



**TOWN OF SOUTHERN SHORES**  
**TOWN COUNCIL WORKSHOP MEETING**

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

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

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

**PITTS CENTER**

**Tuesday, March 21, 2023 at 9:00 AM**

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## **MINUTES**

### **Call 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

### **Amendments to / Approval of Agenda**

Mayor Morey **moved** to amend the agenda by moving Public Comment to after New Business, Seconded by Council Member Holland. Motion passed unanimously (5-0).

Council Member Holland **moved** to approve the agenda as amended, Seconded by Council Member Batenic. Motion passed unanimously (5-0).

### **Business Items**

1. Staff Update on Southern Shores Landing (ZTA-23-02 & ZMA-23-01)

Town Manager Cliff Ogburn provided a short briefing. Town Staff researched the history of Southern Shores Landing and found it was approved as a Planned Unit Development ("PUD") in 2005. The Town's Official Zoning Map (2007) shows approximately two thirds of Southern Shores Landing is zoned RS-10, Residential, and the remaining one third is zoned C, General Commercial. In reviewing the rezoning application, Staff investigated the history of the retained one-third commercial zoning district and determined there was no official Town amendment of the zoning map to RS-10 following Southern Shores Landing approval. The proper zoning of Southern Shores Landing is actually based on a 2005 Zoning Map Amendment wherein the entire development is zoned C, General Commercial. It is important to note, the Town and Staff have been operating as if Southern Shores Landing was zoned residential pursuant to the Zoning Map. Upon discovering this error, Town Staff advised the applicant to withdraw his application and the Town would proceed with a Zoning Map Amendment application (ZMA-23-01) to rezone Southern Shores Landing in its entirety to RS-10, Residential to reflect its current use and its designation on the Zoning Map.

Continued research by Staff determined PUDs were removed as a permitted use in RS-10 due to the limited size of the developments. This was done in 2005 pursuant to a moratorium after Southern Shores Landing was approved. At the time Southern Shores Landing was approved, PUDs were permitted in Residential Zoning Districts. It is Staff's opinion the intent was to have

Southern Shores Landing zoned residential. PUDs are currently a permitted use within the Commercial District per Town Code Section 36-265. Town Staff has withdrawn ZMA-23-01 as to not create a non-conforming development with the rezoning.

Staff is working to revise the ZTA to provide what we feel is a proper buffer for PUDs and we'll be presenting that to the Planning Board at a future meeting.

Mayor Morey asked to clarify that an individual may not advocate or change someone else's property zoning. Planning Director Haskett stated downzoning requires approval from all property owners.

Town Manager Ogburn stated it would require approval from all 37/38 property owners.

Mayor Morey stated at the time it made more sense for the town to take the lead.

Town Manager Ogburn stated the zoning map misrepresented what was actual, staff felt like it was staff's responsibility to fix it.

Mayor Morey stated the map and Dare County GIS were wrong. There is no institutional knowledge really of what occurred many years ago but nonetheless it is the town's responsibility to correct it.

Council Member Batenic stated it started with a bad map from 2005. Town Manager Cliff Ogburn explained this was brought to staff's attention when one of the western seven Southern Shores Landing property owners put in an application to have his property zoned from commercial to residential but yes, the zoning map has a mistake.

Council Member Sherlock asked if the residents of Southern Shores Landing thought their property was residential when purchased? Town Attorney Hornthal stated if a title search was done by their closing attorney the record title would have shown that it was commercial. If they click on the GIS map which is not record title and is not legal title, which attorneys know is not in the chain of title, they may have been confused. If they had a closing attorney who did handle the closing, they're charged with knowledge of the record title which was commercial.

### **General Public Comment**

Matt Hubbard-Southern Shores Landing-the GIS and zoning map state RS10 residential. Logic says who ever made the zoning map left off the small portion of homes not included in the RS10 district. No other residential community is split zone. Trying to use logic and common sense to try to get our community Southern Shores Landing afforded the same protection that any other residential community would have and we would encourage Council to do so. Greatly invested in the future development of the neighboring commercial property that abuts their properties, as far as setbacks.

Michael Strader-Engineer with Quible & Assoc. on behalf of the adjoining property owner of the Ginguite Creek parcel. The Ginguite Creek parcel is zoned commercial, the Southern Shores Landing parcel is zoned commercial. It is legally a commercial property and the town's ordinance does specify that PUD's when they're approved as a conditional use in order for it to be conforming it needs to be within that commercial zone. They would like to be able to participate in the zoning text amendment that staff is working on. There shouldn't be just a fifty foot buffer placed in the amendment because there are currently houses that are 5-10 feet from the property line. Any mixed-use development project that's submitted today there is no buffer to that commercial zone parcel of Southern Shores Landing. There is a buffer from

the rear because that is a residential zone parcel but if a project application were submitted today there's not a buffer so any buildings parking could be right up to the property line. The developer is being encouraged to transition from commercial use to residential use, even though it is a commercial zone parcel. We are willing to work with the adjoining property owners and make some concessions but there needs to be some middle ground to the solution.

Matt Hubbard-Southern Shores Landing spoke again. The residents of Southern Shores Landing are looking for the 50-foot buffer. He stated whether it's putting a four-story or three-story apartment building or a parking lot, whether it is commercial or residential is no consequence to them, the outcome is all the same which is having this development right outside their back door. There is no virtual separation. They are looking for a 50-foot buffer that's afforded to residential communities.

Mayor Morey closed public comment and asked for a motion to go into closed session. Councilman Holland **moved** to go into closed session pursuant to N.C.G.S. § 143-318.11(a)(5) and N.C.G.S. § 143-318.11(a)(3), Seconded by Councilman Batenic. Motion passed unanimously (5-0).

2. Closed Session-Pursuant to N.C.G.S. § 143-318.11(a)(5) and N.C.G.S. § 143-318.11(a)(3)

Upon returning from closed session, council directed the following by consensus in open session:

1. Staff is to continue to research the impact of PUD's in our town.
2. Direct staff to update the zoning map to reflect the proper zoning district.
3. Direct staff to draft a zoning text amendment to address lot width measurements.

### Council Comments

Mayor Morey announced the next council meeting will occur on April 4, 2023, at 5:30 p.m.

### Adjourn

Council Member Batenic moved to adjourn, Seconded by Council Member Holland. The motion passed unanimously (5-0).

ATTEST:

  
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A. Elizabeth Morey, Mayor



Respectfully submitted,

  
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Sheila Kane, Town Clerk

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