



ORDINANCE NO. 2024-__

AN ORDINANCE OF THE BOARD OF ALDERMEN OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA TO DENY APPLICATION # RZ24-000001 TO REZONE TAX PARCEL 774-27.3 FROM RESIDENTIAL R-20 TO RESIDENTIAL R-15

WHEREAS, on behalf of Daniel Sooy, Toby Keeton of Kesting Architecture submitted application # RZ24-000001, a request to rezone tax parcel 774-27.3 from Residential R-20 to Residential R-15; and

WHEREAS, on July 11, 2024, the Planning Board held a special meeting to conduct a review of the proposed zoning map amendment and advised and commented on whether the proposed action is consistent with the Town’s Comprehensive Plan and any other officially adopted plan that is applicable; and

WHEREAS, the Planning Board provided a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the Planning Board and considered a Consistency and Reasonableness Statement, based upon the property history, compatibility with the Comprehensive Plan, Unified Development Ordinance, Response to Standards contained in the Staff Report and application # RZ24-000001; and

WHEREAS, the Board of Aldermen having conducted a public hearing on August 7, 2024, and having considered the proposed amendment’s consistency with applicable plans and has determined that proposed zoning amendment is not consistent with the Comprehensive Plan because:

- **Promoting the development of properties that have been deemed unbuildable due to either state or local development regulations is inconsistent with:**

P. 25 The Town, in an effort to protect the eco-friendly environment that the Town has established over the years, may aim to secure lots through either acquisition, grant-funded purchase, or donation. These lots may be secured as open space easements in perpetuity. Special attention will be given to acquire properties that have been deemed unbuildable due to either state or local development regulations; and

P. 52 The Town supports relocation of structures endangered by erosion, if the relocated structure will be in compliance with all applicable local, state, and federal policies and regulations including the Town’s zoning and subdivision ordinances. Relocation of structures should comply with density standards outlined within the future land use map section of this plan.

- **The application is inconsistent with Future Land Use Map Low Density requirement.** Allowable density is 2 dwelling units per acre or 1du/.5 acres. The proposed density is 1 du or 2 du/.36 acres.

P. 55 The Town supports the land use densities that are specified on page 4-13 of this plan. Through enforcement of the zoning ordinance, these densities will minimize damage from natural hazards and support the hazard mitigation plan. The Future Land Use Map 11-B on p. 4-18 indicates the property is classified as Low Density.

Future Land Use Compatibility Matrix p. 4-15 R-20 is generally consistent with Low Density Residential; the proposed amendment to R-15 is generally consistent with both Low and Medium Density.

WHEREAS, the Board of Aldermen having considered the reasonableness of their decision, hereby adopts the following Statement of Reasonableness:

The proposed zoning amendment is not reasonable and not in the public interest because it does not support the Comprehensive Plan policies above and because:

1. The challenge is the effect of the erosion rate in that area of 3.0 ft/year, which is used to calculate the CAMA setback from the First Line of Stable Natural Vegetation (FLSNV) or the Static line, $3.0 \times 30 = 90$ feet. From 1993 to 2023, thirty years, the platted size of the lot, as measured from the approximate high water line – which has also receded - has been reduced from 26,630 sq ft to 15606.8 sq ft. or 41.4%.

Comparing the approximate mean high water line from a plat of survey by Charles Riggs PLS dated 7/19/2000 and the shared boundary “leg” of Gairy I. Canady PLS original plat 6/16/21, In 2000, the distance to the mean high water line was 171.15 feet and in 2021, 109.2 feet, which indicates a loss of 61.95 feet in 21 years.
2. Amending zoning setbacks and granting variances in high erosion rate areas to allow for development is counterintuitive to the higher standards that the Town has adopted in its hazard mitigation planning to protect the community.
3. This amendment does not improve consistency with the long-range plan, nor improve the tax base, nor preserve environmental and/or cultural resources, nor facilitates a desired kind of development, and is therefore not in the public interest; and
4. Changed conditions warranting the amendment would be a reduced erosion rate and a successful beach nourishment project, with owners investing in sand fencing and planting sea oats, resulting in a stable building envelope.
5. Rezoning may restrict access for emergency access vehicles.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN:

Application # RZ24-000001 is denied.

ATTACHMENT 15

This ordinance is effective upon its adoption.

Adopted this the 7th day of August 2024.

Joann McDermon, Mayor

ATTEST:

Nancy Avery, Town Clerk