

STAFF REPORT

To: Southern Shores Town Council
Date: February 4, 2025
Case: ZTA-25-01
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores
Requested Action: Amendment of Town Code Section 36-132(a)

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. Town Code Section 36-132(a)(2) establishes the requirement to recombine adjacent nonconforming lots under the same ownership prior to sale or development. Town Code Section 36-132(a)(1) establishes exceptions which permit the development and sale of certain adjacent nonconforming lots under same ownership without the requirement of recombination.

On October 16, 2024, Town Staff received an application from Casey Varnell, Attorney for Garrison Beach, LLC, to appeal a formal interpretation issued by Town Staff on September 16, 2024, regarding the application of Section 36-132 of the Town Code. The formal interpretation addressed a scenario in which three adjacent nonconforming lots on Dolphin Run, all owned by Garrison Beach, LLC, may be developed without recombination. The subject properties include Lots 43, 44, and 45 (23 and 27 Dolphin Run). The Town's formal interpretation determined that, under the current version of Town Code Section 36-132(a)(2)a., Garrison Beach, LLC could not legally construct a single-family dwelling and customary accessory building upon Lots 43 and 44 without recombining them with Lot 45 prior to development.

Recognizing the need to modernize the Town Code, and in order to avoid an appeal to Superior Court, Town Staff and the Town Attorney worked with Mr. Varnell to develop a Zoning Text Amendment that would establish a new exemption in Section 36-132(a)(1), consistent with the purpose of the Town Code. The proposed Zoning Text Amendment will permit the construction of a single-family dwelling and customary accessory building on two or more currently nonconforming adjacent lots as a single development site, if at least one of two or more nonconforming adjacent lots is located adjacent to a single nonconforming lot that is under the same ownership and on which there is located an existing single-family dwelling, and the adjacent improved land is made up of no more than two lots all of which are nonconforming. The proposed Zoning Text Amendment will also clarify the applicability of the existing exemptions to the recombination requirement referenced in Section 36-132(a) of the Town Code, and further clarify the requirements for the recombination of adjacent nonconforming lots under same ownership that do not qualify for an exemption.

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 recommended approval (5-0) of the application at the January 29, 2025 Special Planning Board meeting.