



Town of Southern Shores  
Regular Council Meeting  
September 5, 2018

The Town of Southern Shores Town Council met in the Pitts Center located at 5377 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, September 5, 2018.

**COUNCIL MEMBERS PRESENT:** Mayor Bennett, Mayor pro tem Chris Nason and Council Members Fred Newberry, Jim Conners and Gary McDonald.

**COUNCIL MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Attorney Ben Gallop, Town Manager Peter Rascoe and Town Clerk Sheila Kane

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE**

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a moment of silence.

**AMENDMENTS / APPROVAL OF AGENDA**

**MOTION:** Mayor pro tem Nason moved to approve the September 5, 2018 agenda as presented. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

**CONSENT AGENDA**

The consent agenda consisted of the following items:

- Council Meeting Minutes – August 7, 2018
- 2018 Dare County Interlocal Agreement – Declared Disaster Debris Removal
- For Acknowledgement Purposes Only - Report of bid tabulation sheet for Town Manager's Contract Award to RPC Contracting, Inc. for construction of East Dogwood Trail Walking Path
- For Acknowledgement Purposes Only - Report of bid tabulation sheet for Town Manager's Contract Award to RPC Contracting, Inc. for capital improvements to Yaupon Trail

**MOTION:** Councilman Conners moved to approve the consent agenda as presented. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

## **STAFF REPORTS**

The following Department Heads presented Department reports for the month:

- Town Planner Wes Haskett presented the Planning Department's monthly report for August. On September 25<sup>th</sup> at 9:00 a.m. the Historic Landmarks Commission will meet to discuss 170 Ocean Blvd. "Pink Perfection". The Planning Board will be meeting on September 17<sup>th</sup> to review a conditional use permit submitted by the SSVFD to construct a new fire station. The Planning Board may also discuss ZTA-18-07 and ZTA-18-07A proposal to amend the Town Zoning Ordinance by amending Section 36-132, Regulation of Structures and Uses Nonconforming to address the development of legally nonconforming lots.
- Police Chief David Kole presented a monthly report for August.
- Fire Chief Limbacher presented the Fire Department's monthly report for August.
- The Town Manager presented the Manager's report and addressed several matters:
  - The East Dogwood Trail walking trail has been started and has a completion date of January 23, 2019
  - Yaupon Trail capital improvement project construction to begin October 15<sup>th</sup> with a completion date of May 15, 2019.
  - The specs are out on the Juniper Trail project and bids are expected September 25<sup>th</sup>.
  - Staff is monitoring Hurricane Florence.
  - Public Works continues with pothole recovery Town wide.
  - The budgeted Facilities Assessment for Town facilities will begin next week
  - An update report – the beach vulnerability update survey is 30% complete and the beach management plan is 5% complete.

Mayor pro tem Nason commented that the East Dogwood Trail walking path bid came in significantly below the engineer's estimate.

## **GENERAL PUBLIC COMMENT**

Mayor Bennett called for public comment and the following citizens offered comment:

1. Pat Broom-representing the Outer Banks Chamber of Commerce-advocate for year around rental housing,
2. Jim Groff-102 South Dogwood-South Dogwood Trail needs to be repaired or replaced, erosion, not wide enough, needs curbing and guttering, analyze cost of repaving verses rebuilding. It will be costly but it is what it is.
3. Dan Lewis-OBX Restaurant Association-housing crisis is real, not only for restaurants but teachers. The year around housing for the community must be addressed.
4. Matt Neal-163 Wax Myrtle-housing crisis-have Planning Board look at options, they can deny it but at least look at it

## **OLD BUSINESS**

None

**NEW BUSINESS**

**MOTION TO CANCEL REGULAR MEETING OF OCTOBER 2, 2018 DUE TO LACK OF AGENDA ITEMS**

**MOTION:** Mayor Bennett moved to cancel the regular meeting of October 2, 2018 due to lack of agenda items. The motion was seconded by Councilman Conners. The motion passed 3-2 Mayor Bennett, Mayor pro tem Nason and Councilman Conners voting affirmative; Councilman Newberry and Councilman McDonald opposing.

**Next Agenda Item:**

**SSVFD ARCHITECT'S BRIEFING ON DESIGN PLANS FOR POSSIBLE NEW FIRE STATION**

Southern Shores Volunteer Fire Departments' architect Ken Newell of Stewart Cooper Newell Architects presented the design plans for the potential future fire station. These design plans will be used to go out to bid for a construction contract cost.

Councilman Newberry asked if there was an updated cost estimate and/or are there any other alternatives.

Mr. Newell stated the Fire Department conducted a needs assessment and building evaluation about two years and it was determined that a renovation would not be cost sensitive. The existing structure has a number of problems, does not satisfy functionally, and does not meet the current code requirements of essential facilities.

Mr. Newell addressed the updated cost estimate by stating the construction bid climate is extremely volatile and with a wide range of results. He estimates to expect to see a range of \$3.25 through \$4.25 sq. ft. The total square footage of the proposed fire station is just over 13,000 sq. ft.

Councilman Conners inquired if the bid advertisement would be available to local contractors. Mr. Newell stated the bid request will be publicly advertised. This will include local and state-wide advertisement.

Council took no action.

**Next Agenda Item:**

**ZONING TEXT AMENDMENT ZTA-18-04**

Mayor Bennett called on Planning Board Chair Glenn Wyder to report on the zoning text amendments before the Council this evening. Mr. Wyder stated the Planning Board researched above and beyond in their due diligence on both ZTA 18-04 and ZTA 18-07 / ZTA 18-07A

Chairman Wyder reported the following:

In the regular Planning Board meeting of Monday, August 20, 2018 they discussed two (2) Zoning Text Amendments: ZTA-18-07A and ZTA-18-04 both of which had been previously discussed in their current form or in the case of 18-07A, a reworked version of the previously discussed ZTA-18-07.

Looking to the future, these two ZTA's are very important issues regarding land use here in Southern Shores and the Planning Board went above and beyond in their research and due diligence regarding both items. As a Board they took a systematic approach to the analysis of the information presented in both applications. The results of that analysis resulted in the following recommendations:

ZTA-18-04, a proposed rewrite of Section 36-202 (d) of the Town of Southern Shores Code of Ordinances.

This ZTA was a bit complicated by the fact that it has eight (8) points of discussion, six (6) of which are additional language to the current code. In an effort to address these proposed points of new language, the Chairman determined that the most efficient way to do so was to address one at a time and then call for a vote of the Board on that single point then move on to the next one. Following is the result of that vote:

Given the fact that this ZTA in various forms has been discussed dating back to August 7, 2017 and four (4) times following that date, it is our hope that the recommendation to follow will be adopted by the Town Council and will finally put this issue to rest.

The Planning Board had no issues with the first two (2) points, that is (6a) and (6b) as they are in the current Town Code. There was vigorous discussion and significant research done and presented by the Board members regarding (6c) – (6h). Following is the result of the votes on the individual points:

*(6c) Pervious materials and turf stone pavers for driveways and parking areas contribute 50% to lot coverage. 5-0 vote to remove this from proposed ZTA-18-04.*

*(6d) Gravel walkways shall not contribute to lot coverage. 5-0 vote to remain in proposed ZTA-18-04*

*(6e) The outermost four (4) feet of eaves shall not contribute to lot coverage. 5-0 vote to remove from proposed ZTA-18-04.*

*(6f) Up to 500 sq. ft. of the water area of swimming pools shall not contribute to lot coverage. 5-0 vote to remove from proposed ZTA-18-04.*

*(6g) Open slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint of the area of the attached SFD, shall not contribute to lot coverage. 3-2 vote to remain in proposed ZTA-18-04*

*(6h) Those allowances and/or exemptions listed in subsection g of this paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling or attached open slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification for a lot disturbance*

**and storm water management permit as described in Sec. 36-171 (3) of the Town Code of Ordinances. 5-0 vote to remain in proposed ZTA-18-04 as written above (omitting "and h" and "or adjacent swimming pools").**

It is the unanimous vote of the Planning Board that ZTA-18-04, with the above recommended amendments, is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable.

Town Attorney Gallop opened the public hearing on ZTA-18-04.

Town Planner/ Deputy Town Manager Wes Haskett reported that Chairman Wyder did a good job summarizing the recommended amendments. The Town staff report consisted of the following:

At the August 7, 2017 Special Planning Board meeting, the Town Planning Board unanimously recommended approval (4-0) of the proposed language to amend the Town Zoning ordinance to establish new lot coverage requirements which was subsequently denied (3-2) by the Town Council on September 5, 2017. On February 6, 2018, the Town Council voted (3-2) to send the proposed language back to the Planning Board for reconsideration with additional proposed language. On April 16, 2018 the Planning Board reconsidered the proposed language as ZTA-18-04 and unanimously recommended approval (4-0) of the application to the Town Council. On July 10, 2018, the Town Council unanimously voted (5-0) to send ZTA-18-04 back to the Planning Board for further consideration. The proposed amendments in ZTA-18-04 would establish the following changes in how lot coverage is calculated in the RS-1, Single-family Residential zoning district:

- c. Pervious materials and turfstone/pavers for driveways and parking areas contribute 50% to lot coverage.
- d. Gravel walkways shall not contribute to lot coverage.
- e. The outermost 4 feet of eaves shall not contribute to lot coverage.
- f. Up to 500 square feet of the water area of swimming pools shall not contribute to lot coverage. (The Board voted 2-2 to delete this amendment at the April 16, 2018 Planning Board meeting which resulted in no recommendation but was still included)
- g. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.
- h. Those allowances and/or exemptions listed in sub-sections g. and h. of this-paragraph (6) shall be available only to an applicant for a building/zoning

permit for a single-family dwelling, or adjacent swimming pool, or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

On August 20, 2018, the Planning Board recommended approval of the following amendments in ZTA-18-04:

c. Gravel walkways shall not contribute to lot coverage.

d. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.

e. Those allowances and/or exemptions listed in sub-section d. of this paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

Town Planner/Deputy Town Manager Wes Haskett reported Town Staff and the Town Planning Board have determined that the proposed amendments recommended at the August 20, 2018 Planning Board meeting are consistent with the Town's currently adopted Land Use Plan and the Town Planning Board recommended approval of the application as amended (5-0).

Town Attorney Gallop opened public comment and the following citizen spoke:

1. Gerri Sullivan-31 10<sup>th</sup> Avenue-expressed appreciation to the Planning Board and urged Council to adopt the Planning Board's recommendation.

Town Attorney Gallop closed the public hearing and called on Council for deliberation.

Councilman McDonald stated the ordinance should be left as currently written.

Councilman Newberry agreed with Councilman McDonald, but then stated the Planning Board put a lot of research and work into the text amendment and he is willing to compromise and vote for the proposed zoning text amendment as recommended by the Planning Board.

**MOTION:** Following discussion, Mayor pro tem Nason moved to adopt ZT-18-04 as recommended by the Planning Board. The motion was seconded by Councilman Conners. The motion passed (4-1) Mayor Bennett, Mayor pro tem Nason, Councilman Conners and Councilman Newberry voting affirmative; Councilman McDonald opposing.

**Next Agenda Item:**

**ZONING TEXT AMENDMENT ZTA-18-07A / ZTA-18-07**

Planning Board Chair Glenn Wyder reported the following:

ZTA-18-07A, a proposed rewrite of Section 36-132 (a) of the Town of Southern Shores Code of Ordinances.

In the rewrite the Board unanimously agreed that all aspects of Paragraph (2) addressed the growing concern regarding the tear down of a house currently standing on two (2) non-conforming lots, then building two (2) houses on each of said nonconforming lots.

It is Paragraph (1) that raised the Planning Board's concern about the viability of this ZTA. After much discussion and presentation of significant research, it was determined that Paragraph (1) completely missed the issue of parcels of land with one owner that consisted of multiple non-conforming, lots that could conceivably be sold off as single lots, having multiple houses built on said parcels. This was determined to be an enormous loophole that would be taken advantage of by individuals who have absolutely no regard for the Town's currently adopted Land Use Plan which contains the following 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.*

It is for that reason that the Planning Board unanimously rejected ZTA-18-07A, and if given the choice of one or the other the Planning Board is recommending the Town Council revert to the original ZTA-18-07. Of course, the original does have some flaws regarding single non-conforming lot owners that the Planning Board believes should be further considered and the Planning Board is more than willing to discuss that at its September 17<sup>th</sup> meeting.

It is the unanimous vote of the Planning Board that ZTA-18-07A is NOT consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable.

Town Attorney Gallop explained that this is essentially a second reading of proposed ZTA -18-07. Town Attorney Gallop opened the public hearing on ZTA 18-07A and called on comment:

1. Ann Sjoerdsma-69 Hickory Trail-two ZTA's should be combined, they both need some tweaking and recommends sending ZTA -18-07 be referred back to the Planning Board.

Town Attorney Gallop closed the public hearing.

Councilman McDonald stated most of the Council members attended the recent Planning Board meeting in which great time, effort, and research went into working on the proposed zoning text amendment. He stated Council should pass ZTA 18-07, but then request the Planning Board to work on it more.

Mayor pro tem Nason did not think Council should vote on the zoning text amendment if it is not ready.

Councilman Newberry and Councilman Conners both felt that the proposed zoning text amendment needed to be passed as a preventative measure, but also referred back to the Planning Board for further work.

**MOTION:** Immediately following the public hearing, Councilman Conners moved to adopt ZTA-18-07. The motion was seconded by Mayor Bennett. The motion passed (4-1) Mayor Bennett, Councilman Conners, Councilman Newberry and Councilman McDonald voting affirmative; Mayor pro tem Nason opposing.

By Consensus of all Council, ZTA-18-07, as now enacted as a part of the Town Code of Ordinances, is referred to the Planning Board for further consideration and recommendation.

**Next Agenda Item:**

**APPOINTMENT OF RECONSTRUCTION TASK FORCE**

**MOTION:** Mayor Bennett nominated the Mayor, Mayor pro tem, Planning Board Chair Glenn Wyder, Andy Ward as the Board of Adjustment Member, and Chandler Spawr to serve as the Realty /Construction Community Representative, all to serve on the Reconstruction Task Force. Councilman McDonald suggested Realty/Construction Representative Matt Neil in place of Chandler Spawr. Mayor Bennett agreed to amend his nomination motion. The motion was seconded by Councilman Conners. The motion passed unanimously (5-0).

**GENERAL PUBLIC COMMENT**

Mayor Bennett called for public comment and no citizens offered comment.

**MAYOR COMMENTS & COUNCIL COMMENTS**

Mayor Bennett thanked Ocean Rescue Director Mirek Dabrowski and Community Resource Officer Kimberly Johnson for work well done this summer.

Councilman Newberry reiterated his appreciation for the work of the Planning Board.

Councilman Conners stated he will be approaching the County about the possibility of establishing a branch library in Southern Shores.

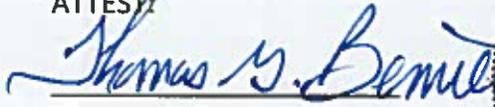
**CLOSED SESSION**

**MOTION:** Mayor Bennett moved to go into closed session pursuant to NCGS § 143-318.11(6) for purpose of considering qualifications, competence, performance, character, and fitness of an employee. The motion was seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

**ADJOURN**

**Motion:** Upon returning from closed session, Councilman McDonald moved to adjourn the meeting. The motion was seconded by Mayor Bennett. The motion passed unanimously (5-0). The time was 7:30 pm.

ATTEST:



Thomas G. Bennett, Mayor



Respectfully submitted,



Sheila Kane, Town Clerk





**PUBLIC HEARING**  
**September 5, 2018**

**Public Hearing-Agenda Item 5.C**

Consider ZTA-18-04, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend Town Code Sec. 36-202, RS-1 Single-family Residential District, to establish new lot coverage requirements.

<b>NAME (PRINT)</b>	<b>ADDRESS</b>
GERI SULLIVAN	31 TENTH AVENUE



# The Outer Banks Chamber of Commerce

*Serving Currituck and Dare Counties, Ocracoke Island*

P.O. Box 1757 • 101 Town Hall Drive • Kill Devil Hills, NC 27948

252.441.8144 *Voice* • 252.441.0338 *Fax*

[info@outerbankschamber.com](mailto:info@outerbankschamber.com)

Wednesday, September 5, 2018

Mayor Tom Bennett  
Mayor Pro Tem Chris Nason  
Councilman Jim Conners  
Councilman Fred Newberry  
Councilman Gary McDonald  
5375 N. Virginia Dare Trail  
Southern Shores, NC 27949

Dear Southern Shores Town Council,

The housing crisis on the Outer Banks is real; help wanted signs are seen everywhere and we hear from businesses daily about their inability to find workers. This is not just a seasonal challenge, it has become a year-round one. Professional jobs go unfilled at our hospital and in our healthcare system; people are hired but can't find reasonably priced housing options so they leave. The community college is trying to offer technical classes but can't find instructors for the same reasons.

The Outer Banks Chamber of Commerce formed a committee in the spring of 2017 to look into the challenge of housing for our community; this includes not only seasonal workforce housing but year-round rentals and reasonably priced single-family homes. The committee includes stakeholders from around the OBX region.

We learned early on that zoning is one of the core issues when it comes to addressing the housing crisis. A number of current zoning ordinances in the county and towns make addressing this critical issue difficult. With this in mind the Chamber and its committee have been reviewing current ordinances to determine where changes can allow for less restrictive lot sizes and higher densities for development in appropriate areas thus creating opportunities for private developers to address the housing crisis. Together, we can ensure that our community has the services it needs, backed by skilled, competent, and caring people.

Following are several items that have been identified; we would like to ask the Town Council to direct the Planning Director and/or Planning Board to review these requests and report back to you with any suggested revisions.

*Simply Connecting*  
Since 1974 the **Outer Banks**

[www.outerbankschamber.com](http://www.outerbankschamber.com)



# The Outer Banks Chamber of Commerce

*Serving Currituck and Dare Counties, Ocracoke Island*

P.O. Box 1757 • 101 Town Hall Drive • Kill Devil Hills, NC 27948

252.441.8144 *Voice* • 252.441.0338 *Fax*

[info@outerbankschamber.com](mailto:info@outerbankschamber.com)

## Definitions:

- Add or amend definition for Accessory Dwelling Unit as a secondary dwelling unit established on one parcel in conjunction with a principal dwelling unit. Accessory Dwelling shall be of a defined size (need to determine). An accessory dwelling unit may be included as part of the principal dwelling unit by an enclosed walkway, or entirely detached from the principal dwelling unit.
- Add a definition for long term rentals (occupancy) as a residential dwelling that is occupied and used for residency and housekeeping purposes for a period of 31 days or more.
- Add a definition short term occupancy as a residential dwelling that is used and/or advertised through online media or any means of advertising for occupancy for a period of 30 days or less.

## Accessory Dwelling Units

- Allow Accessory Dwelling Units as defined above as a permitted use everywhere that allows for single family units and duplexes.
- Restrict use of accessory dwelling units approved under these new guidelines to be used for long-term rentals as defined.

Thank you taking the time to consider this request; this could be a first step in helping to ease the housing crisis and workforce shortage in Dare County.

Sincerely,

Bob Peele, Chairman of the Board

On behalf of the Outer Banks Chamber of Commerce Board of Directors and Membership

*Simply Connecting*  
Since 1974 the **Outer Banks**

[www.outerbankschamber.com](http://www.outerbankschamber.com)



## **Hurricane/Disaster Debris Removal Interlocal Agreement**

This Agreement, made and entered into this the **5th** day of **September 2018**, by and between Dare County ("County"), a political subdivision organized and existing pursuant to the laws of the State of North Carolina, and the **Town of Southern Shores** ("Municipality"), a municipal corporation organized and existing pursuant to the laws of the State of North Carolina.

### **RECITALS**

It is hereby determined and declared by the parties that:

- A. In the event of a natural disaster, the President of the United States and/or the Governor of the State of North Carolina may declare Dare County a natural disaster area, making Dare County and the municipalities within Dare County eligible for Federal and/or state disaster relief, including funds for the removal of storm debris.
- B. In the event of a natural disaster, such as a hurricane, disaster debris removal is often a critical component of the disaster recovery process.
- C. Debris removal on a county-wide basis requires a coordinated effort between the municipalities within the County, the County, State and federal agencies, and private contractors in order to ensure resources are applied where the need is most critical and to ensure the public health, safety, and welfare is protected.
- D. Disaster debris removal will require prioritizing areas for immediate cleanup, and perhaps temporarily suspending or rescheduling regular solid waste, yard waste, and recycling services.
- E. The County is contractually obligated to provide disposal of all solid waste collected within Dare County pursuant to the Municipal Waste Management Agreements entered into between the County and municipalities.
- F. During a natural disaster in which the Dare County Control Group has been activated, objectives and priorities regarding debris removal are coordinated through the Control Group and implemented by the County.
- G. In order to achieve the orderly and efficient removal of debris, it is appropriate that the County, in consultation with the Dare County Control Group, coordinate the County wide disaster debris removal effort through the County's solid waste collectors and contractors, and that removal efforts within the municipalities be conducted using the County's contracts for disaster debris removal.

- H. The County, through a 2 C.F.R PART 200 (UNIFORM RULES) compliant competitive bid process, which included the possibility of debris removal activity within the Town as well as unincorporated Dare County, has entered into contracts with debris removal companies for debris removal following a natural disaster, and the Town desires to utilize the County contracts through this Agreement for debris removal within the Town.
- I. The County and Town are authorized to enter into this Agreement pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes, and desire to do so for the reasons stated above.

**NOW THEREFORE**, in consideration of the terms, conditions, and covenants expressed herein, the parties agree as follows:

1. In the event of a natural disaster, the County will mobilize debris removal contractors to meet the recovery objectives and priorities set by the Dare County Control Group. The County will make the Town aware of the activation of debris removal contractors and coordinate use of the contracts by the Town pursuant to the terms and conditions of the contracts.
2. Pursuant to this Agreement, the Town shall:
  - a. Identify personnel to work with the County and the contractor to identify debris removal needs within the Town's jurisdiction.
  - b. Enter into agreements with debris removal contractors to complete debris removal within the Town's jurisdiction.
  - c. Assume all responsibility for monitoring debris removal activities within the Town's jurisdiction.
  - d. Assume all responsibility for coordinating directly with the contractor in seeking Federal and state disaster relief reimbursement of expenditures incurred from removal work performed by the contractor within the Town's jurisdiction.
  - e. Secure Right-of-Entry Agreements from property owners within the jurisdiction of the Town as necessary.
  - f. Negotiate with the contractors for any expenditure for debris removal reimbursement by Federal or state disaster relief assistance.

3. Pursuant to the Agreement, the County shall:
  - a. Identify personnel to work with the Town and the contractor to identify debris removal needs.
  - b. Respond in a good faith effort to specific requests for assistance from the Town.
  - c. Maintain the Contracts in good standing unless cancelled pursuant to the terms and conditions of the Contracts, and, in the event that the Contracts are terminated or modified, immediately notify the Town of such termination or modification.
4. All terms and conditions of the Contracts entered into between the County and the Contractors shall apply equally to debris removal work performed by the Contractors within the Town's jurisdiction.
5. This Agreement shall remain in until terminated. This Agreement may be terminated in whole or in part in writing by either party provided that no termination may be effected unless the other party is given not less than thirty (30) days prior written notice of intent to terminate.
6. This Agreement may be modified only by the prior written approval of both parties.
7. Any notice, acceptance, request, or approval from either party to the other party shall be in writing and shall be deemed to have been received when either has deposited same in the United States Postal Service, personally delivered with signed proof of delivery or transmitted via electronic mail.
8. Each party agrees to indemnify and hold harmless the other party for any claims of damage, loss, injury, or any other legal, judicial, or administrative claims arising out of or resulting from this Agreement and any work performed pursuant to the Contracts. All indemnifications and immunities from liability incorporated within the Contracts shall apply to this Agreement and are hereby incorporated by reference.
9. If any provisions of this Agreement are held, for any reason, to be unconstitutional, unenforceable, invalid, or illegal in any respect, such decision shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be necessary and appropriate, take such actions as are necessary to correct any such provisions.

10. This instrument contains the entire agreement between the parties, and cancels and supersedes all prior negotiations, representations, understandings, or agreements, either written or oral, between the parties with respect to the subject matter hereof.

11. This Agreement is governed by and construed in accordance with the laws of the State of North Carolina.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first written above.

**TOWN OF SOUTHERN SHORES**

**COUNTY OF DARE**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chairman

ATTEST:

ATTEST:

\_\_\_\_\_  
Clerk to the Council

\_\_\_\_\_  
Clerk to the Board

**Sheila Kane**

---

**From:** Peter Rascoe  
**Sent:** Tuesday, August 14, 2018 4:49 PM  
**To:** Tom Bennett; Chris Nason; Fred Newberry; Gary McDonald; Jim Conners  
**Cc:** Sheila Kane; David Bradley; Bonnie Swain; Wes Haskett  
**Subject:** Contract Award for East Dogwood Trail Walking path

Council Members,

In accordance with your adopted June 5, 2018 Budget Ordinance as amended, today I have awarded RPC Contracting, Inc. a contract to construct the East Dogwood walking path. Informal bids were solicited in accordance with NCGS § 143-131 and the Town's Purchasing and Bid policy. The total contract amount is \$ 167,550, which includes three bid alternates for construction of feeder crosswalks across East Dogwood Trail and its median to the new walking path - at Hillcrest Drive, Sea Oats Trail, and Wax Myrtle Trail as indicated on the published final design plans. The contractor will have 150 days from the date of contract execution to complete the project. Recall that the Outer Banks Visitor Bureau, per its current Grant Agreement with the Town of Southern Shores, will award the Town up to 50% of this contract cost upon completion.

In accordance with the Council's policy, this award will also be noticed to you for information purposes at your next Council meeting.

Peter

Bid Tabulation Sheet - E Dogwood Trail Path Construction Project

8/14/2018

Contractor	Envelope #1			Envelope #2			Unit Price Sheet Completion	Acknowledgment of Addendums	Engineer's Estimate Range
	Proof of Contractors License	5% Bid Deposit	MB & WB Efforts	Base Bid - Lump Sum	Alt Bids	Price			
RPC Contracting, Inc.	X	X	X	\$ 138,440.00	#1	\$ 4,280.00	X	X	Base Bid Range
					#2	\$ 8,400.00			\$ 201,536.53
					#3	\$ 8,690.00			\$ 241,843.84
					#4	\$ 11,620.00			
					#5	\$ 9,490.00			
					#6	\$ 10,000.00			
					#7	\$ 9,620.00			
Barnhill Contracting Co	X	X	X	\$ 160,000.00	#1	\$ 4,080.00	X	X	Alt #1
					#2	\$ 6,535.00			\$10,601.00 - \$12,721.20
					#3	\$ 8,865.00			Alt #3
					#4	\$ 12,765.00			\$10,649.00 - \$12,776.80
					#5	\$ 8,370.00			Alt #4
					#6	\$ 9,470.00			\$8,991.00 - 10,789.20
					#7	\$ 8,775.00			Alt #5
Hatchell Concrete, Inc.	X	X	X	\$ 252,936.00	#1	\$ 6,384.00	X	X	Alt #6
					#2	\$ 12,540.00			\$13,483.00 - \$16,179.60
					#3	\$ 12,540.00			Alt #7
					#4	\$ 11,156.40			\$13,070.00 - \$15,884.00
					#5	\$ 15,360.00			
					#6	\$ 15,360.00			
					#7	\$ 15,360.00			

Prepared by: Anlauf Engineering, PLLC

SEAL  
 026980  
 ENGINEER  
 JOSEPH J. M. ALK  
 P.E.  
 8/14/18

## Sheila Kane

---

**From:** Peter Rascoe  
**Sent:** Thursday, August 23, 2018 10:37 AM  
**To:** Tom Bennett; Chris Nason; Fred Newberry; Gary McDonald; Jim Conners  
**Cc:** Sheila Kane; David Bradley; Bonnie Swain; Wes Haskett  
**Subject:** Contract Award for Yaupon Trail Improvement Project

Council Members,

In accordance with your adopted June 5, 2018 Budget Ordinance as amended, today I have awarded RPC Contracting, Inc. a contract to rebuild Yaupon Trail during FY 18-19. Informal bids were solicited in accordance with NCGS § 143-131 and the Town's Purchasing and Bid policy. The total contract amount is \$ \$377,320.00. An unsuccessful bid was submitted in the amount of \$538,400.00 by Barnhill Contracting Co. The successful contractor will have until May 15<sup>th</sup>, 2019 to complete the project.

In accordance with the Council's policy, this award will also be noticed to you for information purposes at your September 5<sup>th</sup>, 2018 Council meeting.

Peter

**Bid Tabulation Sheet - Yaupon Trail Reconstruction Project**

**8/23/2018**

Contractor	Envelope #1			Envelope #2			Engineer's Estimate Range
	Proof of Contractors License	5% Bid Deposit	MB & WB Efforts	Lump Sum	Unit Price Sheet Completion	Acknowledgment of Addendums	
RPC Contracting, Inc.	x	x	x	\$377,320.00	x	x	\$373,470.02
Barnhill Contracting	x	x	x	\$538,400.00	x	x	\$429,490.52

Prepared by: Anlauf Engineering, PLLC



FRONT ELEVATION FACING DOGWOOD TRAIL  
SCALENTS

SOUTHERN SHORES VOLUNTEER FIRE DEPT  
SOUTHERN SHORES, NC

EXTERIOR ELEVATION  
DATE: 09.05.16

 **Stewart · Cooper · Newell · Architects**  
Architecture    Planning    Interiors    [www.scn-architects.com](http://www.scn-architects.com)



VIEW OF BAYS FROM REAR PARKING AREA



VIEW FROM THE CORNER OF S. DOGWOOD TRAIL AND PINTAIL TRAIL



VIEW FROM PINTAIL TRAIL AT REAR PARKING AREA

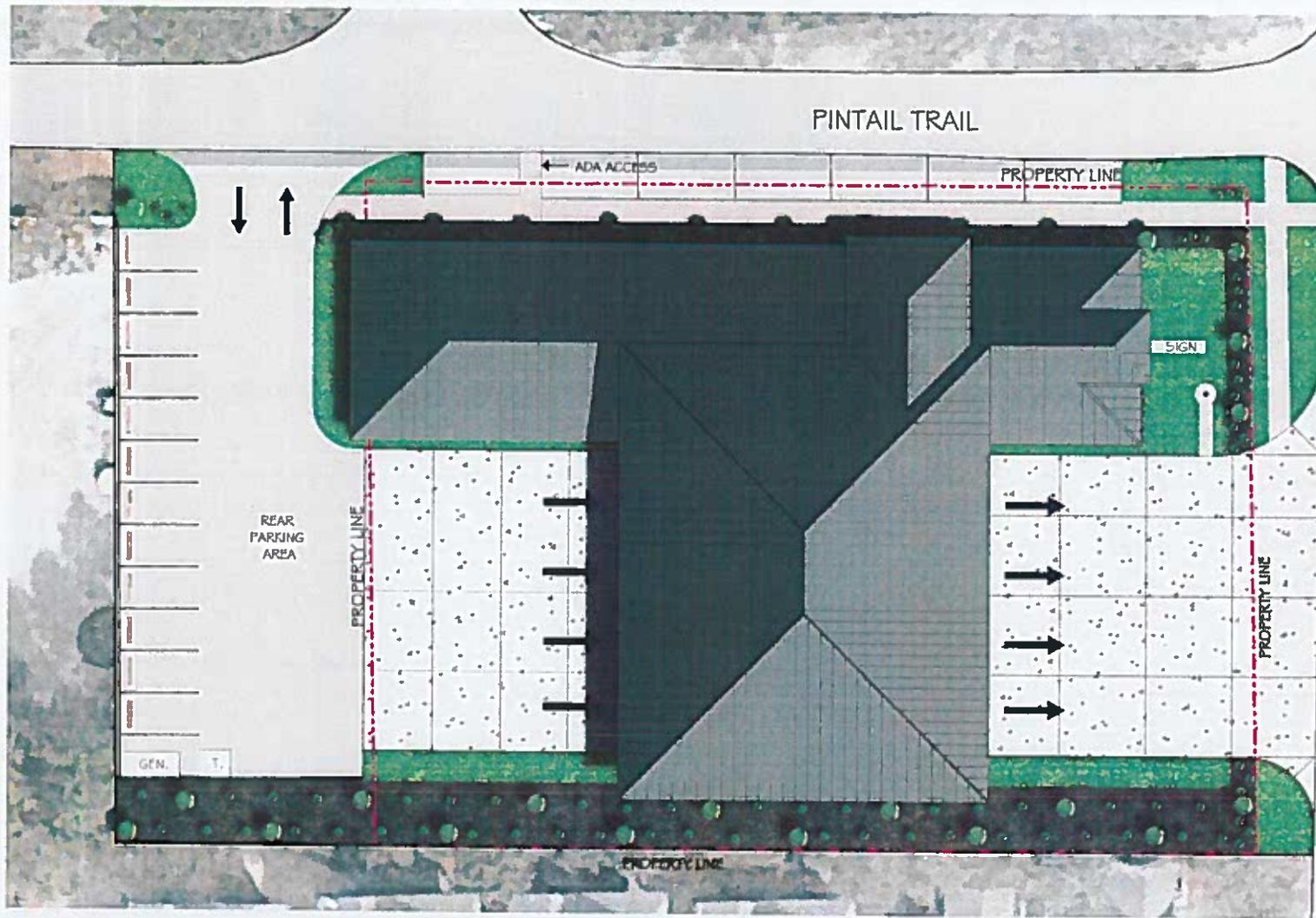


VIEW OF BAYS FROM S. DOGWOOD TRAIL

SOUTHERN SHORES VOLUNTEER FIRE DEPT  
SOUTHERN SHORES, NC

EXTERIOR PERSPECTIVES  
DATE 09 05 18

 **Stewart · Cooper · Newell · Architects**  
Architecture Planning Interiors [www.scn-architects.com](http://www.scn-architects.com)



SOUTHERN SHORES VOLUNTEER FIRE DEPT  
SOUTHERN SHORES, NC

SITE PLAN  
DATE 09 05 18

 **Stewart · Cooper · Newell · Architects**  
Architecture    Planning    Interiors    [www.scn-architects.com](http://www.scn-architects.com)



Project No.  
**1547**

Date Printed  
2016.12.12

Drawn by  
KJP

Checked by  
ACW

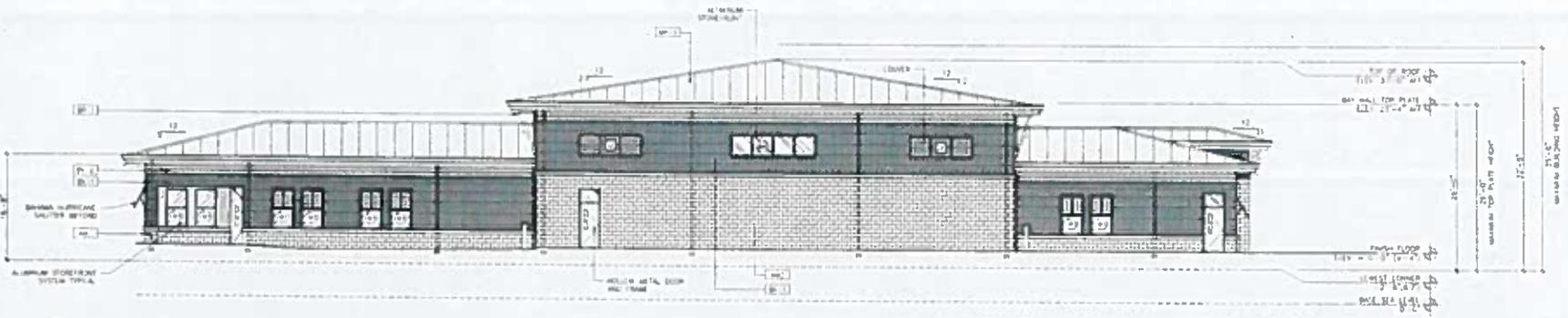
Revisions

© Stewart Cooper Newell Architects  
1111 East 10th Street  
Tulsa, Oklahoma 74104  
Phone: 918.438.1111  
Fax: 918.438.1112  
www.scn-architects.com

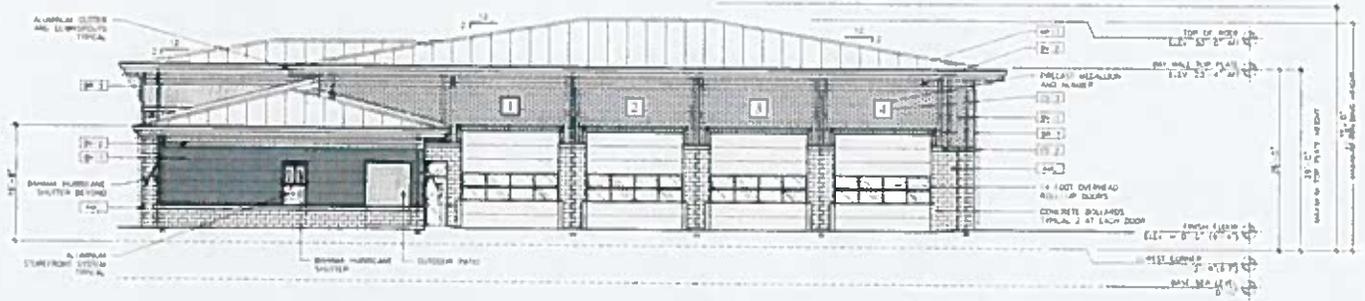
**Stewart Cooper Newell**  
Architects  
www.scn-architects.com  
1.800.671.0021

NEW FIRE HEADQUARTERS FOR  
SOUTHERN SHORES  
VOLUNTEER FIRE DEPARTMENT  
EXTERIOR ELEVATIONS

Sheet No.  
**5.11**



**1 REAR ELEVATION**  
SCALE 1/8" = 1'-0"



**2 SIDE ELEVATION**  
SCALE 1/8" = 1'-0"

**EXTERIOR FINISHES**

**BRICK VENEER WALLS**

[1] TWO PRODUCTS (FIELD BRICK) COLOR TBD - 2 1/2" x 3 1/2" x 8" (1/2")  
[2] TWO PRODUCTS (CORNER BRICK) COLOR TBD - 2 1/2" x 3 1/2" x 8" (1/2")

**ARCHITECTURAL MASONRY CMU**

[3] ADAMS CONCRETE BLOCK 16" x 16" x 16" (1/2")  
[4] ADAMS CONCRETE BLOCK 16" x 16" x 16" (1/2")

**MORTAR - TYPE 'S'**

[5] ALL MORTAR TO MATCH LOCAL SUPPLY TO MATCH WALL

**METAL ROOF (Standing Seam)**

[6] 24" GALVALUME 24" x 12" x .018" (1/2")  
[7] 24" GALVALUME 24" x 12" x .018" (1/2")

**METAL SOFFIT PANEL**

[8] 1/2" x 4" x 12" GALVALUME METAL SOFFIT PANELS (1/2")

**METAL FASCIA & ROOF FLASHING**

[9] 1/2" x 4" x 12" GALVALUME METAL FASCIA (1/2")

**METAL GUTTERS & DOWNSPOUTS**

[10] 2" x 4" x 1/2" GALVALUME METAL GUTTERS (1/2")

**METAL BRACKETS (MB) & LOOSE NUTS**

[11] 1/2" x 1/2" x 1/2" GALVALUME METAL BRACKETS (1/2")

**FIBER CEMENT SIDINGS & TRIMS (ALTERNATE)**

[12] 1/2" x 4" x 12" FIBER CEMENT SIDING (1/2")

**STOREFRONT (Doors & Windows)**

[13] ALUMINUM STOREFRONT SYSTEM (1/2")

**LOWERS**

[14] 1/2" x 4" x 12" GALVALUME METAL LOWERS (1/2")

**OVERHEAD DOORS (High-Lift)**

[15] 14' x 14' x 1/2" GALVALUME METAL OVERHEAD DOORS (1/2")

**HOLLOW METAL DOORS & FRAMES**

[16] 1/2" x 4" x 12" GALVALUME METAL DOORS & FRAMES (1/2")

**PRE-CAST STONES**

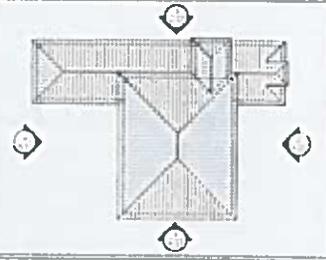
[17] 1/2" x 4" x 12" PRE-CAST STONES (1/2")

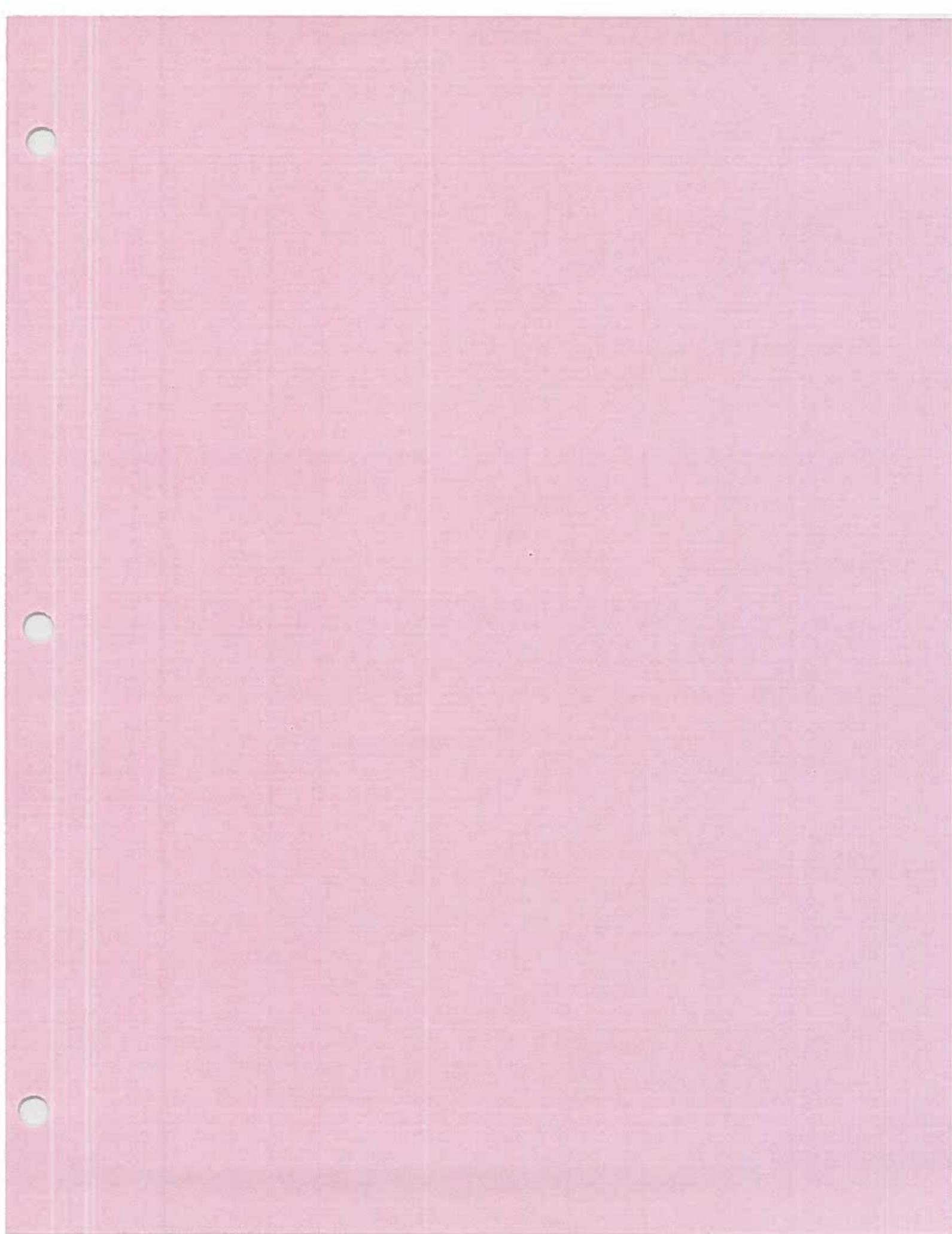
[18] 1/2" x 4" x 12" PRE-CAST STONES (1/2")

[19] 1/2" x 4" x 12" PRE-CAST STONES (1/2")

[20] 1/2" x 4" x 12" PRE-CAST STONES (1/2")

**KEY PLAN**





August 29, 2018

To: Town Council  
From: Town Manager   
Re: Town Code - Storm Water Management Compliance on Possible New Fire Station Site

Just a reminder, the Zoning Administrator will not issue a Town Lot Disturbance-Storm Water Management Permit for commencement of site work for a possible new Fire station site – until the storm water management requirements of Town Code Section 36-171 (1) have been demonstrated by the permit applicant to have been met, and only after a Conditional Use Permit (CUP) is issued by the Town Council. .... Specifically, a Lot Disturbance-Storm Water Management Permit applicant must demonstrate that *“following construction of the proposed improvements the property will retain all stormwater generated by a one-half inch rain event and will not adversely affect any stormwater management system previously constructed by the town or on adjacent properties.”*

As evidenced by the attached comments from the Town Engineer as a result of his early review of the applicant’s site and building plans accompanying the permit applications, more information is needed in order for the Zoning Administrator to make a determination on storm water management compliance. The SSVFD has until either the Planning Board’s September 17<sup>th</sup> or October 15<sup>th</sup> meeting to submit the additional information cited by the Town Engineer and needed by the Zoning Administrator to make his determination on storm water management compliance with the Town Code

The Planning Board will consider the SSVFD’s Conditional Use Permit application on either September 17, 2018 or October 15, 2018 and make a recommendation to the Council for it to consider at its November 7, 2018 meeting. The Council is projected to consider the SSVFD’s construction bids and proposed financing package at the same November meeting.

August 28, 2018

Mr. Wes Haskett  
Planning Director  
Town of Southern Shores  
5375 N. Virginia Dare Trail  
Southern Shores, North Carolina 27949

Re: Review of Site Plans Submittal  
**Southern Shores Volunteer Fire Department**  
Town of Southern Shores, NC

Dear Mr. Haskett:

As per your request, we have reviewed the Site Plan package titled "New Fire Headquarters for Town of Southern Shores Volunteer Fire Department" by Avolis Engineering, P.A., dated 8/16/18 and offer the following observations:

1. An NCDEQ Stormwater Permit will be required due to the total disturbed area exceeding 1 acre per 15A NCAC 02H .1019(2)(a)
2. Typically, a minimum of 2' of clearance is required between the bottom of an infiltration system (bottom of gravel bed in this case) and the SHWT. That clearance can be reduced to 1 foot if an analysis is performed by a soils scientist demonstrates that the SHWT will not "mound" into the proposed infiltration system. More information / detail will need to be provided to assess the adequacy of the proposed clearance between the infiltration system and SHWT.
3. Stormtech Chamber System: Typically there would only be a piped connection to every third chamber row to minimize the number of chambers exposed to the potential for direct sediment inflow (the adjoining chambers fill via flow through the adjacent rock beds).
4. Stormtech Chamber System: In lieu of "isolator rows", did you consider using some sort of sediment trapping system in the "weir boxes" (such as turn-down tees in the manifold / junction box connections with sumps in the junction boxes) so that sediment can be more readily removed?
5. Even though the south side of the building is guttered, we would prefer to see a berm/swale along the south side of the developed area to prevent runoff from flowing onto the southern adjoiners. In a "flood" condition we would like all runoff to be directed back onto our developed area and towards our "overflow" areas on the north side of the site.
6. Please check the labeling of the graphic scale (we believe it should be 10-0-5-10-20)
7. Please coordinate the location of the proposed sign & proposed flagpole with the requirements of the Dare County Health Department (DCHD) for setbacks to the drainfield.

8. The swale shown in the NE corner of the site must meet DCHD setbacks to the proposed drainfield.
9. Please coordinate the location of the Stormtech Chamber systems with the proposed wastewater treatment system (tanks) to ensure compliance with DCHD requirements.

**Until additional information is received addressing above comments #2-#5, we are not able to state with clarity that the application complies with Section 36-171 of the Town Code.**

If you have any questions, or if you require any additional information, please do not hesitate to contact me at (252) 202-3803.

Sincerely,

David A. Deel, P.E.

Encl: as stated

Sec. 36-171. - Lot disturbance and stormwater management.

Subject to the requirements of G.S. 160A-417(b), if applicable, in all town zoning districts, including all areas within the extraterritorial jurisdiction, no grading, filling, or other alteration of the topography or elevation of any unimproved lot, or demolition and clearing of improved property, nor any manmade change to any improved real estate resulting in the discharge of stormwater onto adjacent property and requiring a building permit, shall be undertaken prior to the issuance of a lot disturbance-stormwater management permit by the zoning administrator.

- (1) All applications for lot disturbance and stormwater management shall be accompanied by a survey and site plan of the proposed improvements prepared by a state licensed professional surveyor, engineer, architect or other person duly authorized by the state to prepare such plans showing the actual dimensions and shape of the lot, and showing the surveyed pre-disturbance ground elevation at the corners of the proposed structure referenced to mean sea level. The application shall also describe the disturbance or development activity which is proposed for the lot. The application and accompanying survey shall be sufficiently detailed for the zoning administrator to confirm that following construction of the proposed improvements the property will retain all stormwater generated by a one and one-half inch rain event and will not adversely affect any stormwater management system previously constructed by the town or on adjacent properties. No fill material may be placed on a lot in the side setback areas unless the final horizontal-to-vertical slope is equal to or less than 3:1. The burden shall be on the applicant to make such a showing, and the zoning administrator, in his discretion, may request reasonable additional information to make a decision on the application.
- (2) Upon inspection, the zoning administrator shall confirm that the survey detail submitted conforms generally to the pre-disturbance condition of the lot with respect to its elevations, and that the proposed disturbance activity will not create any hazards or disturb land or lots other than that owned by the applicant or his agent. The zoning administrator shall make such notation or comments on the permit as needed to further establish the pre-disturbance topography and elevation of the lot for later use in determining the permitted height of any structures subsequently constructed on said lot. The zoning administrator may modify an existing lot disturbance and stormwater management permit requirement during the construction process.
- (3) The zoning administrator is hereby authorized to include requirements in the permit which minimize the disturbance or damage of any adjacent lots or land, including any reasonable conditions meeting current best management practices for retaining all stormwater generated by a one and one-half inch rain event. All required stormwater improvements shall be maintained in a manner that ensures that the improvements will continue to satisfy all applicable requirements in the issued permit. When required by the zoning administrator, a certification executed by the person duly authorized by the state to prepare such plans attesting to compliance with all applicable stormwater requirements shall be shown on the survey.

(Code 1988, § 11-6.09; Ord. No. 2006-09-02, art. V(6.09), 11-28-2006; Ord. No. 2011-01-01, art. VIII, pt. VI, 1-4-2011; Ord. No. 2012-04-02, art. III, pt. I, 4-3-2012; Ord. No. 2018-01-01, art. III, pt. I, 1-9-2018)

Planning Board Report to Town Council  
Wednesday, September 5, 2018

In our regular Planning Board meeting of Monday, August 20, 2018 we discussed two (2) Zoning Text Amendments: ZTA-18-07A and ZTA-18-04 both of which had been previously discussed in their current form or in the case of 18-07A, a reworked version of the previously discussed ZTA-18-07.

Looking to the future these two ZTA's are very important issues regarding land use here in Southern Shores and the Planning Board went above and beyond in their research and due diligence regarding both items. As a Board we took a systematic approach to the analysis of the information presented in both applications. The results of that analysis resulted in the following recommendations:

ZTA-18-07A, a proposed rewrite of Section 36-132 (a) of the Town of Southern Shores Code of Ordinances.

In the rewrite the Board unanimously agreed that all aspects of Paragraph (2) addressed the growing concern regarding the tear down of a house currently standing on two (2) non-conforming lots, then building two (2) houses on each of said nonconforming lots.

It is Paragraph (1) that raised our concern about the viability of this ZTA. After much discussion and presentation of significant research, it was determined that Paragraph (1) completely missed the issue of parcels of land with one owner that consisted of multiple non-conforming. Lots that could conceivably be sold off as single lots, having multiple houses built on said parcels. This was determined to be an enormous loophole that would be taken advantage of by individuals who have absolutely no regard for the Town's currently adopted Land Use Plan which contains the following 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.*

It is for that reason that the Planning Board unanimously rejected ZTA-18-07A and if given the choice of one or the other recommends that the Town Council revert to the original ZTA-18-07. Of course the original does have some flaws regarding single non-conforming lot owners that we believe should be further considered and we are more than willing to discuss that at our meeting on September 17<sup>th</sup>.

It is the unanimous vote of the Planning Board that ZTA-18-07A is NOT consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable.

That concludes my presentation on ZTA-18-07A, are there any questions?

ZTA-18-04, a proposed rewrite of Section 36-202 (d) of the Town of Southern Shores Code of Ordinances.

This ZTA was a bit complicated by the fact that it has eight (8) points of discussion, six (6) of which are additional language to the current code. In an effort to address these proposed points of new language, I determined that the most efficient way to do so was to address one at a time and then call for a vote of the Board on that single point then move on to the next one. Following is the result of that vote:

Given the fact that this ZTA in various forms has been discussed dating back to August 7, 2017 and four (4) times following that date, it is our hope that the recommendation that is to follow will be adopted by the Town Council and will finally put this issue to rest.

The Planning Board had no issues with the first two (2) points, that is (6a) and (6b) as they are in the current code. There was vigorous discussion and significant research done and presented by the Board members regarding (6c) – (6h). Following is the result of the votes on the individual points:

**(6c) *Pervious materials and turf stone pavers for driveways and parking areas contribute 50% to lot coverage.* 5-0 vote to remove from ZTA-18-04.**

**(6d) *Gravel walkways shall not contribute to lot coverage.* 5-0 vote to remain in ZTA-18-04**

**(6e) *The outermost four (4) feet of eaves shall not contribute to lot coverage.* 5-0 vote to remove from ZTA-18-04.**

**(6f) *Up to 500 sq.ft. of the water area of swimming pools shall not contribute to lot coverage.* 5-0 vote to remove from ZTA-18-04.**

**(6g) *Open slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint of the area of the attached SFD, shall not contribute to lot coverage.* 3-2 vote to remain in ZTA-18-04**

**(6h) *Those allowances and/or exemptions listed in subsection g of this paragraph (6) shall be available only to an applicant for a building/zoning permit for an SFD or attached open slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification for a lot disturbance and storm water management permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.* 5-0 vote to remain in ZTA-18-04 as written above (omitting “and h” and “or adjacent swimming pools”).**

It is the unanimous vote of the Planning Board that ZTA-18-04 **with the above amendments** is consistent with the Town’s adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable.

That concludes my presentation on ZTA-18-07A, are there any questions?

ZTA-18-04



# 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: 3/16/18 Filing Fee: \$200 Receipt No. N/A Application No. 2TB-18-04

**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 Trail  
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. Hall  
Signature

3-16-18  
Date

\* Attach supporting documentation.



**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

ZTA-18-04

**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 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-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; 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.

**ARTICLE II. Construction.**

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

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

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Southern Shores, North Carolina, that Section 36-163 the Town Code shall be amended as follows:

**PART I.** That Town Code Sec. 36-202, (d) shall be amended as follows:

Town of Southern Shores, NC  
ZTA-18-04  
Page 1 of 3

...

- (6) Maximum allowable lot coverage.
- a. Maximum allowable lot coverage shall be 30 percent, except for town-owned facilities and fire stations;
  - b. Maximum allowable lot coverage shall be 85 percent for town-owned facilities and fire stations.
  - c. Pervious materials and turfstone/pavers for driveways and parking areas contribute 50% to lot coverage.
  - d. Gravel walkways shall not contribute to lot coverage.
  - e. The outermost 4 feet of eaves shall not contribute to lot coverage.
  - f. Up to 500 square feet of the water area of swimming pools shall not contribute to lot coverage.
  - g. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.
  - h. Those allowances and/or exemptions listed in sub-sections g. and h. of this paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling, or adjacent swimming pool, or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

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

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

**ARTICLE V. Severability.**

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

**ARTICLE VI. Effective Date.**

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

\_\_\_\_\_  
Mayor

**ATTEST:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Town Clerk

Vote: Ayes Nays

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney

**PLANNING BOARD RECOMMENDED**  
**ZTA-18-04**



# 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: 3/16/18 Filing Fee: \$200 Receipt No. N/A Application No. 2TA-18-04

**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 36-308-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. Hall  
Signature

3-16-18  
Date

\* Attach supporting documentation.



**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

ZTA-18-04

**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 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-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; 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.

**ARTICLE II. Construction.**

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

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

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Southern Shores, North Carolina, that Section 36-163 the Town Code shall be amended as follows:

**PART I.** That Town Code Sec. 36-202, (d) shall be amended as follows:

Town of Southern Shores, NC  
ZTA-18-04  
Page 1 of 3

...

**(6) Maximum allowable lot coverage.**

- a. Maximum allowable lot coverage shall be 30 percent, except for town-owned facilities and fire stations;
- b. Maximum allowable lot coverage shall be 85 percent for town-owned facilities and fire stations.
- c. Gravel walkways shall not contribute to lot coverage.
- d. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.
- e. Those allowances and/or exemptions listed in sub-section d. of this paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

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

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

**ARTICLE V. Severability.**

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

**ARTICLE VI. Effective Date.**

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

Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Town Clerk

Vote: Ayes Nays

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

**STAFF REPORT**

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** August 28, 2018  
**Case:** ZTA-18-04  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Town of Southern Shores  
5375 N. Virginia Dare Trl.  
Southern Shores, NC 27949

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

### ANALYSIS

At the August 7, 2017 Special Planning Board meeting, the Town Planning Board unanimously recommended approval (4-0) of the proposed language to amend the Town Zoning ordinance to establish new lot coverage requirements which was subsequently denied (3-2) by the Town Council on September 5, 2017. On February 6, 2018, the Town Council voted (3-2) to send the proposed language back to the Planning Board for reconsideration with additional proposed language. On April 16, 2018 the Planning Board reconsidered the proposed language as ZTA-18-04 and unanimously recommended approval (4-0) of the application to the Town Council. On July 10, 2018, the Town Council unanimously voted (5-0) to send ZTA-18-04 back to the Planning Board for further consideration. The proposed amendments in ZTA-18-04 would establish the following changes in how lot coverage is calculated in the RS-1, Single-family Residential zoning district:

- c. Pervious materials and turfstone/pavers for driveways and parking areas contribute 50% to lot coverage.
- d. Gravel walkways shall not contribute to lot coverage.
- e. The outermost 4 feet of eaves shall not contribute to lot coverage.
- f. Up to 500 square feet of the water area of swimming pools shall not contribute to lot coverage. (The Board voted 2-2 to delete this amendment at the April 16, 2018 Planning Board meeting which resulted in no recommendation but was still included)
- g. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.
- h. Those allowances and/or exemptions listed in sub-sections g. and h. of this-paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling, or adjacent swimming pool, or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

On August 20, 2018, the Planning Board recommended approval of the following amendments in ZTA-18-04:

- c. Gravel walkways shall not contribute to lot coverage.
- d. Open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25% of the total footprint area of the attached single-family dwelling, shall not contribute to lot coverage.
- e. Those allowances and/or exemptions listed in sub-section d. of this paragraph (6) shall be available only to an applicant for a building/zoning permit for a single-family dwelling or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Stormwater Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

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.
- **Action Item 2-b:** The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.
- **Policy 7:** Support stormwater management programs that reduce flooding and improve coastal water quality.
- **Action Item 7-b:** Encourage the use of Low Impact Development (LID), vegetative buffers to filter stormwater, impervious surface limits, and innovative stormwater management alternatives to reduce runoff and to improve water quality.

#### **RECOMMENDATION**

Town Staff and the Town Planning Board have determined that the proposed amendments recommended at the August 20, 2018 Planning Board meeting are consistent with the Town's currently adopted Land Use Plan and the Town Planning Board recommended approval of the application as amended (5-0).

ZTA-18-07



# 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: 4/20/18 Filing Fee: \$200 Receipt No. N/A Application No. Z-7A-18-07

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 Trail  
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

[Signature]  
Signature

4-20-18  
Date

\* Attach supporting documentation.



**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

Ordinance-2018-06-03

1  
2  
3  
4  
5  
6  
7  
8 AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
9 OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA  
10

11 **ARTICLE I. Purpose(s) and Authority.**  
12

13 **WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the  
14 "Town") may enact and amend ordinances regulating the zoning and development of land  
15 within its jurisdiction and specifically the density of population and the location and use of  
16 buildings, structures and land. Pursuant to this authority and the additional authority  
17 granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive  
18 zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter  
19 36 of the Town's Code of Ordinances (the "Town Code"); and  
20

21 **WHEREAS**, pursuant to N.C.G.S. § 160A-371 et seq. the Town may enact and  
22 amend ordinances regulating the subdivision of land within its territorial jurisdiction; and  
23

24 **WHEREAS**, prior to the incorporation of the Town, many lots were created within  
25 its jurisdiction that have become nonconforming due to their lack of sufficient lot width  
26 and area. Over time the character and density of the Town have been developed such that  
27 many of these smaller nonconforming lots were built upon as if they were combined with  
28 one another. In recent years, the Town has seen a trend towards redevelopment of such  
29 informally combined parcels to the ends of breaking them back into the smaller  
30 nonconforming lots and building dwellings upon the nonconforming lots. Such  
31 redevelopment is inconsistent with the low density character of the Town; and  
32

33 **WHEREAS**, the Town desires to manage the development of the Town in a  
34 manner which maintains the low density character of the Town and requires formal  
35 recombination of lots to current Town standards toward a goal of reducing the existence of  
36 nonconforming lots. Similarly, the Town desires to allow for existing nonconforming lots  
37 that are not otherwise adjacent to lots owned by the same person or entity to be developed  
38 rather than vacant and unusable; and  
39

40 **WHEREAS**, the Town further finds that in accordance with the findings above it  
41 is in the interest of and not contrary to the public's health, safety, morals and general  
42 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of  
43 Ordinances as stated below.  
44

45 **ARTICLE II. Construction.**  
46

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

7 **ARTICLE III. Amendment of Zoning Ordinance.**  
8

9 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern  
10 Shores, North Carolina, that the Town Code shall be amended as follows:  
11

12 **PART I.** That subsection (a) of Sec. 36-132 Regulation of structures and uses be  
13 replaced in its entirety with the following:  
14

15 **(a) *Nonconforming lots of record.***  
16

17 (1) In any district in which single-family dwellings are permitted, a single-family  
18 dwelling and customary accessory building may be erected on any single lot not  
19 under the same ownership as any adjacent lot and which met all legal requirements  
20 at the time of its creation and recording in the Dare County public registry. All  
21 applicable dimensional requirements other than lot area and lot width shall be met  
22 for development or redevelopment of such a lot except that a lot having a lot width  
23 of fifty (50) feet or less may use a side yard setback of twelve (12) feet.  
24

25 (2) If any of the following situations apply, all adjacent lots under the same  
26 ownership shall be recombined into: (i) a single lot which may or may not meet the  
27 minimum requirements for the district in which such lots are located; or (ii) multiple  
28 lots which all meet the minimum requirements for the district in which such lots  
29 are located:  
30

31 a. Development is proposed upon land under the same ownership which  
32 includes one or more nonconforming lots adjacent to one or more other lots  
33 under the same ownership;  
34

35 b. Demolition or redevelopment exceeding 50% of an existing structure's  
36 value is proposed and any portion of the existing structure or associated use  
37 is currently or has been within the previous seven (7) years located upon or  
38 occurring on two or more lots under the same ownership, as measured from  
39 the time of application;  
40

41 c. Development is proposed of a new structure or use to be located on two  
42 or more lots under the same ownership;  
43

44 d. Prior to the sale or transfer of land when any portion of the land being  
45 sold or transferred was a parcel or part of a parcel of land upon which an  
46 existing structure or associated use is currently or has been within the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

previous seven (7) years located upon or occurring on two or more lots under the same ownership, as measured from the time of application; or

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

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

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

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

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

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

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

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

(ii) In the case of a legal entity owner, an individual who controls the legal entity, or another legal entity controlled by the owner.

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

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

1 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**  
2 **Reasonableness.**

3  
4 The Town's adoption of this ordinance amendment is consistent with the Town's adopted  
5 comprehensive zoning ordinance, land use plan and any other officially adopted plan that  
6 is applicable. For all of the above-stated reasons and any additional reasons supporting the  
7 Town's adoption of this ordinance amendment, the Town considers the adoption of this  
8 ordinance amendment to be reasonable and in the public interest.  
9

10 **ARTICLE V. Severability.**

11  
12 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are  
13 hereby repealed. Should a court of competent jurisdiction declare this ordinance  
14 amendment or any part thereof to be invalid, such decision shall not affect the remaining  
15 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the  
16 Town of Southern Shores, North Carolina which shall remain in full force and effect.  
17

18 **ARTICLE VI. Effective Date.**

19  
20 This ordinance amendment shall be in full force and effect from and after the \_\_\_ day of  
21 \_\_\_\_\_, 2018.  
22

23  
24 \_\_\_\_\_, Mayor  
25

26 **ATTEST:**

27  
28 \_\_\_\_\_  
29 Town Clerk  
30

31 **APPROVED AS TO FORM:**

32  
33  
34 \_\_\_\_\_  
35 Town Attorney  
36

37 **Date adopted:**

38  
39 \_\_\_\_\_  
40 **Motion to adopt by Councilmember:**

41  
42 \_\_\_\_\_  
43 **Motion seconded by Councilmember:**  
44  
45  
46

**Vote: \_\_\_ AYES \_\_\_ NAYS**

ZTA-18-07A



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27919  
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: 7/20/18 Filing Fee: \$200 Receipt No. N/A Application No. 27A-18-07A

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 Trail  
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

Signature W. H. Hart

Date 7-20-18

\* Attach supporting documentation.



**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

Ordinance-2018-18-07A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45

**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 with principal buildings lying across lot lines. In recent years, the Town has seen a trend towards demolition of the principal buildings located across lot lines and redevelopment of these informally combined parcels. The nature of this redevelopment results in the use of the smaller nonconforming lots and the construction of principal buildings upon each of the nonconforming lots. Such redevelopment increases density and is inconsistent with the Town's desire to maintain its low density character; 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 nonconforming lots that have previously been or will be built upon as if they were a single lot. At the same time, the Town desires to allow for existing nonconforming lots that do not have a principal building built or proposed to be built across lots lines to remain able to build a single-family dwelling and customary accessory building; 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

1 welfare for the Town to amend the Town's Zoning Ordinance and Town Code of  
2 Ordinances as stated below.

3  
4 **ARTICLE II. Construction.**

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

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

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

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

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

21  
22 (1) In any district in which single-family dwellings are permitted, a single-family  
23 dwelling and customary accessory building may be erected on any single lot  
24 which met all legal requirements at the time of its creation and recording in the  
25 Dare County public registry. All applicable dimensional requirements other than  
26 lot area and lot width shall be met for development or redevelopment of such a lot  
27 except that a lot having a lot width of fifty (50) feet or less may use a side yard  
28 setback of twelve (12) feet.

29  
30 (2) Prior to demolition of an existing principal building, redevelopment exceeding  
31 50% of an existing principal building's value, or construction of a new principal  
32 building when such existing or proposed principal building is located or proposed  
33 to be located on two or more lots any of which are non-conforming, all lots  
34 underlying the existing or proposed principal building shall be recombined into a  
35 single lot. A plat prepared by a North Carolina licensed surveyor showing the  
36 recombination shall be recorded in the Dare County public registry, and a  
37 copy of the recorded plat shall be provided to the Town prior to the issuance of a  
38 zoning or building permit for the demolition, redevelopment or development upon  
39 the newly created lot. The lot created by a recombination required by this section  
40 shall be deemed to equal or exceed the standards of the Town under Chapter 30,  
41 and are exempt from the subdivision process under Chapter 30. The unlawful  
42 demolition of a principal building in violation of this section shall preclude the  
43 application of section (1) for the underlying lots unless and until a recombination  
44 occurs under this section as if the principal building had not been demolished.  
45

1 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**  
2 **Reasonableness.**

3  
4 The Town's adoption of this ordinance amendment is consistent with the Town's adopted  
5 comprehensive zoning ordinance, land use plan and any other officially adopted plan that  
6 is applicable. For all of the above-stated reasons and any additional reasons supporting  
7 the Town's adoption of this ordinance amendment, the Town considers the adoption of  
8 this ordinance amendment to be reasonable and in the public interest.

9  
10 **ARTICLE V. Severability.**

11  
12 All Town ordinances or parts of ordinances in conflict with this ordinance amendment  
13 are hereby repealed. Should a court of competent jurisdiction declare this ordinance  
14 amendment or any part thereof to be invalid, such decision shall not affect the remaining  
15 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the  
16 Town of Southern Shores, North Carolina which shall remain in full force and effect.

17  
18 **ARTICLE VI. Effective Date.**

19  
20 This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of  
21 \_\_\_\_\_, 2018.

22  
23  
24 \_\_\_\_\_, Mayor

25  
26  
27 **ATTEST:**

28  
29  
30 \_\_\_\_\_  
31 Town Clerk

32  
33  
34 **APPROVED AS TO FORM:**

35  
36  
37 \_\_\_\_\_  
38 Town Attorney

39  
40 **Date adopted:**

41  
42 \_\_\_\_\_  
43 **Motion to adopt by Councilmember:**

44  
45 \_\_\_\_\_  
46 **Motion seconded by Councilmember:**

1  
2  
3

Vote:      AYES      NAYS

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** August 28, 2018  
**Case:** ZTA-18-07A  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Town of Southern Shores

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-132, Regulation of Structures and Uses Nonconforming

### ANALYSIS

As directed by Council, Town Staff is proposing to amend the Town Zoning Ordinance by amending Section 36-132, Regulation of Structures and Uses Nonconforming to address the development of legally nonconforming lots. Since 2016, the Town has received and the Town Planning Board, performing the duties of the Town Board of Adjustment, has approved several requests for variances to reduce the side yard setback requirements for nonconforming lots from 15 feet to 12 feet. The proposed language states that prior to demolition of an existing principal building, redevelopment exceeding 50% of an existing principal building's value, or construction of a new principal building when such existing or proposed principal building is located or proposed to be located on two or more lots any of which are non-conforming, all lots underlying the existing or proposed principal building shall be recombined into a single lot. The proposed language also includes a reduction in the side yard setback requirements from 15 feet to 12 feet which would apply to lots having a lot width of fifty (50) feet or less.

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 Town Planning Board unanimously rejected the application and recommended approval of ZTA-18-07 which the Board found consistent with the Town's currently adopted Land Use Plan at the May 21, 2018 Planning Board meeting.

## Agenda Item Summary Sheet

**Item Title:** Appointment of Reconstruction Task Force

**Item Summary:** Section 12-69 of the Town Code requires appointment of a Reconstruction Task Force which would be activated upon the declaration of a building moratorium following a major storm event. The Task Force is responsible for advising the Town Council on a wide range of post-storm reconstruction issues. A primary function of the Task Force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm, to discern appropriate areas for post-storm change and innovation. By Town Ordinance, the Task Force consists of two elected officials, two Planning Board members, Town Staff, a representative from the building or realty community, one representative from the SSCA, and one representative from the CPOA.

In order to be current and qualified with the Community Rating System, the Council will need to appoint the members of the RTF at its September 5, 2018 meeting.

Consistent with the Ordinance, the following members are suggested – with the Council appointing (as highlighted below) two specific Town Council members, a Board of Adjustment member, and a specific “representative from either the realty or the construction community”.

1. Council Member
2. Council Member
3. Planning Board (PB) Chairman
4. Planning Board (PB) Vice-Chairman
5. Board of Adjustment (PB) Member
6. Town Manager
7. Deputy Town Manager
8. Chief of Police (or his representative)
9. Fire Chief (or his representative)
10. SSCA President (or his representative)
11. CPOA President (or his representative)
12. Representative from either the realty or the construction community

**Town of Southern Shores Planning Board (and Board of Adjustment):**

**Glenn Wyder, Chairman**  
**Elizabeth Morey, Vice-Chairman**  
**David Neal**  
**Joe McGraw**  
**Andy Ward**

**Alternates:**

**Leo Holland**  
**Michael Basilone**

CODE OF ORDINANCES TOWN OF SOUTHERN SHORES NORTH CAROLINA

Chapter 12 - EMERGENCY MANAGEMENT

ARTICLE III. - HURRICANE AND STORM RECONSTRUCTION AND REDEVELOPMENT

Sec. 12-66. - Intent.

Following a damaging storm and enactment of a building moratorium, it is the intent of the town to allow rebuilding and reconstruction in an orderly manner. The town will control the issuance of building permits to manage the location, timing and sequence of reconstruction and repair. It is further the intent of this article that the town establish, prior to the storm, a special reconstruction task force which will oversee the recovery and reconstruction process and serve as an advisory body to the town council on recovery/reconstruction issues. A main responsibility of this body will be to identify opportunities to mitigate future storm damages through the management of reconstruction. To further the intent of this article, the town will make every effort to develop its capacity to identify and coordinate various post-storm reconstruction resources, while at the same time ensuring maximum local control over the reconstruction process.

(Code 1988, § 12-29; Ord. of 9-3-1991, pt. I, § 12.1-1; Ord. No. 01-06-011, pt. II, 6-5-2001)

Sec. 12-67. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Destroyed structure* means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, i.e., 50 percent or more of the replacement cost of the entire structure at the time of damage or destruction.

*Incipient inlet* means an ocean-to-sound inlet which has been formed, or an inlet in the first stages of formation, or an inlet which has opened and is now closed as a result of a severe storm event.

*Local damage assessment team* means a damage assessment team, required by the state division of emergency management, whose function is to assess losses to property immediately after a storm. The assessment is used to determine if the area can qualify for federal or state disaster assistance.

*Major damaged structure* means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than 50 percent of the replacement cost of the entire structure at the time of damage.

*Minor damaged structure* means a structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, water heaters and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost of the entire structure at the time of damage.

*Storm event* means any natural weather event causing damage and destruction of property. (A storm event shall include, but not be limited to, hurricanes, northeasters, tornadoes, lightning, waterspouts, rain, and ice or snow storms.)

(Code 1988, § 12-30; Ord. of 9-3-1991, pt. I, § 12.1-2; Ord. No. 01-06-011, pt. II, 6-5-2001)

Sec. 12-68. - Hurricane and storm reconstruction.

- (a) *Determination of damage.* A primary task of the local damage assessment team is to identify structures which, as a result of the storm event, have been damaged. The local damage assessment team will recommend to the building inspector those structures which have been destroyed, received major damage or received minor damage. The building inspector will then inspect the damaged structures and place each structure in one of the categories defined in section 12-67.
- (b) *Declaration of a building moratorium.* The initial post-storm reconstruction moratorium shall be declared in effect upon the occurrence of one or more of the following findings:
- (1) The town is struck by a hurricane of force equal to or greater than four on the Saffir-Simpson scale, as determined by the National Weather Service.
  - (2) The town is declared a disaster area by either the governor of the state or the President of the United States.
  - (3) 25 or more structures have received major damage or have been destroyed, as determined by the building inspector.
  - (4) Upon the finding by the mayor, or in the absence of the mayor, the mayor pro tem, of the existence of a state of emergency, in accordance with G.S. 14-288, as amended, the mayor, or the mayor pro tem, as the case may be, shall declare the initial building moratorium, pursuant to G.S. 160A-174, where the mayor finds a moratorium is necessary for the protection of lives, safety and property, or due to the inability of the town to maintain acceptable levels of public order and services. The mayor may, based upon the above finding, extend the initial moratorium until such time as the state of emergency no longer exists.
- (c) *Moratoriums.*
- (1) *Initial building moratorium.* Upon the declaration of a building moratorium, the initial post-storm moratorium shall be in effect for a minimum period of 48 hours. No building permits shall be issued during this time period. After expiration of this initial moratorium, the following moratoria shall then apply:
    - a. *Destroyed structure moratorium.* No building permit shall be issued within 30 days following the expiration of the initial moratorium for the replacement of any structure which has been destroyed. All replacement building shall be subject to meeting the requirements of chapter 36, article XVI, all applicable sections pertaining to zoning, and all applicable town codes, prior to the issuance of a building permit.
    - b. *Major damaged structure moratorium.* No building permit for repairs of a major damaged structure shall be issued for at least seven days following the expiration of the initial moratorium. All repairs to a major damaged structure shall meet the requirements of chapter 36, article XVI, all applicable sections pertaining to zoning, and all applicable town codes, prior to the issuance of a building permit.
    - c. *Minor damaged structure moratorium.* Permits for the repair of minor damaged structures may be issued following the expiration of the initial moratorium. All repairs to minor damaged structures shall meet the requirements of chapter 36, article XVI, all applicable sections pertaining to zoning, and all applicable town codes, prior to the issuance of a building permit.
    - d. *Outstanding building permits moratorium.* All building permits which were issued prior to the storm event shall be revoked and shall not be reissued for a minimum period of 30 days following the expiration of the initial moratorium, unless upon finding by the building inspector, on a case-by-case basis, that sufficient inspection capability is available to adequately inspect the structures, should construction begin or resume. All permits issued prior to the storm event must meet the additional requirements of article XVI of chapter 36 before construction can resume. Applications for building permits revoked under this section shall be reissued at no charge.
    - e. *Site plan review.* Site plans which have been submitted to the town prior to the storm event shall not be reviewed by the staff, planning board or town council for a period of 30 days

following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.

- f. *New site plans, zoning requests and subdivision plats.* No new site plans, zoning requests or subdivision plats shall be accepted by the town for a period of 30 days following the expiration of the initial moratorium. All submittal dates and review periods shall be adjusted accordingly to reflect the time period covered by this 30-day moratorium.
- (2) *Duration of moratorium.* All moratoriums, other than the initial moratorium as enacted in subsection (b)(4) of this section, shall be in effect for the length of time described above and may be cancelled or extended by the mayor or resolution by the town council.
- (d) *Emergency repairs.* While a moratorium is in effect, no construction or reconstruction activity may be undertaken, excepting only minor interior repairs and emergency repairs necessary to prevent injury or loss of life or imminent collapse or other substantial additional damage to the structure. For illustrative purposes only, items that constitute minor repairs may include temporary roof repairs to avoid further water damage, minor repairs to steps and the temporary shoring up of a structure to avoid imminent collapse.

(Code 1988, § 12-31; Ord. of 9-3-1991, pt. I, § 12.1-3; Ord. No. 01-06-011, pt. II, 6-5-2001)

**Sec. 12-69. - Reconstruction task force.**

- (a) *Activation.* The reconstruction task force shall be activated upon the declaration of the initial building moratorium. The task force shall be responsible for advising the town council on a wide range of post-storm reconstruction issues.
- (b) *Responsibilities.*
  - (1) The reconstruction task force shall have the responsibilities outlined in this subsection. A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm, to discern appropriate areas for post-storm change and innovation. Where needed, the reconstruction task force can review, in a more specific fashion, alternative mechanisms for bringing these changes about and recommend the coordination of internal and external resources for achieving these ends.
  - (2) In addition to the responsibilities in subsection (b)(1) of this section, the reconstruction task force shall:
    - a. Review the nature of damages, identify and evaluate alternate program approaches for repairs and reconstruction, and formulate recommendations for handling community recovery.
    - b. Recommend rezoning changes in areas of damage.
    - c. Set a calendar of milestones for reconstruction tasks in conjunction with the town council.
    - d. Initiate requests for repairs to critical utilities and facilities.
    - e. Recommend the expiration or extension of a moratorium for major and minor repairs.
    - f. Recommend the lifting or extension of a moratorium for the outstanding building moratorium.
    - g. Evaluate hazards and the effectiveness of mitigation policies and recommend the amendment of policies, if necessary.
    - h. Initiate recommendations for negotiations for relocations and acquisitions of property.
    - i. Participate in federal hazard mitigation planning.

The task force shall recommend any changes in zoning, subdivision regulations, setback, density, elevation requirements, building codes, or any other ordinances which it deems necessary or advisable to prevent recurrence of coastal storm damage.

- (3) The reconstruction task force may also undertake a similar process for nonmitigative local objectives and opportunities. The task force may recommend for the town council consideration the following specific opportunities:
  - a. Enhancement of local recreational and open space opportunities; enhancement of public access to estuarine and ocean beaches.
  - b. Enhancement and restoration of local natural ecosystems.
  - c. Reduction of traffic congestion, noise and other transportation-related problems.
  - d. Enhancement of the longterm economic vitality of the local commercial and industrial base.
  - e. Other goals which further the stated goals and policies of the town.
- (c) *Composition of the reconstruction task force.* The reconstruction task force will be composed of the following individuals reflecting a broad-based representation of community interest and shall be appointed annually by the town council:
  - (1) Two elected officials.
  - (2) Town manager.
  - (3) Two planning board members.
  - (4) One board of adjustment member.
  - (5) One representative each from Southern Shores Civic Association (SSCA) and Chicahawk Civic Association.
  - (6) Building inspector.
  - (7) Police chief or his representative.
  - (8) Fire chief or his representative.
  - (9) One representative from either the realty or the construction community.

(Code 1988, § 12-32; Ord. of 9-3-1991, pt. I, § 12.1-4; Ord. No. 01-06-011, pt. II, 6-5-2001)