

STAFF REPORT

To: Southern Shores Town Council
Date: December 3, 2024
Case: ZTA-24-05
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores
Requested Action: Amendment of the Town Code by amending Town Code Section 36-171

ANALYSIS

At the February 6, 2024 Town Council meeting, the Town Council directed Town Staff to draft Town Code amendments to modernize the Town Code. At the April 9, 2024 Town Council meeting, Council adopted ZTA-24-02 which established that a lot disturbance/stormwater management permit is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in the general commercial zoning district and the penalty for not obtaining a lot disturbance/stormwater management permit to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in the general commercial zoning district. In addition to adoption of ZTA-24-02, the Town Planning Board had recommended that the Council direct Town Staff to draft another ZTA that would apply the amendments to all other zoning districts.

At the June 17, 2024 Planning Board meeting, the Board unanimously (5-0) recommended additional amendments to Town Code Section 36-171 that would establish that a lot disturbance/stormwater management permit is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in all zoning districts. In addition, the Board recommended amending Town Code Section 36-171 to address diseased, dead, or hazardous trees. As a result, Town Staff has drafted ZTA-24-05 which establishes that a lot disturbance/stormwater management permit is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in all zoning districts, and exceptions from having to obtain a lot disturbance-stormwater management permit to remove a tree greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in all zoning districts when a tree emergency is deemed to exist. If adopted, a tree emergency shall be deemed to exist when:

- (a) A tree has become an imminent danger or hazard to persons or property due to damage to the tree resulting from fire, motor vehicle accident, or natural occurrence such as lightning, windstorm, ice storm, flood, insect damage or disease, or other similar event; or
- (b) A tree must be removed in order to perform emergency repair or replacement of public or private water, sewer, electric, gas, or telecommunications utilities.

In the case of a tree emergency, the Zoning Administrator would have the authority to issue a lot

disturbance-stormwater management permit within 72 hours after a tree is removed in a tree emergency, or waive the requirement for a lot disturbance-stormwater management permit. A person otherwise required to obtain a lot disturbance-stormwater management permit may take any reasonable action necessary to avoid or eliminate the immediate danger or hazard, or conduct emergency repair or replacement of the public or private utility. The person taking such action shall file an application for a lot disturbance-stormwater management permit within 72 hours after a tree is removed in a tree emergency, unless the requirement for a lot disturbance-stormwater management permit has been waived by the Zoning Administrator. In these instances, documentation of the need for the emergency tree removal must be provided which may include documentation from a certified arborist, a police report, photographs, and/or other information documenting the condition of the tree and circumstances surrounding its removal.

The Town's currently adopted Comprehensive Land Use Plan contains the following Policies that are applicable to the proposed ZTA:

- **LUC 10:** Monitor and preserve maritime forests and other tree canopy coverage.
- **LUC 10.2:** Consider reviewing standards for tree preservation in new development and redevelopment to ensure they protect and preserve the existing canopy and forest coverage.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Comprehensive Land Use Plan and Town Staff recommends approval of the application. The Town Planning Board unanimously recommended approval (5-0) of the application at the November 18, 2024 Planning Board meeting.