

STAFF REPORT

To: Southern Shores Town Council
Date: September 2, 2025
Case: ZTA-25-05
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores
Requested Action: Amendment of Town Code by adding Section 1-14 and amending Section 36-414(a)

ANALYSIS

At the May 6, 2025 Town Council meeting, Council directed Town Staff to draft Town Code amendments to modernize the Town Code. As a result, Town Staff is proposing to amend the Town Code by adding Section 1-14 and amending Section 36-414(a). The proposed addition of Section 1-14(a) establishes that if an application for an administrative development approval, zoning map amendment, regulation amendment, or any other legislative development request is denied by the decision-making authority, on any basis other than the failure of the applicant to submit a complete application, no same application proposing the same or similar development on all or part of the same land or the same or similar text amendment shall be submitted within one (1) year after the date of denial unless the decision-making authority waives this time limit as follows:

- (1) The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for waiver of the time limit, along with a fee to defray the cost of processing the request, to the zoning administrator, who shall transmit the request to the decision-making authority.
- (2) The decision-making authority may grant a waiver of the time limit only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:
 - a. There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the decision-making authority's application of the relevant review standards to the development proposed in the new application; or
 - b. New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the decision-making authority's application of the relevant review standards to the development proposed in the new application. A request to be heard on this basis must be filed with the zoning administrator within 30 days from receipt of the written notice of the decision. However, such a request does not extend the 30-day period within which an appeal must be taken; or

- c. The new application proposed to be submitted is materially different from the prior application; or
- d. The final decision on the prior application was based on a material mistake of fact.

The proposed addition of Section 1-14(b) establishes that if an application for a quasi-judicial development decision is denied, on any basis other than the failure of the applicant to submit a complete application, no application proposing the same or similar development on all, or part of the same land shall be reconsidered unless the applicant submits a new application that clearly demonstrates the following:

- (1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the decision-making authority's application of the relevant review standards to the development proposed in the new application; or
- (2) New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the decision-making authority's application of the relevant review standards to the development proposed in the new application; or
- (3) The new application proposed to be submitted is materially different from the prior application; and
- (4) The decision-making authority determines the new application is authorized in accordance with this subsection.

The proposed addition of Section 1-14(c) establishes that the Zoning Administrator or decision-making authority may, however, at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

However, Edition 6 of HB 926 that is currently moving through the legislature includes an amendment to N.C.G.S 160D-601 that states: A development regulation or unified development ordinance may not include waiting periods prohibiting a landowner, developer, or applicant from refiling a denied or withdrawn application for a zoning map amendment, text amendment, development application, or request for development approval.

The proposed amendment of Section 36-414(a) establishes that applications for proposed regulation amendments shall include the name(s) and address(es) of the applicant(s) and be accompanied by the actual text of the proposed amendment in a format provided by the Town, and the applicable fee in accordance with the town's adopted fee schedule. The Town's current Comprehensive Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- LUC 3.1: Support development design and approvals that reinforce the low-density nature of the community and are at an appropriate scale for the commercial district.

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 (4-0) recommended approval of the application at the August 18, 2025 Planning Board meeting. If/when the proposed prohibition on waiting periods in HB 926 is passed by the legislature, Town Staff will draft amendments to remove the proposed language in Section 1-14 if adopted.