



AGENDA ITEM SUMMARY FORM

MEETING DATE: June 6, 2023

ITEM TITLE: ZTA-23-04

ITEM SUMMARY:

A Zoning Map Amendment application was submitted by a resident (the Applicant) in Southern Shores Landing (“SSL”) to rezone the western portion of SSL from C, General Commercial to RS-10, Residential. Town Staff researched the history of SSL and found it was approved as a Planned Unit Development (“PUD”) in 2005. The Town’s Official Zoning Map (2007) shows approximately two thirds of SSL is zoned RS-10, Residential, and the remaining one third is zoned C, General Commercial. In reviewing the rezoning application, Town Staff investigated the history of the retained one-third commercial zoning district and determined there was no official Town amendment of the zoning map to RS-10 following SSL approval. The proper zoning of SSL is actually based on a 2005 Zoning Map Amendment wherein the entire development is zoned C, General Commercial. It is important to note, the Town and Town Staff have been operating as if SSL was zoned residential pursuant to the Zoning Map. Upon discovering this error, Town Staff advised the applicant to withdraw his application and the Town would proceed with a Zoning Map Amendment application (ZMA-23-01) to rezone Southern Shores Landing in its entirety to RS-10, Residential to reflect its current use and its designation on the Zoning Map.

Continued research by Town Staff determined PUDs were removed as a permitted use in the RS-10 district due to the limited size of the developments. This was done in 2005 pursuant to a moratorium after SSL was approved. At the time SSL was approved, PUDs were permitted in Residential Zoning Districts. PUDs are currently a permitted use within the C, General Commercial District per Town Code Section 36-265. Town Staff withdrew ZMA-23-01 as the proposed rezoning would convert a conforming use into a nonconforming use.

Following withdrawal of ZMA-23-01, Town Staff drafted a Zoning Text Amendment (ZTA-23-02) that established a 50 ft. setback requirement for restaurants from PUDs, a 50 ft. setback requirement for drive-through facilities or establishments (small) from PUDs, a 50 ft. setback requirement for mixed use group developments from PUDs and residential districts, a 50 ft. setback requirement for commercial buildings and facilities from PUDs, a 20 ft. buffer requirement where a mixed use group development abuts a residential district or PUD, and a 20 ft. buffer requirement where a commercial use or zone abuts a residential district or PUD.

After further consideration, Town Staff withdrew the ZTA from the March 20, 2023 Planning Board meeting agenda to further assess the correlation of PUDs in the Commercial District. On April 11, 2023, the Applicant submitted a public records request for the withdrawn ZTA (ZTA-23-02). On April 12, 2023,

the Applicant submitted the documents received (ZTA-23-02) as a proposed text amendment which is now identified as ZTA-23-04.

STAFF RECOMMENDATION:

The Town Planning Board unanimously (5-0) recommended approval of the application at the May 15, 2023 Planning Board meeting. The proposed amendments are not inconsistent with the Town's currently adopted Land Use Plan. However, Town Staff believes that the concerns regarding setback, stormwater, and buffer requirements can be more specifically addressed through conditions in Special Use Permits when a Special Use (restaurants, drive-through facilities or establishments (small) mixed use group developments, etc.) is proposed. Whenever a Special Use is proposed, the application is first considered by the Planning Board and subsequently considered by the Town Council following a public hearing. Town Code Section 36-207(c) establishes that Special Uses are subject to the requirements of the C, General Commercial District. They also are subject to appropriate conditions and modifications relating to impacts on adjacent properties, transportation and transportation systems, transportation interconnectivity, stormwater, utilities and telecommunications facilities (including capacity), vegetation and other elements of the natural environment, noise, hours of operation, and other factors that the Town Council finds applicable; and additional regulations and requirements imposed by the Town Council, as provided in Article X of the Zoning Ordinance. Such conditions can be recommended by the Planning Board which become effective if approved by the Town Council.

REQUESTED ACTION:

Motion to deny ZTA-23-04.