

**FINAL**



## Town of Southern Shores

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

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

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

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

**Planning Board Meeting**

**October 15, 2018**

**5:30 p.m., Pitts Center**

### MEETING MINUTES

#### I. CALL TO ORDER:

Chairperson Glenn Wyder called the meeting to order at 5:30 pm. Planning Board Members Joe McGraw, Elizabeth Morey, David Neal, Andy Ward, Glenn Wyder, Alternate Member Michael Basilone, Alternate Member Leo Holland, and Deputy Town Manager/Planning Director Wes Haskett were present.

#### II. PLEDGE OF ALLEGIANCE:

Chairperson Wyder led the Pledge of Allegiance.

#### III. APPROVAL OF AGENDA:

Chairperson Wyder reminded those in attendance that the general Public Comment periods during the meeting should be limited to three minutes and that all comments related to CUP-18-02 or ZTA-18-08 should be held until either item is addressed.

Andy Ward motioned to approve the agenda. David Neal seconded the motion. The motion passed unanimously (5-0).

#### IV. APPROVAL OF MINUTES:

Joe McGraw motioned to approve the minutes from the August 20, 2018 Planning Board meeting. Elizabeth Morey seconded the motion. The motion passed unanimously.

David Neal motioned to approve the minutes from the September 17, 2018 Planning Board meeting. Andy Ward seconded the motion. The motion passed unanimously.

#### V. PUBLIC COMMENT:

Ann Sjoerdsma stated that SAGA Construction and Development is proposing to construct a 12 bedroom home at 98 Ocean Blvd. and 134 Ocean Blvd. and asked the Board to consider taking the lead and scheduling a Special Meeting to discuss the related issues. The Town Council has scheduled a Special Meeting to be held on November 7, 2018 at 10:00 a.m.

#### VI. NEW BUSINESS:

A. CUP-18-02: Conditional Use Permit application submitted by the Southern Shores Volunteer Fire Department to construct a new fire station at 15 S. Dogwood Trl.

Chairperson Wyder introduced the application and called on Wes Haskett to present the Staff Report (attached).

Elizabeth Morey asked if the cost of building a new fire station would be one of the most expensive projects the Town has undertaken and how long the structure will last.

Wes Haskett stated that he believed that replacing the fire station would not be the most expensive project the Town has undertaken when considering the canal dredging and beach nourishment projects and that he had not determined the lifespan of the structure.

Joe Avolis, Avolis Engineering P.A., stated that he had nothing to add to the Staff Report and would answer questions from the Board.

Elizabeth Morey asked about the proposed stormwater system and if the project was designed to be a "green building". Joe Avolis stated that the stormwater system was designed for a 1.5 inch rain event to be in compliance with the Town's stormwater requirements and that the system is designed to be located underground. All of the water used by the fire station will be kept on site in the system. The architect's firm, Stewart, Cooper, Newell Architects, is LEED certified.

Chairperson Wyder stated that he was concerned with maintenance of the stormwater system and asked how it would be handled. Joe Avolis stated that for prevention, stormwater could flow into the proposed catch basins which could possibly fill with sand to the point of clogging and the Town's Public Works Department could maintain them.

David Neal asked about the current apparatus and other equipment currently used by the Fire Dept. and why there was a discrepancy in the plans and the Staff Report regarding the building's size. Chief Limbacher described the current apparatus and equipment and stated that the overhangs and mezzanine were not included in the building footprint on the plans.

Chairperson Wyder opened the floor for Public Comments.

Ann Sjoerdsma stated that she had spoken to the architect and the building is intended to last 50 years. She stated that the firm has designed many fire stations and that she was impressed.

Chairperson Wyder closed the floor for Public Comments.

Chairperson Wyder stated that in order for the Board to recommend approval of the application, the Board must make affirmative findings on the four criteria in the Staff Report and called for a vote on each criterion:

- a. The applicant has met the requirements of the applicable provisions of the Town Chapter pertaining to Zoning, Subdivision Chapter, and all other applicable Ordinances. The Board voted 5-0 in the affirmative.
- b. That the use as proposed will conform with the Town's Land Use Plan, and will be compatible with the area in which it is to be located, if developed in accordance with the conditions specified in the Chapter and additionally required by the Town Council as authorized by the Chapter. The Board voted 5-0 in the affirmative.
- c. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan submitted. The Board voted 5-0 in the affirmative.
- d. That the use as proposed will not overburden the Town Volunteer Fire Department fire-fighting capabilities and the County water supply capacity to the Town, as said facilities and capabilities will exist on the completion date of the

conditional use for which the application is made. The Board voted 5-0 in the affirmative.

David Neal motioned to recommend approval of CUP-18-02 with the conditions included in the Staff Report to the Town Council. Elizabeth Morey seconded the motion. The motion passed unanimously.

B. ZTA-18-08: Zoning Text Amendment application submitted by Finch and Company, Inc. to amend the Southern Shores Town Code by amending Section 36-202, (d), (7), building height requirements.

Chairperson Wyder introduced the application and called on Wes Haskett to present the Staff Report (attached).

Andy Ward and Elizabeth Morey asked about the Town's current flood requirements and the Board discussed the Town's freeboard requirement and the use of fill and how it affects construction.

Marc Murray, the Applicant's Representative, gave a brief overview of the application and stated that he would answer any questions from the Board.

The Board continued discussion of fill and began discussing how the proposed language would apply to the home that the Applicant is currently building on Woodland Dr.

Chairperson Wyder open the floor for Public Comments.

Ann Sjoerdsma stated that she lived adjacent to the home that is currently under construction and that the proposed ZTA is confusing. The Town amended the building height requirements in 2017 and it was done without much consideration following an attempt by another local builder. The entire ordinance needs to be reviewed and considered again.

Chairperson Wyder closed the floor for Public Comments.

Chairperson Wyder reminded the Board that the Board should consider the proposed language as it applies to the entire RS-1 zoning district and not just the location of the home that is currently under construction.

Elizabeth Morey stated that the Board should spend more time discussing building height requirements and not make a recommendation on the application to the Town Council at this time.

The Board discussed their concerns with the proposed language and the existing building height requirements and agreed that the issue needs to be addressed following more research and discussion.

Elizabeth Morey motioned to table a recommendation on the application to the Town Council. Andy Ward seconded the motion. The motion passed unanimously.

**VII. PUBLIC COMMENT:**  
None.

**VIII. PLANNING BOARD MEMBER COMMENTS:**

Elizabeth Morey stated that the new fire station is a significant expense for the Town which should last at least 50 years and should meet the standards of a "green building".

Andy Ward addressed the proposed 12 bedroom home at 98 Ocean Blvd. and stated that the Town needs to consider addressing the issue by limiting density with septic capacity.

David Neal agreed with Elizabeth Morey and also addressed the proposed 12 bedroom home at 98 Ocean Blvd. The Town is at a crossroads with bigger homes and more people and it affects the character of the Town.

Chairperson Wyder stated that he had been in conversation with some of the Town Council members and the Town needs to do what is right. More research needs to be done because there could be legal ramifications. This is an issue in which all are like minded. The Planning Board will do its due diligence and the Town Council will do theirs.

**IX. ANNOUNCEMENTS:**

Chairperson Wyder announced that the next scheduled Planning Board meeting is November 26, 2018.

**X. ADJOURNMENT:**

Joe McGraw motioned to adjourn. Elizabeth Morey seconded the motion. The motion passed unanimously and the meeting adjourned at 7:20 p.m.

ATTEST:

  
Elizabeth Morey, Vice Chairperson

RESPECTFULLY SUBMITTED:

  
Wes Haskett, Deputy Town  
Manager/Planning Director

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** September 17, 2018  
**Case:** CUP-18-02  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

**GENERAL INFORMATION**

**Applicant:** Southern Shores Volunteer Fire Dept.  
 15 S. Dogwood Trl.  
 Southern Shores, NC 27949

**Representative:** Avolis Engineering, PA (Joseph C. Avolis, PE, PLS)  
 P.O. Box 15564  
 New Bern, NC 28561

**Requested Action:** Conditional Use Permit application to construct a new fire station at 15 S. Dogwood Trl.

**PIN #:** 986718406372

**Location:** 15 S. Dogwood Trl. and Portion of 27 Pintail Trl.

**Zoning:** R-1, Low-density Residential District

**Existing Land Use:** “Residential”

**Surrounding Land Use & Zoning:**

**North-** Residential; RS-1 Single-family Residential District

**South-** Residential; RS-10 Residential District

**East-** Educational; R-1, Low-density Residential District

**West-** Municipal; R-1, Low-density Residential District

**Physical Characteristics:** Developed

**Applicable Regulations:** Town Zoning Ordinance: Article III, Interpretation and Definition of Terms; Article IV, Application of Regulations; Article VI, General Provisions; Article VII, Schedule of District Regulations; Article X, Administration and Enforcement.

**ANALYSIS**

The applicant seeks a Conditional Use Permit to construct a 14,376 sq. ft. fire station at 15 S. Dogwood Trl and on a portion of 27 Pintail Trl. Parking for the proposed fire station is shown on site as well as in the Town right-of-way along Pintail Trl. as allowed by ZTA-18-03 which was adopted on July 10, 2018. The site plan also incorporates a reduced north side yard setback requirement (10 ft.) and reduced rear yard setback requirement (0 ft.) which were also established in ZTA-18-03. The applicable lot coverage requirement for fire stations is 85% and the site plan is proposing a total of 78.4%

Fire stations are a permitted use in the R-1, Low-density Residential District provided that a Conditional Use Permit is granted by the Town Council following a recommendation made by the Town Planning Board. In granting any Conditional Use Permit, the Town Council may

prescribe appropriate conditions and safeguards in conformity with Article X, Administration and Enforcement. Before granting any Conditional Use Permit, the Town Council shall make affirmative findings that:

- a. The applicant has met the requirements of the applicable provisions of the Town Chapter pertaining to Zoning, Subdivision Chapter, and all other applicable Ordinances.
- b. That the use as proposed will conform with the Town's Land Use Plan, and will be compatible with the area in which it is to be located, if developed in accordance with the conditions specified in the Chapter and additionally required by the Town Council as authorized by the Chapter.
- c. That the use will not materially endanger the public health and safety if located where proposed and developed according to the plan submitted.
- d. That the use as proposed will not overburden the Town Volunteer Fire Department fire-fighting capabilities and the County water supply capacity to the Town, as said facilities and capabilities will exist on the completion date of the conditional use for which the application is made.

**RECOMMENDATION**

The Land Use Plan identifies this area as Residential in the R-1, Low-density Residential District which is consistent with the improvements proposed in the application. All applicable regulations of the Town Zoning Ordinance and all of Town Staff’s concerns that are applicable to this application have been identified or are addressed in the recommended conditions. Should the Board recommend approval of the application to the Town Council, Town Staff offers the following conditions for consideration:

- 1. The following permits shall be issued prior to submittal of a Building Permit application:
  - a. Stormwater General Permit as required by NCDEQ;
  - b. Erosion Control Approval as required by NCDEQ;
  - c. Improvement Permit and Authorization to Construct a new wastewater collection, treatment and disposal system as issued by the DCHD and reviewed and approved by the NCDHHS (if applicable);
- 2. The applicant must strictly abide by all requirements of the Town Code and must also strictly comply with all other applicable local, State, and Federal requirements.

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** October 8, 2018  
**Case:** ZTA-18-08  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

**GENERAL INFORMATION**

**Applicant:** Finch & Co. Inc.  
 116 Sandy Ridge Rd.  
 Duck, NC 27949

**Representative:** Marc Murray  
 Finch & Co. Inc.  
 116 Sandy Ridge Rd.  
 Duck, NC 27949

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-202, RS-1, Single-family Residential zoning district.

**ANALYSIS**

The applicant is requesting to amend Southern Shores Town Code by amending Section 36-202, (d), (7), b. building height requirements. Section 36-202, (d), (7), b. currently states: For properties in an AE flood zone, maximum building height shall be 35 feet measured from the average of the corners of original grade. The use of fill or redistribution of fill shall not exceed the average elevation. The use of fill or redistribution of fill may be permitted up to 7 feet above mean sea level (msl) which is then used as the starting point for calculating the elevation. The applicant is proposing to amend the language so that the use of fill or redistribution of fill may be permitted up to the regulatory flood protection elevation.

Chapter 16 of the Town Code, Flood Damage Prevention, establishes the Town’s requirements for development FEMA and State established flood zones. The regulatory flood protection elevation is defined as the base flood elevation plus freeboard. Freeboard is defined as the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the base flood elevation plus two feet of freeboard.

In an AE 7 flood zone, the current height requirement of restricting the use of fill or redistribution of fill up to 7 feet above msl. can result in prohibiting a property owner/contractor from elevating the first floor of living space in a structure to the regulatory flood protection elevation of 9 feet above msl. which is a two-foot difference. In an AE 9 flood zone, the current height requirement of restricting the use of fill or redistribution of fill up to 7 feet above msl. can result in prohibiting a property owner/contractor from elevating the first floor of living space in a structure to the regulatory flood protection elevation of 11 feet above msl. which is a four-foot difference.

The Town's currently adopted Land Use Plan contains the following Policies and Action Items that are applicable to the proposed amendments:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low density (1–3 units per acre) (see Map 13 Land Use Densities) residential community comprised of single family dwellings on large lots (20,000 square feet or larger) served by a small commercial district (56 acres out of 2,175 acres) 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 amendment is consistent with the Town's currently adopted Land Use Plan and Town Staff recommends that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.