



KURE BEACH PLANNING & ZONING COMMISSION  
REGULAR MEETING ♦ JULY 10, 2007

A regular meeting of the Kure Beach Planning and Zoning Commission was held on Tuesday, July 10, 2007 at 7:30 p.m. A quorum was present.

MEMBERS IN ATTENDANCE

Chair – Alan Votta

Vice Chair – Ken Buchert

Members – Tim Bullard and Janet Foster

MEMBERS ABSENT

James Schutta

STAFF IN ATTENDANCE

Building Inspector John Batson

Secretary Aimee Zimmerman

Town Attorney A.A. Canoutas

Also in attendance were:

Liaison Commissioner Dean Lambeth

Mayor Tim Fuller

Mayor Pro Tem Mac Montgomery

Commissioner Bill Ufferman

CALL TO ORDER:

Chairman Votta called the meeting to order at 7:41 p.m.

APPROVAL OF MINUTES

June 5, 2007 regular meeting.

**ACTION: Member Foster made the motion to approve the minutes from the June 5, 2007 regular meeting. Member Buchert seconds the motion. The vote of approval is unanimous.**

## PERSONS ADDRESSING THE BOARD

Jimmy Lippard addressed the Commission concerning the proposed amendments to the Land Use Plan. He stated:

- He is the only full-time residential resident in the B-1 District.
- Is dissatisfied and feels as though allowing these amendments and allowing the builders to complete their project at the Rolling Surf will open a new can of worms.
- These amendments are to avoid a lawsuit but he feels in passing these, it may create a whole new batch of lawsuits.
- With his property, he was told by council that it was the B-1 ordinances and not the Land Use Plan that prohibit him from rebuilding as a residential structure.
- In November of 2006, he was denied the ability to build residential.

In response, Attorney Canoutas indicated that at that time, they were unaware of the CAMA issues and indicated that if the LUP is amended, it will benefit Mr. Lippard.

Building Inspector Batson clarified that Mr. Lippard's property is not an issue with CAMA. The issue is that the home is currently non-conforming and would be considered non-conforming should it need to be rebuilt.

## OLD BUSINESS:

### Land Use Plan Amendments

- Members from Town Council were present to address the Commission regarding the proposed Land Use Plan amendments. In attendance were Mayor Tim Fuller, Mayor Pro Tem Mac Montgomery, Commissioner Bill Ufferman and Commissioner/Liaison Dean Lambeth.
- Council attended the meeting because public comments from the public hearing held in June indicated that the initial language was ambiguous. Council proposed the new language for the Commission to consider. Should these new amendments pass, town ordinances will eventually have to be changed.
- Commission was presented with the proposed amendments to the Land Use Plan pertaining to residential structures in the B-1 district along with an email from Mayor Fuller with new language proposed to be added.
- New language incorporates language taken directly from the Court of Appeals decision in S.F Holdings of Wilmington, LLC v. Town of Kure Beach, et al.
- Town Attorney is in agreement with the new wording.
- Consensus of Town Council members present was that CAMA will accept the new language.
- This proposed language deletes all references to economic feasibility.
- The case in the Superior Court ruled for the town. Thereafter, appellant's petitioned the Court of Appeals stating that the town was mistaken in the interpretation of the ordinances, specifically 19-323.5. The Court stated that the Town was correct in saying that Sec.19-323.5 is not a blanket endorsement of residential in the B-1 but a limited

suspension of the rules for the B-1. Court of Appeals confirmed that the Town can't look at just that section. Must look at all the ordinances together as a whole.

- Inclination of the town is that if anyone in the B-1 district asks for a residential building permit, they will be denied. That can then be appealed to the Board of Adjustment where certain criteria, set by the Court of Appeals, will have to be met.
- LUP deals only with CAMA issues.
- These amendments are also going to protect the current residences in the B-1. Those are in danger because if they are destroyed by a natural cause, the current LUP doesn't not allow them to rebuild except on the same footprint.
- Board of Adjustment is a statutorily mandated entity. In order to overturn a decision by the Board of Adjustment, a writ of certiorari must be filed in Superior Court.
- Discussion was held concerning other possible language.

**ACTION:** Member Buchert moves to recommend to Town Council that they accept the amendment to the Land Use Plan, deleting the sentence "However, residential-only uses may be allowed in the B-1 District only for oceanfront properties" along with the footnote and then adding the language as follows:

**However, residential-only uses may be permitted in the B-1 District when an owner of a single lot cannot, because of the lot's dimensions or location, comply with the applicable state or local regulations limiting the uses of the lot or if the lot was a residential-only use at the time of the adoption of this amendment. A property owner must demonstrate, prior to being able to build a single-family dwelling, that the lot meets the requirements of Sec. 19-323 of the Kure Beach Zoning Ordinance or is otherwise hindered by state or local regulations from continued use of the land for regional trade and commercial service uses.**

Member Foster seconds the motion. The vote of approval is unanimous.

Town Attorney Canoutas excuses himself from the meeting at 9:00 p.m.

Chairman Votta calls for a break at 9:07 p.m.

Chairman Votta calls the meeting back to order at 9:16 p.m.

#### DENSITY

- Commission was provided with Member Schutta's email with his thoughts on the density issue.
- Member Buchert agreed with Member Schutta's email reducing built upon percent to 60 from 65.
- Building Inspector Batson clarified that minimum living space for a bedroom is 7' x 7' with a closet, a parking space must be 9' x 20' and not encroach the Town right-of-way and, currently, homes with four bedrooms or less are required to have 2 parking spaces.

- Member Bullard, while not in favor of increasing setbacks, recommended 2 parking spaces for up to 3 bedrooms and an additional space for each additional bedroom.
- Building Inspector Batson indicated that if the Commission decided to define “bedroom” that the Town Attorney should be present.

**ACTION: Member Bullard moves to continue discussion on the density issue to the next meeting. Member Buchert seconds the motion. The vote of approval is unanimous.**

Zoning Map

Commission had previous received a copy of the proposed zoning map for their review and comments. Each member has reviewed the map and find no discrepancies. Secretary to the Commission is allowed to finalize the map.

NEW BUSINESS

None

MEMBER ITEMS:

None

ADJOURNMENT:

**Member Bullard moves to adjourn the meeting. Motion seconded by Member Buchert. The vote of approval is unanimous.**

Meeting is adjourned at 9:51 p.m.

  
Allan Votta, Chairman

  
Aimee Zimmerman, Secretary