

Town of Southern Shores Council Planning Committee Meeting
10:00 AM February 12, 2016
Town Hall Conference Room

Attending:

Committee Members: Mayor Tom Bennett, Mayor Pro tem Fred Newberry
Staff: Town Planner Wes Haskett, Town Manager Peter Rascoe
Attending Public; Citizen David Sanders

Mayor Bennett called the meeting to order.

The Mayor and Town Manager briefed on ongoing discussions with, and planned actions by, NCDOT regarding possible storm water remediation initiatives along NC Highway 12 at the East Dogwood Trail intersection. A meeting with the Mayor, NCDOT District One Highway Commissioner, Town staff, and NCDOT Division One engineers occurred on January 28, 2016 at the site of concern. NCDOT is committed to seek solutions to alleviate the problem with regards to stormwater originating on NC Highway 12. Shoulder grading was recommended along both NC 12 and along East Dogwood Trail as a means of allowing run-off to more easily infiltrate through the permeable road shoulders. NCDOT engineers affirmed that raising the asphalt surface above the level of flooding is not an option as this would simply divert stormwater onto adjacent private properties. A hydrologic team from NCDOT headquarters in Raleigh is due to arrive this week to study conditions within and adjacent to the NC Highway 12 right-of-way boundaries to determine what could be done to allow for offsite accumulation and infiltration of the stormwater. The Town Manager also mentioned that approximately 4,000 gallons of water had to be pumped during one incident using all of Public Works manpower to clear the two western lanes for travel. The Mayor also mentioned that one possibility suggested by NCDOT is for the Town to consider a stormwater infiltration basin between the two lanes of lower East Dogwood Trail. Mayor Pro tem Newberry recommended Town staff look at removing any side curbs along the street asphalt of lower East Dogwood Trail as a means of allowing stormwater to more easily get to permeable earthen street shoulders for infiltration.

Mayor Bennett asked committee member Mayor Pro tem Fred Newberry if he might be in favor of Council re-adopting now repealed Code language which limited single-family dwellings to 14 persons by septic capacity. This would be additional and complimentary to the recently adopted size limit of 6,000 square feet. After discussion, both committee members are in favor of adding this additional language back into Chapter 36, Article VII of the Town Code of Ordinances as a means of reinforcing the intent of the Town Council, by amending the Town Code, to limit both size and occupancy of single-family dwellings in Southern Shores. The Town Manager reaffirmed that staff could not enforce actual occupancy in a single-family dwelling once a Certificate of Occupancy is issued. Committee member Newberry concurred and stated that the design limit is just a deterrent. It was the consensus of both committee members that such an amendment to the Code be a recommendation to the full Council.

Prior to the Council's March 1, 2016 Regular Meeting, staff will discuss with the Town Attorney an appropriate draft zoning text amendment (ZTA) for Council to consider as a part of this committee recommendation to the full Council.

The Town Manager reviewed the Town staff protocol of having an owner or his contractor, who applies for a demolition permit for a flat top cottage, to photographically document the architecture of the structure before demolition and submit the photographs to the Town for archiving. He also mentioned that a flat top owner had inquired in the past about the Town's interest in creating an historic landmarks designation program, like the Town of Kill Devil Hills, which would incentivize the preservation of remaining flat top cottages. Committee member Newberry stated that he thought that would be a good program for the Town of Southern shores to consider. The Town Manager mentioned that the Planner for Kill Devil Hills who administers the program there could most likely be engaged to attend a Southern Shores Town Council meeting and explain the program. Committee member Mayor Bennett confirmed with staff that, under the program, a designated flat top cottage owner would only lose tax incentives if she or she decided they wanted to demolish the structure, and would not be prevented from doing so if they wanted to. It was the consensus of both committee members that a recommendation to the full Council be made that Council invite the appropriate Kill Devil Hills planner to come present on that Town's historic landmarks designation program.

The Town Planner stated that there is some interest among one or more of the Town's public safety agencies regarding being able to store equipment in storage trailers located on agency controlled properties in the Town. The Town Planner stated that such use would require an amendment to Code Section 36-163, d. After discussion, the committee members reached consensus that neither of them are in favor of recommending such a Code amendment to the full Council. Rather, they encouraged Town staff to relate the option of storage shed construction to the agencies.

The Town Planner briefed the committee on administration and enforcement of Town Code Section 36-202, (b), (2) (habitable floors and stories/living space) and Code Section 36-202, (b), (2) (accessory buildings) in light of the Council's recent adoption of a 6,000 square foot size limit of single-family dwellings. Strict interpretation of the Town Code, consistent with the Town Council's understanding and intent during its recent deliberations in amending the Town Code to adopt such a size requirement for single-family dwellings, prohibits permitting of an accessory structure with any habitable floor space. The Town Planner is currently enforcing the Town Code consistent with this interpretation, yet wants the committee members to understand this in case there is sentiment towards recommending Council amend the Town Code to allow such structures with habitable floor space. After discussion, the committee members reached consensus that neither of them are in favor of recommending such a Code amendment to the full Council, and they concurred with the Town Planner's interpretation and enforcement of the subject Code section

The Town Manager reported that he and the Town Planner have received inquiries from cottage rental industry officials about the Town's interpretation of the Town Code's zoning definition of "event facilities". The definition was recently amended by the Town Council for the purpose of clarifying when a rental cottage becomes an event facility for commercial zoning purposes. If it is rented for the primary purpose of holding a qualifying event, then it is considered an "event facility" under the zoning portion of the Town Code. The Town Manager reported that officials from the Outer Banks Association of

Realtors have requested a meeting with him, the Town Planner, and the Town Attorney to better understand the Town's interpretation.

The Town Manager briefed the committee on the Council's original intended purpose in creating the Planning Committee. The Planning Committee was created by the Town Council to consider emerging land use issues, and to investigate and vet any planning initiatives the Council, committee members, or staff may want to have considered before actual formal action of the Council. (Formal action of the Council includes referrals to the actual Planning Board for the commencement of its statutory duties and responsibilities in the case of actual filed permit applications, or filed zoning text and map amendment requests.)

Attending citizen David Sanders was asked for any comments he cared to make to the committee. He offered comment on various matters discussed and stated the committee did have inclusive discussions on its agenda items. He also recommended that Town staff investigate narrowing the vehicle lanes of lower East Dogwood Trail to add more permeable shoulder surface for stormwater infiltration.

The Mayor recapped action items of the committee meeting, again confirming among the two committee members that each is in favor of adding additional language back into Chapter 36, Article VII of the Town Code of Ordinances as a means of reinforcing the intent of the Town Council, by amending the Town Code, to limit both size and occupancy of single-family dwellings in Southern Shores.

The action items agreed on by both committee members are:

1. It is the consensus of both committee members that the committee recommends to the full Council amending the Town Code to re-adopt the now repealed Code language which limits single-family dwellings to 14 persons by septic capacity.
2. It is the consensus of both committee members that the committee recommends to the full Council it invite the appropriate Kill Devil Hills planner to come present at a regular Council meeting on that Town's historic landmarks designation program.

There be no further matters before the committee, the Mayor adjourned the meeting.

**Town of Southern Shores Council Planning Committee Meeting
Members: Mayor Tom Bennett, Mayor Pro Tem Fred Newberry
February 12, 2016 at 10:00 AM - Town Hall Conference Room**

Agenda

1. Mayor's update on discussions with NCDOT regarding possible storm water remediation initiatives along NC Highway 12 - Mayor Bennett
2. Discussion of amended (now deleted) language in Chapter 36, Article VII, Schedule of District Regulations previously limiting new single-family dwelling occupancy by septic capacity - Mayor Bennett
3. Discussion of a possible ZTA to Code Section 36-163, d, to on-site storage of public safety equipment in storage trailers on parcels owned and controlled by Public Safety agencies - Town staff
4. Briefing by Town staff on administration/enforcement of Code Section 36- 57 (habitable floors and stories/living space) and Code Section 36-202, (b), (2) (accessory buildings) - Town staff

Sec. 36-57. - Definition of specific terms and words.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building, accessory, means a subordinate building consisting of walls and a roof, the use of which is clearly incidental to that of the principal building on the same lot, even where the accessory building is attached to the principal structure by breezeways, covered walkways, walkways, or other structures not constituting enclosed living space.

Dwelling unit means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single-family.

Habitable floors and stories (living space) means enclosed areas within a structure which are located below the top plate, and containing rooms or areas which have been designed, and constructed for human habitation.

Use, accessory, means a building, structure or use which meets all of the following criteria:

- (1) It is clearly incidental to and customarily found in connection with a principal building or use;
- (2) It is subordinate to and serves a principal building or principal use served;
- (3) It is subordinate in area, extent or purpose to the principal building or principal use served;
- (4) It contributes to the comfort, convenience or needs of occupants, or business in the principal building or the principal use served;
- (5) It is located on the same lot as the principal building or use; and
- (6) It is not a sexually oriented business or a sexually oriented business activity.

Sec. 36-202. - RS-1 single-family residential district.

- (a) *Intent*. The RS-1 district is established to provide for the low-density development of single-family detached dwellings in an environment which preserves sand dunes, coastal forests, wetlands, and other unique natural features of the coastal area. The district is intended to promote stable, permanent neighborhoods characterized by low vehicular traffic flows, abundant open space, and low impact of development on the natural environment and adjacent land uses.
- (b) *Permitted uses*. The following uses shall be permitted by right:
 - (1) Detached single-family dwelling consisting of no more than seven bedrooms or septic system capacity for more than 14 people.
 - (2) **Customary accessory buildings and structures including, but not limited to, swimming pools, tennis courts, and garages, provided no living space is provided in the accessory structure.** Accessory beach access walks, ramps, and steps shall not exceed four feet in width. Accessory ocean dune platforms shall not exceed 200 square feet.

Sec. 36-163. - Off-street parking requirements.

At the time of erection of any building or structure, or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off-street parking space shall be provided according to the amounts and specifications provided by this section.

d. *Off-street parking and/or storage of certain vehicles prohibited.*

1. Trucks, trailers, semitrailers, (self-propelled or detached) and prefabricated cargo shipping containers or similar containers shall not be used as a storage or other type of accessory structure in any zoning district.
2. Nothing in this section shall apply to any vehicle stored in compliance with applicable town codes. This regulation shall not be interpreted to prohibit the timely unloading and loading of commercial trailers in any district.

(Code 1988, § 11-6.01; Ord. No. 2006-09-02, art. V, 11-28-2006; Ord. No. 2007-07-01, art. IV, 8-7-2007; Ord. No. 2007-09-02, art. III, 9-4-2007; Ord. No. 2011-01-01, art. VIII, pts. III, IV, 1-4-2011; Ord. No. 2012-02-01, art. III, pt. II, 2-7-2012)

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