

STAFF REPORT

To: Southern Shores Town Council
Date: March 12, 2024
Case: ZTA-24-01
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 Sections 24-27, 36-203, 36-207(b)(4), 36-207(c)(12), 36-207(c)(1)b., 36-207(c)(1.5)b., 36-207(c)(11)j., 36-207(c)(11)k., 36-207(c), 36-207(d)(7), 36-207(d)(8), 36-209, 36-297, 36-299, 36-300, and 36-304.

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. As a result, Town Staff has drafted ZTA-24-01 which includes proposed amendments to one Section in Chapter 24, Planning and several Sections in Chapter 36, Zoning. The proposed amendments are as follows:

Part I, Section 24-27, Powers and Duties:

- Removes the previous statutory reference that grants authority for Planning Boards and replaces it with the new reference (160D-301).
- Replaces the powers and duties of the Planning Board so that they are consistent with G.S. 160D-301(b).

Part II, Section 36-203, RS-8 Multifamily Residential District:

- Establishes a 40 percent lot coverage requirement for multifamily dwellings.

Part III, Section 36-207, C General Commercial District:

- Removes multifamily dwellings from the list of Permitted Uses (use by right).
- Establishes a 100-foot setback requirement for restaurants without a drive-through or with a drive through facility from residential districts and residential uses and 50 feet from planned unit developments (PUDS).
- Establishes a 100-foot setback for drive-through facilities or establishments (small) from residential districts and residential uses and 50 feet from PUDs.
- Establishes to establish a 50-foot setback requirement for buildings and other facilities associated with mixed use group development of commercial and residential buildings from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a mixed use group development abuts a residential district, residential use, or PUD.
- Establishes multifamily dwellings according to the density and dimensional requirements of the RS-8 multifamily residential district as a Special Use.
- Establishes a 50 ft. setback requirement for commercial buildings and facilities from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a commercial use or district abuts a residential district, residential use, or planned unit development and to require replanting

of dead vegetation in buffers

Part IV, Section 36-209, Prohibited Uses in all Districts:

- Establishes miniature golf courses, storage units, warehouses, and wind farms as prohibited uses in all zoning districts.

Part V, Section 36-297, Building and Zoning Permits Required; Time Limitations for Site Plans, Building Permits and Zoning Permits:

- Establishes that approved site plans expire if a building permit and zoning permit are not issued within one year of approval.
- Establishes that only building permits expire if construction has not commenced within 180 days of issuance of a building permit and zoning permit.
- Establishes that building permits, zoning permits, and site plan approvals expire if work is discontinued for one year.
- Establishes that if an application made in accordance with approved regulation is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Part VI, Section 36-299, Application for Building Permits, Zoning Permits and Site Plan Requirements:

- Requires showing the proposed to scale architectural elevations of the front, sides, rear and rooflines of proposed structures shown on site plans.
- Removes submittal of the proposed method for treating wastewater, location of all wastewater collection and treatment facilities (including any applicable property to be reserved for possible future wastewater use), name of any regulatory agency that must approve wastewater system, name of and written approval for connection from any organization that will collect or dispose of wastewater as requirement for site plan approval and establishes it as a requirement prior to issuance of a building permit and zoning permit.
- Requires a rendering showing the proposed front, sides, and rear appearances of the structures relative to views from adjacent properties, including retained vegetation, proposed landscaping and other site elements.
- Requires showing the number of bedrooms and/or occupants.
- Establishes that improvements that require a new wastewater treatment facility, or connection to an existing wastewater treatment facility, documentation from the North Carolina Utilities Commission certifying that the owner of the wastewater treatment facility is an approved public utility; is the utility franchise holder; and is the permit holder issued by the North Carolina Department of Environmental Quality. All documentation of these requirements shall be submitted with the site plan application.
- Establishes that improvements that require connection to an existing wastewater treatment facility, documentation from the North Carolina Department of Environmental Quality certifying that the wastewater treatment facility is in compliance with all

applicable requirements must be submitted with the site plan application, including adherence to permit conditions issued by the North Carolina Department of Environmental Quality.

Part VII, Section 36-300, Application for Permit for Special Uses:

- Establishes that written applications for Special Use Permits shall be submitted to the Planning and Code Enforcement Department instead of the Town Planning Board no later than 30 days prior to the Planning Board meeting at which the plan is to be reviewed.
- Establishes that no Special Use Permit application shall be deemed complete unless it is accompanied by a site plan drawn to scale which complies with the site plan requirements contained in section 36-299.
- Establishes that the Town Planning Board shall review Special Use Permit applications and recommend approval, conditional approval, or rejection of applications to Town Staff instead of the Town Council.
 - 160D-301(b)(6) allows Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- Reorganizes the Section so that it follows the Special Use Permit process chronologically.
- Establishes requirements for transmitting Special Use Permit applications, reports, and written materials to the Town Council.
- Establishes procedural requirements for evidentiary hearings held by the Town Council when considering Special Use Permits.
- Establishes that approved Special Use Permits shall be recorded by the applicant in the county registry.
- Establishes that a building permit and zoning permit must be issued within one year of approval of a Special Use Permit application and accompanying site plan. If a building permit and zoning permit are not applied for and issued within one year from the date of final approval of the Special Use Permit application and accompanying site plan, the Special Use Permit approval and site plan expire and the applicant must submit a new Special Use Permit application and accompanying site plan.

Part VIII, Section 36-304, Vested Right:

- Revises the Section title to Vested Rights – Site Specific Vesting Plans.
- Deletes the Section in its entirety and replaces it with the requirements established in G.S. 160D-108.1

The ZTA is consistent with the Town's Existing and Future Land Use Map in the Town's currently adopted Land Use Plan. The Town's Land Use Plan contains the following Policies and Action Items that are 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.

- **Action Item 2-b** The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.
- **Policy 7** Support stormwater management programs that reduce flooding and improve coastal water quality.
 - **Action Item 7-b** Encourage the use of Low Impact Development (LID), vegetative buffers to filter stormwater, impervious surface limits, and innovative stormwater management alternatives to reduce runoff and to improve water quality.
- **Policy 26** Promote open space, tree protection, and natural vegetation diversity.
 - **Action Item 26-b** Encourage lot preparation methods that preserve natural vegetation and minimize clear cutting.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the application with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g. The Town Planning Board unanimously (5-0) recommended approval of the application at the February 21, 2024 Planning Board meeting.