



Town of Southern Shores
Regular Council Meeting
September 10, 2019

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 10, 2019.

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, Interim Town Manager Wes Haskett, 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 10, 2019 agenda. The motion was seconded by Councilman McDonald. The motion passed unanimously (5-0).

CONSENT AGENDA

The consent agenda consisted of the following items:

- Council Meeting Minutes – August 6, 2019
- Resolution 2019-09-01-Surplus
- Resolution 2019-09-02-Appointment/Designation of a Statutory Deputy Finance Officer
- Budget Amendment #2-To re-appropriate money that was not spent in FY 18-19 budget-Fire Dept. Architectural Services
- Budget Amendment #3-To re-appropriate money that was not spent in FY 18-19 budget-Beach Surveys

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).

EMPLOYEE RECOGNITION

Town Manager Peter Rascoe and Mayor Bennett recognized Town staff for their years of service.

- 15 Years of Service-Bonnie Swain
- 20 Years of Service-Jennifer Couture
- New Employee-Police Officer Chris Simpson

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. He reported the Planning Board will be meeting on September 16th to continue its discussion of the Town's current requirements for building height and fill.
- Police Chief David Kole presented his Department's monthly report for August.
- Fire Chief Limbacher presented the Fire Department's monthly report for August.
- The Interim Town Manager provided a brief update on Hurricane Dorian:
 - 14 damaged homes were reported to Dare County
 - Clean up on streets began as soon as conditions allowed. Streets were cleared by Public Works, SSVFD, local Coast Guard, the Forestry Service and local tree contractors.
 - The amount of debris produced by Hurricane Dorian is more than the Town's tree contractor can handle and the county has been called to initiate the interlocal agreement for debris removal and monitoring service providers.
 - Staff is waiting on the cost estimate and if it will be eligible for FEMA assistance.
 - A storm debris pickup date and protocols will be announced in a special newsletter and placed on the Town's website. The Town wants to allow sufficient time for homeowners to get their debris out to the Town right-of-way, as the town will only be conducting one debris pickup pass.
- The Interim Town Manager also provided a brief report on capital street projects:
 - Staff is still waiting on the geotechnical reports from East Dogwood and Hillcrest Drive. Council will be kept informed as to the project's progress.
 - The South Dogwood walking path bid opening has been postponed until October 3rd at 10:00 AM to allow additional time to have a small number of sections evaluated for ADA compliance prior to the bid opening. As a result, Council's consideration of awarding a contract for the project was removed from this evening's agenda.
- Town Attorney Gallop had no report.

Council Committee Reports

Exploratory Committee for Potential Branch Library - Chairman Mike Fletcher

Chairman Fletcher gave a brief update of the Exploratory Committee for Potential Branch Library. He stated the committee has found a promising suitable location and are working on the cost aspects. The committee had a briefing by Jonathan Wark, Library Director at East Albemarle Regional Library System, who provided valuable information. A survey will be

generated in the near future seeking information as to potential use of the branch library. The committee is optimistic that within the next couple of months they will be able to present a proposal to Council. Council would then need to pass the proposal to Dare County for consideration.

GENERAL PUBLIC COMMENT

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

1. Michael Tillett-Appreciation award for the Southern Shores Police Department for help with OBX Custom Rides charity event put on by Garage Band Charities.
2. Matt Neal-163 Wax Myrtle-appreciates the SSVFD, Police Department and Town staff for the storm cleanup and response. Proud of the community. A property owner exemption to ZTA-18-09PB is sitting in the audience tonight, please send to the PB to address.

Hearing no other citizen wishing to speak, Mayor Bennett closed public comment.

OLD BUSINESS

Public Hearing and Council discussion and /or action to consider the Planning Board recommendation of ZTA-18-09 PB01, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-132, Regulation of Structures and Uses Nonconforming. (2) Consideration of a separate ordinance that addresses only the tear down of a structure located on two or more non-conforming parcels of land and then building two or more structures on non-conforming lots.

Town Attorney Gallop opened the public hearing.

Interim Town Manager/Planning Director Wes Haskett presented the staff report.

Planning Board Chairperson Elizabeth Morey briefed Council on the Planning Board report. She stated it is a complicated issue and the purpose is to regulate density. The Planning Board did not consider the alternate consideration ZTA -18-XX

Town Attorney Gallop called on those wishing to speak:

1. Starkey Sharp-Thanked Council for placing ZTA-18-09PB back on the agenda.
2. Brad Sandford-226 & 224 Wax Myrtle-In favor of the amendment. Family cannot sell the vacant lot currently owned.
3. Emily Ausband-177 Chicahawk Trl-purchased a lot that was buildable but now told it is not.
4. Ann Sjoerdsma-69 Hickory Trail-Town is a patchwork of lot sizes. ZTA-18-09PB should be opposed, not intent of Frank Stick and Kitty Hawk Land Company
5. Andy Ward-147 Bayberry Trl-Speaking as private citizen. Planning Board made the best decision, move forward.

Hearing no others wishing to speak, Town Attorney Gallop closed the public hearing and turned the meeting back to the Mayor for Council consideration.

Councilman Newberry agreed with Ms. Sjoerdsma comments about the intent and low density, but he also realizes that people are being hurt by the actions the Town has taken.

MOTION: Councilman Conners moved to approve ZTA-19-01PB as presented by the Planning Board. Mayor Bennett seconded the motion.

Mayor pro tem Nason requested to be recused from the vote on ZTA-18-01PB due to a prior business relationship. Mayor Bennett moved to recuse Mayor pro tem Nason. The motion was seconded by Councilman Conners and passed unanimously.

Councilman McDonald stated zoning text amendment was all done in a rush and should be thrown out and a start from scratch. At minimum, the dates need to be adjusted. Following discussion, Councilman McDonald moved to amend Councilman Conners original motion and amend the date of September 5, 2018 to September 6, 2019. The motion was seconded by Councilman Conners and passed unanimously (4-0).

Councilman Conners requested of the Mayor to call to vote as he stated the text amendment has been discussed enough over the last year. Mayor Bennett called for a vote of Councilman Conner's original motion with the amendment earlier made by Councilman McDonald. The seconded motion passed unanimously (4-0).

Council consideration of part two of the agenda item. Consideration of a separate ordinance that addresses only the tear down of a structure located on two or more non-conforming parcels of land and then building two or more structures on non-conforming lots.

Councilman Conners moved to have the Planning Board continue to look for non-conforming lots, several can be found in Sea Crest Village, to see if they warrant an exception to what was passed last year. He would like to see about having the Planning Board look at those lots because the Town is going to be dealing with exceptions for a while. Mayor pro tem Nason seconded the motion.

Councilman Nason stated we need a comprehensive approach. We need to get to the core value and continue to improve on the ordinance.

Mayor Bennett said Southern Shores was developed over a longer period of time with different lot sizes throughout. We inherited this and have to do the best we can with it. Most of Sea Crest Village lots are less than 20,000 sq. ft.

Councilman Conners stated if the Planning Board comes up with other lots bring them forward too, do not limit it to Sea Crest Village.

Councilman McDonald stated it sounds like Councilman Conners is talking about zoning districts. Mr. Conners replied he was not talking about different districts.

Interim Town Manager/Planning Director Wes Haskett stated they are all zoned RS1.

Mayor pro tem Nason stated it could be overlay districts. Similar to saying this RS1 area is different from another RS1 area.

Councilman Conners stated we need to be proactive to what other exceptions are out there.

Councilman Newberry stated we are doing point solutions and that is ok for tonight. In the long run there needs to be some planning. We need to look at the big picture, all of Southern Shores, and it could take quite a while.

Councilman Conners asked Interim Town Manager / Planning Director Wes Haskett about what would be involved with locating all the non-conforming lots in Town.

Interim Town Manager/ Planning Director Wes Haskett stated the number of non-conforming lots in the Town has already been presented to Council previously. He did not recall the number but stated the time and effort has already been put in to locate the non-conforming lots, which was reported to Council and the Planning Board.

Mayor Bennett stated Council is wandering and called for a vote of Councilman Conner's motion to have the Planning Board look at lots in Sea Crest Village, to see if they warrant an exception to what was passed last year. The motion was previously seconded by Mayor pro tem Nason. The motion passed unanimously (5-0).

NEXT AGENDA ITEM

Consideration of Council's 8/6/2019 direction to "Town Manager and the Active Town Manager/ Interim Town Manager to provide a list of consulting firms to go forward to hire a Town Manager".

Mayor Bennett stated Interim Town Manager Wes Haskett has presented Council with the list of consulting firms as requested. Mayor Bennett suggested, based on his original comments of this selection process, that he makes a motion to ensure a new Town Manager's education, experience, and qualities are compatible with the expectations of our new Council to be seated in December, which this Council will be working much closely with the Town Manager in the initial years. He stated for the best interest of the Town, Mayor Bennett moved to have this Council defer all consideration of a selection of a search consultant and the hiring of a Town Manager until the incoming Council is seated on December 3, 2019. The motion was seconded by Councilman Conners.

Councilman Newberry asked the Mayor to please explain his motion.

Mayor Bennett stated the motion was to allow the selection of the consulting firm and the new Town Manager to be a purvey of the new Council that will come on in December.

Councilman McDonald stated he thought Council just needed to move forward and questioned why Council would want to delay it.

Mayor Bennett stated he wasn't delaying it but allowing the new Council to make that decision to pick a consulting firm and a Town Manager.

Councilman McDonald stated the new Council will pick the manager, but we should move forward since Council voted on it at the last meeting.

Mayor Bennet stated Council voted to have a list of firms provided to us. He stated his motion is to have the new Council make the final decision which group they want to work with and ultimately make the decision of the Town Manager.

Councilman Newberry asked if this would delay the process, since it has to be advertised and interviews need to take place? If you wait until December it will be well into the new year until you can make a selection. He stated we owed it to the public to open it up for all that want to apply.

Mayor Bennett stated he felt it was best for the new Council to make the decisions as they will be working with the new manager for the next four years.

Mayor pro tem Nason stated he wasn't so worried about the time frame, but this Council may have qualities that they are looking for that are different from the next Council. He stated he didn't want to saddle the next Council with his opinions of qualities and what to look for. He asked if it would be possible to have Interim Town Manager Wes Haskett provide qualifications and pricing from these consultant firms.

Finance Officer/Human Resource Director Bonnie Swain briefed Council on her experience of previous processes of hiring consultant firms and managers. She stated it is the Council that will need to provide the qualities, expectations of a new manager to the consulting firms, it is not the job of the manager or Interim Manager.

Mayor Bennett called for a vote. The motion passed 3-2 with Mayor Bennett, Mayor pro tem Nason and Councilman Connors voting affirmative; Councilman McDonald and Councilman Newberry opposing.

NEXT AGENDA ITEM

Presentation / Petition for the Council's consideration for curbing seasonal cut through traffic on Hickory Trail-Requested by Councilman Newberry

Councilman Newberry stated there has been quite a bit of discussion since the last meeting about Hickory Trail. David Watson had petitioned for the Town to block Hickory Trail as a means to curbing or reducing cut-thru traffic. Councilman Newberry stated he spoke with Mr. Watson and informed him of the citizen committee, chaired by Tommy Karole, that was sanctioned to seek all options to slow or curb cut-thru traffic in Town, not just Dogwood Trail and Hickory Trail, but all the impacted streets. Councilman Newberry and Mr. Watson concluded it would be best to look at all the streets and do it through the citizen committee. Councilman Newberry called on Cut-thru Committee Chairperson Tommy Karole to provide a status report.

Mayor pro tem Nason inquired as to confirm that the petition to close Hickory Trail is being referred to the Cut-thru Traffic Citizen Committee. Councilman Newberry stated affirmative.

Committee Chairperson Tommy Karole provided Council a brief update of the committee progress. He stated he is working on recruiting residents for the committee that represent different areas in Southern Shores and that he has set up an email account for citizens to send their ideas, or just voice their concerns. Tommy Karole reported that he has been overwhelmed by the resident's interest and it will most likely be December when the committee will provide their final report to Council.

Mayor pro tem Nason viewed a concern of transparency and records retention with the Gmail account and asked Interim Town Manager Wes Haskett if it would be possible to provide the committee a Town email address, which would automatically save the public records.

Interim Town Manager Wes Haskett stated this could most likely be done.

NEXT AGENDA ITEM

Appointment of Reconstruction Task Force

Interim Town Manager stated this is an annual appointment.

Mayor Bennett made a motion appointing by position rather than individual when possible.

MOTION: Mayor Bennett moved to appoint:

- Mayor
- Mayor pro tem
- Planning Board Chairperson
- Planning Board Vice Chairperson
- Board of Adjustment Member-David Neal
- Town Manager
- Deputy Town Manager
- Police Chief
- Fire Department Chief
- SSCA President
- CPOA President
- Construction Community Representative-Matt Neal

The motion was seconded by Councilman Connors and passed unanimously (5-0).

GENERAL PUBLIC COMMENT

Mayor Bennett again called for public comment and the following citizens offered comment.

1. Lauren VanRiper-279 Hillcrest- would like to be on the Cut-Thru Traffic Committee. Need to curb the amount of traffic but closing Hickory Trail is not the answer.
2. Al Ewerling- 187 South Dogwood Trail-are the changes to South Dogwood walking trail impacting the cost? If we took care of the traffic, we might not have to spend a million dollars on a walking trail
3. Ann Soerdsma-69 Hickory Trail- Matt Neal has had all the information on non-conforming lots for months. This is nothing new, set it into some type of plan. Petition for Hickory Trail was essentially a cry for help. She is entitled to her opinions during public comment.
4. Norm St Laurent-63 Hickory Trail-Council needs to address traffic on Hickory trail. It is a safety issue.

Hearing no other citizens wishing to speak, mayor Bennett closed public comment.

MAYOR COMMENTS & COUNCIL COMMENTS

Councilman Newberry complemented the Interim Town Manager Wes Haskett, along with the Fire Department and Police Department for a job well done during Hurricane Dorian.

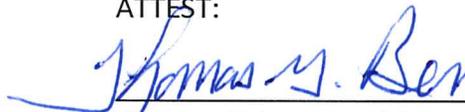
Jim Connors stated he has been assigned to the 2020 census committee and will be providing update status reports when they are received.

Mayor Bennett have a short briefing on the emergency management control group meeting and the need to accelerate the process for debris removal.

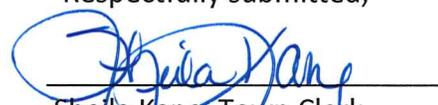
ADJOURN

MOTION: Mayor pro tem Nason moved to adjourn the meeting. The motion was seconded Councilman Nason. The motion passed unanimously (5-0). The times was 7:52 p.m.

ATTEST:


Thomas G. Bennett, Mayor



Respectfully submitted,

Sheila Kane, Town Clerk



Town of Southern Shores

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

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

www.southernshores-nc.gov

RESOLUTION 2019-09-01

A RESOLUTION DECLARING CERTAIN PROPERTY OF THE TOWN TO BE SURPLUS AND AUTHORIZING THE DISPOSITION OF SAID PROPERTY

WHEREAS, the Town Council of the Town of Southern Shores, North Carolina, has determined that the Town owns certain personal property that is no longer needed or usable by the Town; and

WHEREAS, the property is described below:

DEPT.	MAKE	DISPOSAL
PUBLIC WORKS	2009 Toro Z mower 48"	Gov-deals
PUBLIC WORKS	Brimar 2 axle 6x10 dump trailer	Gov-deals
PUBLIC WORKS	Williams 5x8 utility trailer	Gov-deals
POLICE DEPT	1987 AMG Humvee VIN 1114	Gov-deals- left off prior list
POLICE DEPT.	14 used Zoll AED	INOPERABLE-NO VALUE
PUBLIC WORKS	Schumacher jumpstart pack	INOPERABLE-NO VALUE
PUBLIC WORKS	Ryobi electric router	INOPERABLE-NO VALUE
PUBLIC WORKS	Ryobi electric sander	INOPERABLE-NO VALUE
PUBLIC WORKS	Duracell power pack jumper box	INOPERABLE-NO VALUE
PUBLIC WORKS	MAYTAG REFRIGERATOR	INOPERABLE-NO VALUE

NOW, THEREFORE, BE IT RESOLVED by the Southern Shores Town Council that the Town Manager or his designee are hereby authorized to dispose of the aforementioned property by any means allowable to include offering for sale at public auction, donation to a nonprofit organization, internet on-line offering, private negotiation and sale, upset bid process, or destruction.

AND BE IT FURTHER RESOLVED that property described in this resolution is surplus as of September 10, 2019.

ATTEST:


Thomas G. Bennett, Mayor




Sheila Kane, Town Clerk



Town of Southern Shores

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

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

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Resolution 2019-09-02

RESOLUTION APPOINTING A DEPUTY FINANCE OFFICER

WHEREAS, the Town Council of the Town of Southern Shores has, pursuant to North Carolina General Statute (NCGS) §159-24 of *The Local Government Budget and Fiscal Control Act*, appointed a Finance Officer who currently serves the Town with the powers and duties enumerated in NCGS §159-25; and

WHEREAS, NCGS §159-25 (b) states: "*Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board.*"; and

WHEREAS, it has been recommended that the Council properly designate and duly appoint a Deputy Finance Officer to serve the Town with the power and duty enumerated in NCGS §159-25 (b) when necessary and in the absence of the Finance Officer.

NOW, THEREFORE BE IT RESOLVED that Interim Town Manager Wes Haskett is hereby designated and appointed Deputy Finance Officer to serve the Town with the power and duty enumerated in NCGS §159-25 (b) when necessary and in the absence of the Finance Officer.

This the 10th day of September 2019.

Thomas G. Bennett, Mayor

Attest:

Sheila Kane, Town Clerk

**Town of Southern Shores
Budget Amendment Number #2**

**Fire Department
Increases**

Decreases

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-39909	<u>Revenues</u> Unassigned Fund Balance	\$20,530			
54-50402	<u>Expenditures</u> Architectural Services	\$20,530			

Explanation: To reappropriate money that was not spent in FY 18-19 budget.

Recommended By:

Wes Haskett, Interim Town Manager

Approved By:

Tom Bennett, Mayor

Date

**Town of Southern Shores
Budget Amendment Number # 3**

**Streets, Beaches & Canals
Increases**

**Streets
Decreases**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-39909	Revenues Unassigned Fund Balance	\$3,337			
57-50158	Expenditures Beach Surveys	\$3,337			
	TOTAL			TOTAL	\$ -

Explanation: To reappropriate money that was not spent in FY 18-19 budget.

Recommended By:

Approved By: Town Council

Wes Haskett, Interim Town Manager

Tom Bennett , Mayor

Date



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

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PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 5/16/19

Filing Fee: \$200

Receipt No. N/A Application No. ZTA-18-09

NOTE: The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

AB 01

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units *
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

Certification and Standing: As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

Applicant

Name Town of Southern Shores

Address: 5375 N. Virginia Dare Trail

Southern Shores, NC 27949

Phone 261-2394 Email whastett@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

Whastett
Signature

5-16-19
Date

* Attach supporting documentation.



Town of Southern Shores

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ZTA-18-09 PB01

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

ARTICLE I. Purpose(s) and Authority.

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

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

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

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

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

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

6
7 **ARTICLE II. Construction.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the subdivision process under Chapter 30.

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

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

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

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

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

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

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

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

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

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

40 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted
41 comprehensive zoning ordinance, land use plan and any other officially adopted plan that
42 is applicable. For all of the above-stated reasons and any additional reasons supporting the
43 Town’s adoption of this ordinance amendment, the Town considers the adoption of this
44 ordinance amendment to be reasonable and in the public interest.
45

46 **ARTICLE V. Severability.**

1
2 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are
3 hereby repealed. Should a court of competent jurisdiction declare this ordinance
4 amendment or any part thereof to be invalid, such decision shall not affect the remaining
5 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
6 Town of Southern Shores, North Carolina which shall remain in full force and effect.
7

8 **ARTICLE VI. Effective Date.**
9

10 This ordinance amendment shall be in full force and effect from and after the ____ day of
11 _____, 2019.
12

13
14 _____, Mayor
15

16
17 ATTEST:
18

19
20 _____
21 Town Clerk
22

23
24 APPROVED AS TO FORM:
25

26
27 _____
28 Town Attorney
29

30 Date adopted:
31

32
33 _____
34 Motion to adopt by Councilmember:
35

36 _____
37 Motion seconded by Councilmember:
38

39
Vote: __AYES__ NAYS

STAFF REPORT

To: Southern Shores Planning Board
Date: July 1, 2019
Case: ZTA-18-09 PB01
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 requested by Council at the February 5, 2019 Town Council meeting, Town Staff identified the nonconforming lots in the Town and presented its findings to the Town Planning Board at the April 23, 2019 Special Planning Board meeting and to the Town Council at the May 7, 2019 Town Council meeting. Also at the April 23, 2019 Special Planning Board meeting, the Board asked Town Staff to draft a ZTA that includes all of the situations previously identified in ZTA-18-09 PB with the addition of a situation where a lot is less than 100 ft. wide but greater than 20,000 sq. ft that is adjacent to a conforming lot with a single-family dwelling and a situation where three adjacent 50 ft. lots are under the same familial ownership (siblings) when the deed was recorded prior to September 5, 2018. ZTA-19-01 PB01 is an attempt to address all of the nonconforming lot situations that have been identified by Town Staff and the Town Planning Board.

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

Town Staff and the Town Planning Board have determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan. The Town Planning Board unanimously (5-0) recommended approval of ZTA-19-01 PB01 at the June 17, 2019 Planning Board meeting.



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-19-X

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

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

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

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

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

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

18 (a) Nonconforming lots of record.
19

20 (1) Development and Sale of Certain Legally Nonconforming Lots without
21 Recombination: In any district in which single-family dwellings are permitted, a
22 single-family dwelling and customary accessory building may be erected on any
23 currently nonconforming single lot which met all legal requirements at the time of
24 its creation and recording in the Dare County public registry. All applicable
25 dimensional requirements other than lot area and lot width shall be met for
26 development or redevelopment of such a lot except that a lot having a lot width of
27 fifty (50) feet or less may use a side yard setback of twelve (12) feet. Such a lot
28 may be sold without unless it is required to be recombined with other land pursuant
29 to subsection (a)(2) below.
30

31 (2) Recombination Required: Prior to demolition of an existing principal building,
32 redevelopment exceeding 50% of an existing principal building’s value, or
33 construction of a new principal building when such existing or proposed principal
34 building is located or proposed to be located on two or more lots any of which are
35 nonconforming, all lots underlying the existing or proposed principal building shall
36 be recombined into a single lot. A plat prepared by a North Carolina licensed
37 surveyor showing the recombination shall be shall be recorded in the Dare County
38 public registry, and a copy of the recorded plat shall be provided to the Town prior
39 to the issuance of a zoning or building permit for the demolition, redevelopment or
40 development upon the newly created lot. The resultant lot created by a
41 recombination required by this section shall be deemed to equal or exceed the lot
42 standards of the Town under Chapter 30, and the recombination is exempt from the
43 subdivision process under Chapter 30. The failure to perform a recombination
44 required by this subsection shall preclude the development or sale of any and all
45 underlying lots until such lots have been recombined.
46

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 _____, 2019.
22

23
24 _____
Tom Bennett, Mayor

25 ATTEST:

26
27 _____
28 Town Clerk
29

30
31 APPROVED AS TO FORM:

32
33 _____
34 Town Attorney
35

36 Date adopted:

37
38 _____
39 Motion to adopt by Councilmember:

40
41 _____
42 Motion seconded by Councilmember:
43
44
45

Vote: __AYES__ NAYS

BLANK

Management Search Consultants by Fee

N-Focus

Leaman B. Brice

313 S. Main Street, Ste 110

Kannapols, NC 28081

(704) 933-0772

www.nfocusplanning.org

lbrice@nfocusplanning.org

Developmental Associates, LLC

Steve Straus

510 Meadowmont Village Circle, #299

Chapel Hill, NC 27517

(919) 813-6096

www.developmentalassociates.com

skstraus@developmentalassociates.com

The Mercer Group, Inc.

Ellis Hankins

1201 Little Lake Hill

Raleigh, NC 27607

(919) 349-8988

www.mercergroupinc.com

ellis.hankins@gmail.com

ehankins@mercergroupinc.com

Hartwell Wright – (as an individual)

NCLM

434 Fayetteville Street, Ste 1900

Raleigh, NC 27601

(919) 715-4000

hwright@nclm.org

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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 10, 2019 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