



**KURE BEACH TOWN COUNCIL  
PUBLIC HEARING  
June 19, 2007**

**MINUTES**

**THIS AGENDA MAY BE AMENDED AT ANY TIME AND IS SUBJECT TO CHANGE. ITEMS MAY BE ADDED TO OR DELETED FROM THIS AGENDA.**

**CALL TO ORDER**

**MAYOR FULLER**

**COUNCIL MEMBERS PRESENT:**

Mayor	Tim Fuller
Mayor Pro Tem	Mac Montgomery
Commissioner	Jim Dugan
Commissioner	Bill Ufferman
Commissioner	Dean Lambeth

**COUNCIL MEMBERS ABSENT:**

None

**STAFF PRESENT:**

Town Clerk                      Nancy Avery

Town Attorney A.A. Canoutas was in attendance

Mayor Fuller called the public hearing to order at 6:30pm stating the purpose of the hearing was to receive comments from the public on proposed amendments to the Land Use Plan.

**Public Comments:**

1) Resident Jean Prete stated:

- she doesn't want the amendments passed
- she wants to preserve the commercial district
- she doesn't want private homes built on the ocean front
- she keeps hearing references to "economically feasible" – who determines? - is it being used as an excuse?
- she believes the purchaser knew the property was bought at the height of the real estate market and they want to "hit and run" which is not good for the town

Mayor Pro Tem Montgomery explained that the Division of Coastal Area Management (CAMA) suggested revising the footnote language in the proposed amendment to say if the land is small enough or structured enough - economically feasible has not been defined.

2) Attorney Dan Bell, speaking for his client Mike Robertson, stated:

- he doesn't come to provoke, only to provide information
- the owner did not buy four individual lots, but bought one parcel. Attorney Bell provided council members with a copy of the deed showing one parcel and a copy of the NHC tax record showing one parcel
- at the last council meeting, references were made to the opinions of attorneys Newton and Moore and he sent a request to the town clerk for all correspondence on file regarding this issue and the only time attorney Moore is mentioned was in a comment to Mayor Pro Tem Montgomery – there is nothing in town's records from Mr. Newton. The attorney's opinion should be in writing for all to see
- the use of words "economically feasible" is invitation to slick lawyers and will create a thicket the council will regret and it will be used in quasi-judicial hearings to present a case – wrong way to do things – asking for trouble
- he understands amendments were rejected by Planning & Zoning
- that as a resident of Kure Beach, if the amendments pass it will devastate the planning of the business district and it is a perfect opportunity for the Town and business district to come together to put together a plan that will revitalize the business district to make it viable and a place to be proud of
- he wondered why the council was in such a hurry to amend the Land Use Plan
- the council has a duty to the town not to the developer

3) Business owner Tom Humphries said he:

- started a petition last week and has 90 signatures
- is in agreement that a 5000 foot structure may be built
- his restaurant, Old Pier House, is only 1300 square feet and is successful
- doesn't believe the owner of the property where the Rolling Surf Motel is located can't have a feasible business
- feels there is a personal connection between Mayor Tim Fuller and Mark Maynard since Mayor Fuller worked for Mark Maynard of Biltmark and he was Mayor Fuller's previous boss – it gives the appearance of a personal interest.
- thinks the town should buy the property and get Mr. Sanders out of the equation
- no one is suing the town
- what's the hurry in amending the Land Use Plan?

Mayor Fuller responded that:

- he doesn't have a personal interest
- if Mr. Humphrey thought it was such a great investment, why didn't he buy the property when it was in bankruptcy
- Sanders wants \$9,000,000 for the property – he can't be forced to sell to the town
- It isn't true that no one is suing the town, because Mike Robertson sued and CAMA sued
- Sanders has ruling from Board Of Adjustment to build residences
- he worked for Mark Maynard (Biltmark) who had a long standing business relationship with Nathan Sanders. Jimmy Hatcher got a contract on the Rolling Surf property for the express purpose of building homes in the B1 district. His

impression was he could build houses. It was said in open that the ordinance allows building of a residence in B1 if it meets setbacks

- he told Jimmy Hatcher that council will fight building residences, then Hatcher sold to Sanders
- he realized he was getting into conflicts working for Biltmark and serving on the Council, so he quit Biltmark
- his position with Biltmark was that of coordinating with architects to purchase building materials

Mayor Pro Tem Montgomery stated that if Mr. Humphrey has legal proof of a personal interest on the part of the mayor, he needs to bring it to Council to discuss with the attorney to determine if the mayor needs to recuse himself

4) Resident Wanda Tsangerides commented:

- why isn't Council fighting this?
- will you consider how those in attendance feel?

Mayor Fuller replied that:

- Council did fight, and the Building Inspector denied the building permit
- Sanders sued and fought to the Court of Appeals
- the Town won in the Court of Appeals and there is language in the decision that says if commercial is not feasible, the Town has to allow a residence to be built
- state law says Council can't deny building a residence, it would essentially be condemning the property
- Sanders went to Board Of Adjustment (BOA) for a variance
- the Town Council doesn't control BOA – they granted the variance
- Mike Robertson sued, then CAMA said building a residence was not in compliance with the Land Use Plan
- The Town Council didn't want to amend, then CAMA sued the town and Robertson sued Board Of Adjustment
- There is no hurry, this has been going on for four months. The Attorney General, acting on behalf of CAMA, started legal proceedings against the Town.

Town Attorney Canoutas stated that CAMA objected to the present Land Use Plan language that says residences aren't allowed in the B1 district. The Attorney General has no position, he is only enforcing the rights of CAMA.

Attorney Dan Bell stated that the Attorney General is not in any hurry and is not forcing anyone to act.

Mayor Fuller responded that when the Town Council told CAMA they would consider amending the Land Use Plan, CAMA stayed the law suit.

6) Business owner Tom Humphries said that if the Town residents are willing to have a lawsuit to preserve the business district, they should make the decision since they will pay for it.

Mayor Pro Tem Montgomery stated that this was to be a public hearing, not an argument back and forth as to the validity of this proposed amendment – only to take public comments.

7) Resident Barry Nelder asked if the residents would receive a survey. Couldn't that be done in the interim before the September Coastal Resource Commission meeting? The Planning and Zoning Commission asked for a letter to be sent to all residents.

Mayor Pro Tem Montgomery said that:

- the Town Council has encouraged public input several times with a notice in the newsletter, newspaper ads, etc.
- only a few responses have been received
- this topic was discussed at the May council meeting
- it was stated at the May meeting that the Council is not trying for the July Coastal Resource Commission meeting, but would wait for the September meeting to give more time for the public to respond.

8) Resident Rich McGee asked if this specific project has been determined to be not economically feasible? He stated he thinks “economically feasible” is going to be a problem. If the purchaser overpaid, that's his problem, not the Town's.

9) Pat Bolander, a 10 year resident, says:

- that it sounds fishy that some one would buy a business and expect it to be rezoned residential
- the Town desperately needs motels for everyday people that can't find a place to stay
- what about income to the Town, will we get it from a private residence?
- people can't come for the weekend because there aren't enough places to stay
- we are making the Town so exclusive that people who have come for vacation in past years are no longer able to continue to afford to come
- we are neglecting visitors

10) Resident Ken Paisley of 617 3<sup>rd</sup> Ave South stated:

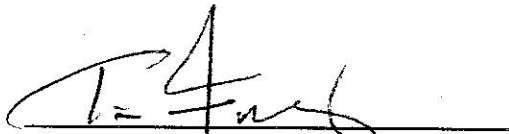
- he has been a property owner for 28 years and never received a newsletter, but saw information on the website
- he doesn't know how to stop this, but it is leaving open a precedence for next highest purchaser to come in and set price

11) Alan Votta, Planning & Zoning (P&Z) chairman commented:

- P&Z's recommendation was in two parts: they felt the towns people needed more notice with a notification to every resident, and the second part was that P&Z didn't support single family homes in the B1 district
- that Council wanted P&Z to remove minimum use from the ordinance months ago

- P&Z wanted minimum use to stay to protect people that have a little cottage next to the Rolling Surf already existing in the B1 district and recommended using an established date for use as a residence to protect these properties
- nothing happened with that recommendation to Council
- he feels notification was achieved with the May newsletter
- that a 5000 square foot structure is buildable in a 5000 square footprint
- that if this Council amends the Land Use Plan, it will change the face of Kure Beach in the future
- that if the business district is gone, the Town will lose it's core and become single family, in his opinion.
- he thinks the amendment is bigger than the 35 foot height limit and will change the Town forever.

ACTION – Commissioner Ufferman MADE THE MOTION to close the public hearing at 7:24pm. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

  
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Tim Fuller, Mayor

ATTEST:   
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Nancy Avery, Town Clerk

