.

Motion: Council Member Sherlock

Second: Council Member Holland

Vote: 5-0

Consent Agenda

Motion to approve the consent agenda as presented.

1. Minute Approval
2. Budget Amendments
3. Budget Amendment- Capital Project Ordinance Budget Amendment #3
4. 2023 Street Improvement Projects Bid Award & Budget Amendment
5. Tax Pickups & Releases

Motion: Council Member Holland

Second: Council Member Sherlock

Vote: 5-0

Staff Report

Planning Director/ Deputy Town Manager Wes Haskett presented the permit reports for the month of May. He also reported the following updates:

Land Use Plan Update-The consultant has compiled the comments we received on the draft updated plan and they're currently working on plan revisions. The final draft will most likely be posted on the Town website and presented to the Planning Board in July.

Planning Board-The Town Planning Board will hold its regular meeting on June 19th at 5:00 p.m. here in the Pitts Center. The purpose of the meeting is for the Board to review and discuss the comments we received on the draft updated Land Use Plan. The Board may also consider an ordinance to relinquish the Martin's Point ETJ area.

Police Department-Police Chief David Kole presented the Police Department's report for the month of May.

Fire Department- Fire Chief Ed Limbacher presented the Police Department's report for the month of May.
Town Manager Ogburn presented the following operational highlight:
 Spring 2023 Street Improvement List-2.76 miles of road improvements

Mizzenmast	entire cul-de-sac		1.5" overlay
Turtle Pond	entire cul-de-sac		1.5" overlay
Chicahauk Tr	NC 12	Crooked Back Loop	Rehab (Major) - Mill and Fill 2 in
Chicahauk Tr	Crooked Back Loop	Trinitie Trl	Rehab (Major) - Mill and Fill 2 in
Ginguite	Pintail	12 Ginguite	Rehab (Major) - Mill and Fill 2 in
OCEAN BLVD	PERIWINKLE PL	E DOGWOOD TRL	Rehab (Major) - Mill and Fill 2 in
PERIWINKLE PL	NC 12	OCEAN BLVD	Rehab (Major) - Mill and Fill 2 in
1ST AVE	DEAD END	DEAD END	Rehab (Major) - Mill and Fill 2 in
E DOGWOOD TRL	BAYBERRY TRL	NC 12	Rehab (Major) - Mill and Fill 2 in
SEA OATS TRL	SOUNDVIEW TRL	HILLCREST DR	Rehab (Major) - Mill and Fill 2 in
CIRCLE DR	entire street	entire street	Rehab (Major) - Mill and Fill 2 in
GOOSE FEATHER LN	CHICAHOUK TRL	DEAD END	Rehab (Major) - Mill and Fill 2 in
9th Avenue	NC 12	West side	Rehab (Major) - Mill and Fill 2 in
Hickory Trl			Crosswalk and Stop Bar

Public Comment

Steve Gudas-156 Wax Myrtle-Pleased and supported the Town purchasing 13 Skyline Rd. Tourism seems to come first when it comes to traffic, Dare County needs to continue to push for the Mid Currituck Bridge.

Tim Baker-President of Martins Point HOA-offered comments about ZTA-22-08 and asked Council to deny the request due to the range of consequences to the community. He supports affordable housing; however, the density is frightening and is a potential health risk. Not the solution for the community.

Business

6. Public Hearing-ZTA-22-08, a Zoning Text Amendment application submitted by Casey Varnell on behalf of Pledger Palace, CDEC, Inc. to amend Town Code Sections 36-57 and 36-207(b) to allow Shared space-Occupancy Dwellings in the Commercial zoning district.

Town Attorney Lauren Arizaga-Womble opened the public hearing and called on staff for a report.

The applicant is proposing a Zoning Text Amendment (ZTA) to amend Town Code Sections 36-57 and 36-207(b) to allow for Shared Space-Occupancy Dwellings (SSO) as a permitted use in the C, General Commercial zoning district. The application was submitted on June 17, 2022 but the Applicant withdrew the application from the July 18, 2022 Planning Board meeting agenda. The proposed language defines Shared Space-Occupancy Dwelling as a private structure in which shared spaces are offered for rent for the purpose of providing affordable sleeping accommodations, payable in money and other consideration, to persons who do not meet the definition of family. Each shared space offered for rent within the structure may accommodate up to ten (10) bunk units (maximum of twenty (20) occupants). Each shared space offered for rent within the structure shall exist within the confines of four walls, and separate and apart from any other shared space within the structure. Residents of the SSO shall share a kitchen facility and common living area with all other residents and shall share a bathroom facility with one or more other residents. The owner of the SSO shall not use the dwelling comprising the SSO as their primary residence. SSO does not include dormitory and residence halls, single-family dwellings, multi-family dwellings, motels, or vacation cottages.

The proposed requirements for Shared Space-Occupancy Dwellings (SSO) are:

- a. There shall be one (1) parking space for every seven (7) residents. The parking of any motor vehicle shall only occur in a designated parking space.
- b. Bathroom facilities shall be provided which accommodate separate use by males and females.
- c. The owner of the SSO shall obtain the requisite permit(s) from the Dare County Health Department.
- d. The owner of the SSO shall be responsible for ensuring that residents are, at all times, in compliance with all Town Code regulations, including the town noise ordinance.
- e. The Town of Southern Shores may complete periodic inspections of the SSO to ensure the SSO is providing for the health and safety of the occupants.

Since Town Code Section 36-207(b)(11) was established after the application was submitted, the proposed amendment to Town Code Section 36-207(b) should consist of the addition of (12) instead of (11) as shown in the application.

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

The applicant seeks to provide affordable housing for J-1 Work Visa students and others in need of affordable housing. During your consideration, questions and discussion should mainly focus on the ZTA and not on a specific property as it would apply to all lots in the Town's C, General Commercial zoning district. Policy 2 of the Town's Land Use Plan establishes the commercial district as a small district for convenience shopping and services. The Land Use Plan also establishes that incompatible uses in the commercial area are limited to "residential (low density)", educational, and conservation activities. Since the proposed use would consist of high-density housing in the C, General Commercial zoning district, Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan.

However, given the potential impacts of the proposed use on adjacent properties, Town Staff recommends disapproval of the application. The Town Planning Board recommended denial of the application (4-1) at the May 15, 2023, Planning Board meeting. The Board also recommended that the Council consider directing Town Staff to draft an ordinance for Shared-Space Occupancy Dwellings as a Special Use.

Town Attorney Lauren Arizaga-Womble called on the public for comment. Hearing no comments, she called on the applicant Patricia Pledger and Attorney Casey Varnell to address Council. Attorney Varnell explained the applicant's mission statement intent is to help solve affordable housing issues. No one decision is going to solve that, but they believe that this is something that if approved, could help at least put a dent in it. He stated his client Patricia Pledger understands there is a need, particularly, to

focus on J-1 students. J1 entities are falling apart because there's just nowhere to stay and that's causing an issue for our businesses and Ms. Pledger has been contacted by several of them and local businesses to discuss the option and perhaps the ability of use her space at the childcare center. He stated the model itself is simple.

Applicant Patricia Pledger stated she has been in property management for seven and half years and would ensure policies and procedures were in place to address concerns before they could become problems. She explained she is a team player and goes above and beyond what is required of her and provides a quality facility. She is trying to do the right thing and do her part to address the housing issue.

Mayor pro tem Neal asked where the square footage guideline originated from as it is not present in the ZTA. Applicant Patricia Pledger stated it is a building state code. She also stated the health department amenities requirement is one sink, toilet, and shower for every ten people. She stated the facility could hold 95 adults and the current amenities minus some showers and washing machines has more than the required number.

Mayor pro tem Neal inquired about the parking number in the ZTA. Attorney Casey Varnell stated he came up with that number based off the current available parking spots and occupancy number. One spot for every 7 people.

Mayor Morey asked if there was an example of a shared space occupancy in Dare County. Applicant Patricia Pledger stated there is, but she would not consider that comparable.

Council Member Sherlock stated the zoning text amendment references "other considerations" under payment. She felt this wording was concerning and unnecessary. Attorney Varnell stated that wording could be struck and just say good funds.

Council Member Sherlock also inquired about the 50 square feet. Applicant Patricia Pledger stated that is the requirement of distance per occupant, per room.

Mayor pro tem Neal stated if the property was developed as an apartment, 35 occupants would be allowed, and this is asking for 95 occupants. He felt that this was a significant increase. Attorney Varnell stated this is solo occupants coming in, not family housing. The applicant would consider a decrease in number.

Council Member Sherlock stated she is all for affordable housing and providing J1 students a good place to live but she felt the ZTA was the wrong way to be submitted as it applies to other places, not just the applicant's facility. She recommended a special use permit but had real concerns about the 95-person occupancy.

Mayor pro tem Neal stated a special use would be the preference and then restrictions put in the text to guarantee someone other than Ms. Pledger utilizing the language.

Mayor Morey agreed since this would apply across the entire commercial district, she would not support approval of it as a ZTA. The council's priority is not parking, it is the health and safety of the J1

students. Clearly, Ms. Pledger has the well-being of the J1 students up front as her priority, but a text amendment is just not the right tool.

Town Attorney Lauren Arizaga-Womble closed the public hearing.

Motion: Council Member Sherlock moved to deny ZTA-22-08 for all reasons council discussed and that a ZTA is not appropriate in this case.

Second: Mayor Morey

Vote: 5-0

Motion: Mayor Morey moved to include a statement as part of the action to deny ZTA -22-08; the action that council just took to deny ZTA 22-08 is consistent with our Land Use Plan.

Second: Council Member Holland

Vote: 5-0

7. Public Hearing-on ZTA-23-04, a Zoning Text Amendment application submitted by Matthew Huband to amend Town Code Sections 36-207(c)(1)b., 36-207(c)(1.5)b., 36-207(c)(11)j., 36-207(c)(11)k., 36-207(d)(7), and 36-207(d)(8) to establish a 50 ft. setback requirement for restaurants from planned unit developments, a 50 ft. setback requirement for drive-through facilities or establishments (small) from planned unit developments, a 50 ft. setback requirement for mixed use group developments from planned unit developments and residential districts, a 50 ft. setback requirement for commercial buildings and facilities from planned unit developments, a 20 ft. buffer requirement where a mixed use group development abuts a residential district or planned unit development, and a 20 ft. buffer requirement where a commercial use or zone abuts a residential district or planned unit development.

Town Attorney Lauren Arizaga-Womble opened the public hearing and called on staff for a report. Deputy Town Manager Wes Haskett addressed the Council.

ZTA-23-04 Staff Report Highlights

History:

- Planned Unit Developments were removed as a permitted use in the RS-10 district in 2005.
- Town Staff determined that the Town's current zoning map incorrectly shows SSL as one-third C, General Commercial and two-thirds RS-10, Residential around March 1st.
- The Town and Town Staff have been operating as if SSL was zoned residential pursuant to the Zoning Map.
- The Applicant submitted a Zoning Map Amendment and withdrew it and Town Staff submitted a ZMA and withdrew it.
- Town Staff drafted a ZTA (ZTA-23-02) and withdrew it and the Applicant is now proposing ZTA-23-04 that proposes the same amendments at ZTA-23-02.

Land Use Plan Consistency:

- Town Staff has determined that the ZTA is consistent with the Town's Existing and Future Land Use Map and the Town's currently adopted Land Use Plan (Policy 2, Action Item 2-b, Policy 7, Action Item 7-b, Policy 26, and Action Item 26-b).

Conclusion:

- The Town Planning Board unanimously (5-0) recommended approval of the application at the May 15, 2023 Planning Board meeting. The proposed amendments are not inconsistent with the Town's currently adopted Land Use Plan. However, Town Staff believes that the concerns regarding setback, stormwater, and buffer requirements can be more specifically addressed through conditions in Special Use Permits when a Special Use (restaurants, drive-through facilities or establishments (small) mixed use group developments, etc.) is proposed.
- In addition, the proposed amendments would render the dentist office located at 1 S. Dogwood Trl. and the SSL WWTP nonconforming.
-

Applicant Matthew Huband briefly reviewed the history of his request and stated he is simply requesting a 50-foot buffer that is afforded to other residential neighborhoods. The residents of Southern Shores Landing is not trying to stop the commercial building by SAGA but just to honor the current buffer of 50 feet. He stated as it currently stands, SAGA does not have to honor the buffer and is requesting council to approve the ZTA.

Andy Ward, Planning Board Chairperson requested to speak. He stated Mr. Gupta of SAGA was amenable to all setback requirements and buffers that the Planning Board had proposed. However, Mr. Gupta was not amenable to the Planning Board's two requirements for lot coverage (gross parcel vs net parcel). The Planning Board chose not to remove the requirements, but the Town Council agreed to all requirements but the two that addressed usable lot coverage. Mr. Ward disagreed with the council's decision to grant Mr. Gupta the extra buildable square footage of the parcel. He read a sentence from the staff report, "it is important to note the town and town staff have been operating as if Southern Shores Landing was zoned residential pursuant to the zoning map." He added, he would venture to say that it would be accurate to add the Planning Board and the Town Council and Mr. Gupta and his engineer Mr. Strader to that list of people that thought that Southern Shores Landing was entirely residential. The residents of Southern Shores Landing have had the rug pulled out from underneath them in all of this confusion.

Town Attorney Lauren Arizaga-Womble stated it was important to note that this ZTA would cover the entire town. PUDs are a permitted use and currently allowed in the commercial district.

Town Planning Director Wes Haskett clarified his staff report, stating that Town staff believes that the concerns regarding setbacks and buffer requirements and storm water can be more specifically addressed through conditions in special use permits whenever a special use permit is submitted for any of these uses listed in the ZTA, including restaurants, drive through facilities, to mixed use developments. Staff feels a special use permit and conditions in a special use permit when the Planning Board and the Town Council consider would be the appropriate way to address. He added that the dentist office and parking area currently sit within 50 feet of Southern Shores Landing, as well as the Southern Shores Landing wastewater treatment plant. They are both zoned commercial and they both are within 50 feet of the plan unit development of Southern Shores Landing.

Town Attorney Lauren Arizaga-Womble stated the dentist office would become non-conforming if it was to change its footprint or use.

Town Planning Director Haskett stated this ZTA if approved would apply to all future developments. Staff recommends a special use.

Council Member Holland asked how the Council can protect this group of residents.

Town Attorney Lauren Arizaga-Womble reminded council that they cannot ask site specific questions and that the ZTA applies to the entire town and that the only thing before council this evening is the ZTA.

Mayor pro tem Neal asked about the zoning map. Planning Director Haskett stated the map currently shows the western third of Southern Shores Landing commercial, the rest RS-10. The GIS consultant is updating the map as history shows the area is all zoned commercial.

Town Attorney Lauren Arizaga-Womble closed the public hearing.

Motion: Council Member Batenic moved to deny ZTA-23-04 as presented and even though it is in compliance with the current Land Use Plan.

Second: Mayor pro tem Neal

Vote: 5-0

Mayor Morey stated this was a really difficult challenging issue before Council and staff has worked very hard on this, as have the Town attorneys. In the end, she believes that it's best for the town to not be limited to what the ZTA says and perhaps in some cases we could get more than a 50-foot setback to between residential uses and Commercial uses.

Mayor Morey called for a 5-minute recess.

6:50-6:55 pm.

8. Public Hearing-ZTA-23-03, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend Town Code Sections 36-57, 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) to clarify the Town's current lot width requirements.

Town Attorney Lauren Arizaga-Womble opened the public hearing and called on staff for a report.

Town Planner Wes Haskett presented the staff report which read as, On October 5, 2022, the Board considered APA-22-01, an appeal application that was submitted by Adam Ward to appeal the Zoning Administrator's decision to deny approval of a recombination plat for the property located at 55 Skyline Rd. The main reason for the denial was that Town Staff believed that the proposed lots did not meet the Town's 100 ft. minimum lot width requirement for the RS-1, Residential zoning district as established in Town Code Section 36-202(d)(2). Town Code Section 36-202(d)(2) currently requires a minimum lot width of 100 feet measured at the building setback line.

Town Code Section 36-57 defines "building setback line" as 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, gutters and similar fixtures. The Board voted to affirm the Zoning Administrator's decision (3-2) to deny approval of the recombination plat and the applicant subsequently appealed the Board's decision to Superior Court which resulted in a Consent Order.

At the March 21, 2023 Town Council meeting, Council directed Town Staff to draft a Zoning Text Amendment (ZTA) to amend the Town's minimum lot width requirements in all of the residential zoning districts so that the requirements are unambiguous. The proposed amendments include a new definition of "lot width" in Section 36-57 which is the horizontal distance between the side lot lines of a lot. The proposed amendments also include amendments to Sections 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) that establish that the minimum lot width for lots created after XX-XX-XXXX (date of adoption, if adopted) is measured from the front lot line at right angles to the rear lot line.

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 application. The Planning Board recommended approval of the application (4-1) at the May 15, 2023, Planning Board meeting. With respect to the date to be determined, that is proposed that existing lots that aren't 100 ft. wide from the front lot line to the rear lot line aren't rendered nonconforming, if this is adopted. That date will essentially become the effective date.

We realize that these requirements are stricter than what has been in place, but we believe that they're unambiguous and will prevent future subdivisions and recombination's with higher densities. If adopted, we can consider future amendments to allow pie-shaped lots or other irregularly shaped lots.

Town Attorney Lauren Arizaga-Womble stated staff brought this ZTA forward to try and fix a problem with some ambiguity that was in the in the code.

Mayor pro tem Neal stated the ambiguity is with the front setback and it would be simpler to fix the front setback at one static location rather than editing all these individual things.

Council Member Holland stated this basically clears up the issue that occurred on Skyline. Planning Director Haskett stated that is correct.

Mayor Morey stated staff was directed to remove the ambiguity and this ZTA does that.

Mayor pro tem Neal stated this is creating non-conforming lots.

Town Attorney Lauren Arizaga-Womble stated those lots will be grandfathered. They will be dated and grandfathered. If they are subdivided or recombine the new requirements will need to be met.

Resident Mike Stone asked to speak. His family currently have 10-14 of the pie shaped/ flag shaped lots that would be affected. The minimum lot size is still 20,000, which is a large lot. That should be adequate.

Town Attorney Lauren Arizaga-Womble closed the public hearing.

Motion: Mayor pro tem Neal moved to deny ZTA-23-03 with the recommendation to send it back to the Planning Board specifically addressing the setback requirement and the location of that setback requirement.

Second: Council Member Sherlock

Vote: 2-3, Opposed by Council Members Holland & Batenic & Mayor Morey

The Town Attorney asked if there was a motion in the alternative.

MOTION: Mayor Morey moved to approve ZTA-23-03 and acknowledge it is consistent with the Land Use Plan.

Second: Council Member Batenic

Vote: 3-2, opposed by Mayor pro tem Neal and Council Member Sherlock

9. Town Manager's Recommended Budget FY2023-2024 -

- a. Public Hearing -purpose of receiving input from citizens wishing to comment on the proposed budget for FY2023-2024
- b. Consideration of Budget Ordinance #2023.06.01
- c. Amendment to the Unreserved Fund Balance Policy

Town Manager Ogburn stated the budget was presented on May 2nd and it's been advertised in the clerk's office since that date. There so as I said in my staff reported that it's been advertised for five weeks, which is well beyond the minimum amount of time. There are no changes that staff recommended, the public would be commenting on what was submitted on May 2nd.

Town Attorney Lauren Arizaga-Womble opened the public hearing. Hearing no comment, she closed the public hearing.

Mayor Morey proposed a change. She proposed an amendment that changes the annual contribution for canal maintenance, which is a restricted capital reserve fund, from \$50,000 to \$75,000. She stated if the town needs to do maintenance on canals it's going to require a large capital outlay and we ought to be putting a little bit more money into that bucket.

Town Manager Ogburn recommended making a budget amendment for \$25,000 now and keeping the \$50,000 as proposed in the budget, effectively accomplishing the same thing.

All council agreed that the budget was well presented.

Motion: Mayor Morey moved to adopt budget ordinance 2023.06.01 as presented (Budget Ordinance FY 2023-2024 Budget)

Second: Council Member Holland

Vote: 5-0

Motion: Mayor Morey moved to approve budget amendment #36 in the amount of 25,000 from the ARP funds and applied towards the canal maintenance -capital reserve fund.

Second: Council Member Holland

Vote: 5-0

Motion: Mayor Morey moved to adopt the amendments to the personnel policy as presented.

Second: Council Member Sherlock

Vote: 5-0

Motion: Mayor Morey moved to amend the fund balance policy as presented by Town Manager Ogburn on June 6, 2023.

Second: Council Member Batenic

Vote: 5-0

10. Consideration of Town Hall Complex Building Maintenance Contract Award & Budget Amendment
No action at this time.

11. Consideration of Contract Amendment-HREM

The agenda summary read as, the Town is presently under contract with an effective date of July 1, 2019, with Hornthal, Riley, Ellis and Maland for legal services. The hourly rate for legal services has been \$205 attorneys and \$140 for paralegals since June 1, 2021. HREM is approaching all their municipal clients about across the board rate increases.

The requested increase is 15%. Rounded down, the new rate for attorney's fees would be \$235 and \$160 for paralegal fees. This change would be effective July 1, 2023. Staff feels as though sufficient funds are included in the FY 202 budget to absorb the increase.

Council Member Sherlock felt the contract amount was reasonable. She asked about the retainer.

Town Manager Ogburn stated it is billed monthly and if it is not used it does not roll over.

Hearing no questions on the contract, Mayor Morey called for a motion.

Motion: Council Member Holland moved to approve the HREM Attorney contract amendment as presented.

Second: Council Member Batenic

Vote: 5-0

12. Beach Nourishment Monitoring Agreement-CPE

The agenda summary read as, Coastal Protection Engineering has provided this survey and data report in 2017, 2019, 2020, and 2021. This service was provided in 2022 as part of the beach nourishment contract with Weeks Marine. This work is performed annually to monitor the health of the beach as well as project performance by quantifying changes in sand volume from accretion and erosion. The results help develop future plans of action in an environmentally sustainable and affordable manner. This also allows the Town to be eligible for FEMA reimbursement for sand loss to declared storms by maintaining an engineered beach.

Motion: Council Member Batenic moved to authorize the town manager to sign the proposal for 2023 annual monitoring service with CPE.

Second: Council Member Holland

Vote: 5-0

13. Planning Board Appointment

Town Planning Director Wes Haskett stated, the appointment term assigned to Planning Board member Ed Lawler expires on June 30, 2023. Mr. Lawler has indicated that he is interested in serving another three-year term. Town Staff has one application to serve on the Board on file from Charlie Ries.

Motion: Council Member Holland moved to reappoint Ed Lawler with a term that will expire June 30, 2026.

Second: Council Member Sherlock

Vote: 5-0

14. Discussion / Consideration of Speed Bumps

No action at this time.

Council Business

Motion: Mayor Morey moved to amend the agenda and delay items #10 and #14 until June 20th at 9:00 a.m. and add N.C.G.S. § 143-318.11(a)(3) attorney Client privileged to the closed session.

Second: Council Member Batenic

Vote: 5-0

Closed Session- pursuant to N.C.G.S. § 143-318.11(a)(5) & N.C.G.S. § 143-318.11(a)(5)

Motion: Council Member Batenic moved to go into closed session pursuant to N.C.G.S. § 143-318.11(a)(5) & N.C.G.S. § 143-318.11(a)(5)

Second: Mayor Morey

Vote: 5-0

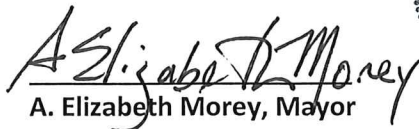
Adjourn

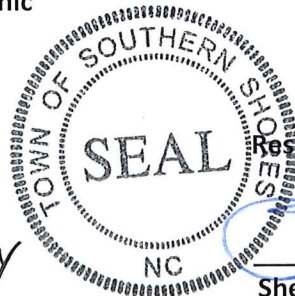
Motion: Council Member Holland moved to adjourn the meeting at 8:50 p.m

Second: Council Member Batenic

Vote: 5-0

ATTEST:


A. Elizabeth Morey, Mayor



Respectfully submitted,


Sheila Kane, Town Clerk

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