



# 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: 10-29-18 Filing Fee: \$200 Receipt No. NIA Application No. 27A-18-09

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 info@southernshores-nc.gov

### Applicant's Representative (if any)

Name \_\_\_\_\_

Agent, Contractor, Other (Circle one)

Address \_\_\_\_\_

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

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

Address: \_\_\_\_\_ Zoning district \_\_\_\_\_

Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ Lot size (sq.ft.) \_\_\_\_\_

Request:  Site Plan Review  Final Site Plan Review  Conditional Use  Permitted Use  
 PUD (Planned Unit Development)  Subdivision Ordinance  Vested Right  Variance

Change To:  Zoning Map  Zoning Ordinance

W. H. Hunt  
Signature

10-29-18  
Date

\* Attach supporting documentation.



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ZTA-18-09

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

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the density of population and 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

**WHEREAS**, pursuant to N.C.G.S. § 160A-371 et seq. the Town may enact and amend ordinances regulating the subdivision of land within its territorial jurisdiction; and

**WHEREAS**, prior to the incorporation of the Town, many lots were created within its jurisdiction that have become nonconforming due to their lack of sufficient lot width and area. Over time the character and density of the Town have been developed such that many of these smaller nonconforming lots were built upon as if they were combined with one another. In recent years, the Town has seen a trend towards redevelopment of such informally combined parcels to the ends of breaking them back into the smaller nonconforming lots and building dwellings upon the nonconforming lots. Such redevelopment is inconsistent with the low density character of the Town; and

**WHEREAS**, the Town desires to manage the development of the Town in a manner which maintains the low density character of the Town and requires formal recombination of lots to current Town standards toward a goal of reducing the existence of nonconforming lots. Similarly, the Town desires to allow for existing nonconforming lots that are not otherwise adjacent to lots owned by the same person or entity to be developed rather than vacant and unusable. The Town further desires that a nonconforming lot which is adjacent to two or less nonconforming lots under the same ownership that contain a single-family dwelling be developable and able to be sold without requiring additional recombination; and

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

1  
2 **ARTICLE II. Construction.**  
3

4 For purposes of this ordinance amendment, underlined words (underline) shall be  
5 considered as additions to existing Town Code language and strikethrough words  
6 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the  
7 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses  
8 (“...”) shall remain as they currently exist within the Town Code.  
9

10 **ARTICLE III. Amendment of Zoning Ordinance.**  
11

12 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern  
13 Shores, North Carolina, that the Town Code shall be amended as follows:  
14

15 **PART I.** That subsection (a) of Sec. 36-132 Regulation of structures and uses be  
16 replaced in its entirety with the following:  
17

18 (a) *Nonconforming lots of record.*  
19

20 (1) Development and Sale of Certain Nonconforming Lots without  
21 Recombination: In any district in which single-family dwellings are permitted, a  
22 single-family dwelling and customary accessory building may be erected on any  
23 currently nonconforming single lot not under the same ownership as any adjacent  
24 lot and which met all legal requirements at the time of its creation and recording  
25 in the Dare County public registry if: (i) the lot is not under the same ownership  
26 as any adjacent lot; or (ii) the lot is located adjacent to land under the same  
27 ownership on which is located an existing single-family dwelling, and the  
28 adjacent land is made up of no more than two lots all of which are  
29 nonconforming. All applicable dimensional requirements other than lot area and  
30 lot width shall be met for development or redevelopment of such a lot except that  
31 a lot having a lot width of fifty (50) feet or less may use a side yard setback of  
32 twelve (12) feet. If a currently nonconforming single lot is located adjacent to  
33 land under the same ownership on which is located an existing single-family  
34 dwelling, and the adjacent land is made up of no more than two lots all of which  
35 are nonconforming, then the lot may be sold without being recombined with the  
36 remaining land if required by subsection (a)(2).  
37

38 (2) Recombination Required: If any of the following situations apply, all adjacent  
39 lots under the same ownership shall be recombined into: (i) a single lot which  
40 may or may not meet the minimum requirements for the district in which such lots  
41 are located; or (ii) multiple lots which all meet the minimum requirements for the  
42 district in which such lots are located:  
43

- 44 a. Development is proposed upon land ~~under the same ownership~~ which  
45 includes one or more nonconforming lots adjacent to one or more other  
46 lots under the same ownership;

1  
2 b. Demolition or redevelopment exceeding 50% of an existing structure's  
3 value is proposed and any portion of the existing structure or associated  
4 use is currently or has been within the previous seven (7) years located  
5 upon or occurring on two or more lots under the same ownership, as  
6 measured from the time of application;  
7

8 c. Development is proposed of a new structure or use to be located on two  
9 or more lots under the same ownership;  
10

11 d. Prior to the sale or transfer of land when any portion of the land being  
12 sold or transferred was a parcel or part of a parcel of land upon which an  
13 existing structure or associated use is currently or has been within the  
14 previous seven (7) years located upon or occurring on two or more lots  
15 under the same ownership, as measured from the time of application; or  
16

17 e. Prior to the sale or transfer of land including a nonconforming lot or lots  
18 adjacent to one or more other lots under the same ownership;  
19

20 A plat prepared by a North Carolina licensed surveyor showing the recombination  
21 shall be recorded in the Dare County public registry, and a copy of the  
22 recorded plat shall be provided to the Town prior to the issuance of a zoning or  
23 building permit for development or redevelopment upon any of the newly created  
24 lots. Lots created by a recombination required by this section shall be deemed to  
25 equal or exceed the standards of the Town under Chapter 30, and are exempt from  
26 the subdivision process under Chapter 30.  
27

28 (3) For purposes of this subsection (a), the term "same ownership" shall be  
29 construed broadly to effectuate the reduction of nonconforming lots within the  
30 Town. Land and lots under the same ownership shall include, but not be limited  
31 to, any of the following or any combination of the following:  
32

33 a. A lot is owned, in whole or in part, by an individual and another lot is  
34 owned by the same individual or by an Affiliate of the same individual;  
35 and/or,  
36

37 b. A lot is owned, in whole or in part, by a legal entity and another lot is  
38 owned by the same legal entity or by an Affiliate of the same legal entity.  
39

40 (4) For purposes of this subsection (a), the following definitions apply:  
41

42 a. An "Affiliate" of an owner shall mean:  
43

44 (i) In the case of an individual owner, a family member of the  
45 owner, or a legal entity controlled by the owner or a family  
46 member of the owner.

1  
2 (ii) In the case of a legal entity owner, an individual who controls  
3 the legal entity or their family member, ~~or~~ another legal entity  
4 controlled by the owner or controlled by a family member of any  
5 individual who controls the owner.  
6

7 b. "Controlled" or "controls" shall mean the power, by ownership,  
8 operation of law or contract, whether exercised or not, directly or  
9 indirectly, actually or effectively, to operate, supervise, or manage a legal  
10 entity, or to appoint or elect the management of the legal entity, or to  
11 otherwise direct the operation, supervision or management of the legal  
12 entity.  
13

14 c. "Family member" of an owner shall mean the owner's spouse, lineal  
15 descendants, siblings and parents whether related by blood or marriage.  
16

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

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

26 **ARTICLE V. Severability.**  
27

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

34 **ARTICLE VI. Effective Date.**  
35

36 This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of  
37 \_\_\_\_\_, 2018.  
38

39  
40 \_\_\_\_\_, Mayor  
41

42  
43 ATTEST:  
44  
45  
46 \_\_\_\_\_

1 Town Clerk  
2  
3  
4 APPROVED AS TO FORM:  
5  
6  
7  
8 \_\_\_\_\_  
9 Town Attorney  
10  
11 Date adopted:  
12  
13 \_\_\_\_\_  
14 Motion to adopt by Councilmember:  
15 \_\_\_\_\_  
16 Motion seconded by Councilmember:  
17  
18  
19

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