



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: 5 / 16 / 19

Filing Fee: \$200

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

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 261-2394 Email whiskett@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

Whiskett
Signature

5-16-19
Date

* Attach supporting documentation.



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ZTA-18-09 PB01

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 desires that a nonconforming lot which is adjacent to a single conforming lot containing a single-family dwelling which was created after January 1, 2015 due to a recombination of two nonconforming lots under the same ownership be developable and able to be sold without requiring additional recombination

1
2 **WHEREAS**, the Town further finds that in accordance with the findings above it
3 is in the interest of and not contrary to the public's health, safety, morals and general
4 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of
5 Ordinances as stated below.

6
7 **ARTICLE II. Construction.**

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

14
15 **ARTICLE III. Amendment of Zoning Ordinance.**

16
17 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern
18 Shores, North Carolina, that the Town Code shall be amended as follows:

19
20 **PART I.** That subsection (a) of **Sec. 36-132 Regulation of structures and uses** be
21 replaced in its entirety with the following:

22
23 (a) *Nonconforming lots of record.*

24
25 (1) *Development and Sale of Certain Nonconforming Lots without Recombination:*
26 In any district in which single-family dwellings are permitted, a single-family
27 dwelling and customary accessory building may be erected on any currently
28 nonconforming single lot ~~not under the same ownership as any adjacent lot and~~
29 which met all legal requirements at the time of its creation and recording in the
30 Dare County public registry if:

- 31
32 (i) the lot is not under the same ownership as any adjacent lot;
33
34 (ii) the lot meets or exceeds the lot area requirements for the district and is
35 located adjacent to a single conforming lot under the same ownership on
36 which is located an existing single-family dwelling;
37
38 (iii) the lot is one of three or less adjacent nonconforming lots under the
39 ownership of related siblings on September 5, 2018; or
40
41 (iv) the lot is located adjacent to land under the same ownership on which is
42 located an existing single-family dwelling, and the adjacent land is made up
43 of:
44
45 a. no more than two lots all of which are nonconforming; or
46

- 1 b. a single conforming lot not adjacent to any other land under the same
2 ownership that was created after January 1, 2015 due to a recombination
3 of two (2) previously nonconforming lots.
4
5

6 If a currently nonconforming single lot meets the requirements of subsection
7 (a)(1)(i), (ii), (ii) or (iv) then the lot may be sold without being recombined with
8 the remaining land if recombination would have been required by subsection (a)(2)
9 below. All applicable dimensional requirements other than lot area and lot width
10 shall be met for development or redevelopment of such a lot except that a lot having
11 a lot width of fifty (50) feet or less may use a side yard setback of twelve (12) feet.
12

13 (2) *Recombination Required:* If any of the following situations apply, all adjacent
14 lots under the same ownership shall be recombined into: (i) a single lot which may
15 or may not meet the minimum requirements for the district in which such lots are
16 located; or (ii) multiple lots which all meet the minimum requirements for the
17 district in which such lots are located:
18

19 a. Development is proposed upon land ~~under the same ownership~~ which
20 includes one or more nonconforming lots adjacent to one or more other lots
21 under the same ownership;
22

23 b. Demolition or redevelopment exceeding 50% of an existing structure's
24 value is proposed and any portion of the existing structure or associated use
25 is currently or has been within the previous seven (7) years located upon or
26 occurring on two or more lots under the same ownership, as measured from
27 the time of application;
28

29 c. Development is proposed of a new structure or use to be located on two
30 or more lots under the same ownership;
31

32 d. Prior to the sale or transfer of land when any portion of the land being
33 sold or transferred was a parcel or part of a parcel of land upon which an
34 existing structure or associated use is currently or has been within the
35 previous seven (7) years located upon or occurring on two or more lots
36 under the same ownership, as measured from the time of application; or
37

38 e. Prior to the sale or transfer of land including a nonconforming lot or lots
39 adjacent to one or more other lots under the same ownership;
40

41 A plat prepared by a North Carolina licensed surveyor showing the recombination
42 shall be shall be recorded in the Dare County public registry, and a copy of the
43 recorded plat shall be provided to the Town prior to the issuance of a zoning or
44 building permit for development or redevelopment upon any of the newly created
45 lots. Lots created by a recombination required by this section shall be deemed to
46 equal or exceed the standards of the Town under Chapter 30, and are exempt from

1 the subdivision process under Chapter 30.

2
3 (3) For purposes of this subsection (a), the term “same ownership” shall be
4 construed broadly to effectuate the reduction of nonconforming lots within the
5 Town. Land and lots under the same ownership shall include, but not be limited to,
6 any of the following or any combination of the following:
7

8 a. A lot is owned, in whole or in part, by an individual and another lot is
9 owned by the same individual or by an Affiliate of the same individual;
10 and/or,
11

12 b. A lot is owned, in whole or in part, by a legal entity and another lot is
13 owned by the same legal entity or by an Affiliate of the same legal entity.
14

15 (4) For purposes of this subsection (a), the following definitions apply:
16

17 a. An “Affiliate” of an owner shall mean:
18

19 (i) In the case of an individual owner, a family member of the owner,
20 or a legal entity controlled by the owner or a family member of the
21 owner.
22

23 (ii) In the case of a legal entity owner, an individual who controls
24 the legal entity or their family member, ~~or~~ another legal entity
25 controlled by the owner or controlled by a family member of any
26 individual who controls the owner.
27

28 b. “Controlled” or “controls” shall mean the power, by ownership, operation
29 of law or contract, whether exercised or not, directly or indirectly, actually
30 or effectively, to operate, supervise, or manage a legal entity, or to appoint
31 or elect the management of the legal entity, or to otherwise direct the
32 operation, supervision or management of the legal entity.
33

34 c. “Family member” of an owner shall mean the owner’s spouse, lineal
35 descendants, siblings and parents whether related by blood or marriage.
36

37 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**
38 **Reasonableness.**
39

40 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted
41 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
42 is applicable. For all of the above-stated reasons and any additional reasons supporting the
43 Town’s adoption of this ordinance amendment, the Town considers the adoption of this
44 ordinance amendment to be reasonable and in the public interest.
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 _____, Mayor

15
16
17 ATTEST:

18
19
20 _____
21 Town Clerk

22
23
24 APPROVED AS TO FORM:

25
26
27 _____
28 Town Attorney

29
30 Date adopted:

31
32 _____
33 Motion to adopt by Councilmember:

34 _____
35 Motion seconded by Councilmember:

36
37
38
39 Vote: ___AYES___NAYS