

**RECOMMENDED COMBINED STATEMENT OF CONSISTENCY OF TEXT
AMENDMENT WITH TOWN COMPREHENSIVE PLAN AND STATEMENT
OF REASONABLENESS PURSUANT TO SECTION 12.08.050 OF THE
TOWN ORDINANCES AND N.C.G.S. § 160D-605(d)**

Town of Kure Beach Planning & Zoning Commission

7 February 2024

A. Plan Consistency Statement

The Planning Board of the Town of Kure Beach recommends to Town Council pursuant to N.C.G.S. § 160D-604(d) and Section 12.08.050 of the Town Ordinances that it should find that an amendment to Section 15.26.020 entitled “Permitted Uses” (which lists permitted uses in the B-1 District) adding a new Subsection S providing that

“one-family dwelling (a) on a lot on which the most recent use can be proven to be a nonconforming residential use, and (b) which meets yard and setback minimum requirements for the RA-1A residential district, and (c) which the impervious ground-covering surface does not exceed sixty-five (65) percent of the lot”

is a permitted use in the B-1 District is **consistent with the Town’s 2022 Comprehensive Land Use Plan (the “Plan”)** for the following reasons:

1. **The text amendment is consistent with the Plan’s description of the desired character of the Town Center as reflecting that of the “1940’s-1970’s coastal community”.**

The Town’s 2022 Comprehensive Land Use Plan refers to the B-1 District as the “Town Center”. The Plan provides at page 5-5 provides “The Town Center is intended to be maintained with its current character, which is that of a 1940s –1970s coastal community” and that a goal is to “maintain consistency with the Town Center Overlay District”.

Historically, residential uses existed during the 1940s – 1970s on numerous lots in the Town Center, notwithstanding residential uses in large part are not permitted uses in the Town Center under the Town Zoning Code. (See description of the B-1 District in the 2007 Kure Beach Study of the B-1 Zoning District and the 2009 N.C.S.U. Economic Development Study of the District as including residences.) Accordingly, allowing a one-family dwelling in the B-1 district on a lot on which the most recent use was a non-conforming residential use is consistent with the Town Center’s 1940s-1970s coastal community character and thus is consistent with the 2022 Comprehensive Land Use Plan provisions regarding the Town Center.

In addition, the text amendment's requirements that the one-family dwelling meet RA-1A yard and setback requirements and that the impervious surfaces of the dwelling do not exceed 65% of the lot surface assure that any one-family dwelling will be of the similar character, size and scale of residences as they existed in the Town Center in the 1940s – 1970s.

2. **The text amendment is consistent with Goal 5.1 of the Plan, its Objective, and the Plan's Policies designed to achieve the Goal and meet the Objective.**

a. The Goal

Goal 5.1 stated at Page 5-9 of the Plan is to “[e]nsure that development and use of resources or preservation of land balances protection of natural resources and fragile areas with economic development, avoids risks to public health and welfare, and are consistent with the capability of the land.”

The proposed text amendment imposes a no-more-than 65% impervious surface requirement, which mitigates flooding risk. That requirement ensures that, balanced against a desire for a proposed residence, is consideration of protecting natural resources and fragile areas, avoiding risks to public health and assuring the residence will be in keeping with the capability of the land.

b. The Objective to Meet the Goal

In order to meet the Goal, the Plan adopted an objective to reach, namely **Objective 5.1** at Page 5-10 of the Plan, which is to “maintain the small town, family-friendly atmosphere of the Town of Kure Beach *by encouraging single-family ...residential development....* [bold italics added].

Here, the text amendment allowing a one-family dwelling “encourages single-family residential development”, and thereby meets Objective 5.1.

c. Adopted Policies to Meet the Goal and Objective

In order to meet Objective 5.1, the Town has adopted certain Policies in the Plan stated at Page 5-10. Those Policies are listed below. The reason the text amendment meets a particular Policy is stated after that Policy.

- i. **Policy 5.1.A: New Development and Redevelopment should be Consistent with Existing Development:** The Town shall protect existing development through regulating new development proposals *to ensure their character retains the existing low-profile and predominant housing type characteristics....* [bold italics added]

The requirements imposed by Downtown Preservation District regulations, the B-1 District zoning ordinances and the text amendment's requirements that the one-family dwelling meet RA-1A yard and setback requirements and that the impervious surfaces of the dwelling do not exceed 65% of the lot surface assure that a one-family dwelling will be "low profile" and "characteristic" of the Town's "predominant housing type, and that it would help the Town "retain its predominantly single family residential character" in keeping with Policy 5.1.A.

- ii. **Policy 5.1.D: Single-Family and Two-Family Residential Development:** The Town shall maintain areas exclusively for conventional single-family and two-family residential development. *The Town shall retain its predominantly single-family residential character.* Conversion of single-family and two-family homes to multi-family residential uses shall be discouraged. [bold italics added]

The text amendment would allow "one-family dwellings", which would help the Town retain its predominantly single-family residential character in keeping with Policy 5.1.D

- iii. **Policy 5.1.E: Local Regulations May Limit the Size of Residential Structures:** The Town discourages large residential dwellings, as very large structures will be incompatible with the small-town appearance desired in the jurisdiction.

Recommended Action 5.1.E.1: Consider establishing Floor Area Ratio (FAR), size thresholds, or other standards to further manage the density and intensity of development and redevelopment.

The text amendment's requirements that the one-family dwelling meet RA-1A yard and setback requirements and that the impervious surfaces of the dwelling do not exceed 65% of the lot surface discourage large dwellings

incompatible with the small-town appearance desired in Kure Beach. Further, the amendment's requirements are a form of enforcing FAR and restricting density. Accordingly, the text amendment would be in keeping with Policy 5.1.E and its Recommended Action.

3. **The text amendment is consistent with the Plan's emphasis on the Town's Downtown Preservation District.**

The B-1 District and Town Center make up the Downtown Preservation District described in the Town Zoning Ordinance. Use of such overlay districts is encouraged through **Policy 5.1.A** of the Plan as a means of "retaining the existing low-profile and predominant housing type characteristics.

Further, **Policy 5.1.N entitled "Historic Preservation" at Page 5-11** of the Plan encourages the use of Certificates of Appropriateness for development in the Downtown Preservation Overlay District: That Policy provides:

Policy 5.1.N: Historic Preservation: The Town supports maintaining its 1940s – 1970s coastal community heritage within Kure Beach's Downtown Preservation District and shall require Certificates of Appropriateness where applicable to ensure exterior elements of new development and improvements to existing development are compatible with the District's character.

In furtherance of this Policy, the Town has adopted Design Standards for the Kure Beach Downtown Preservation and Historic District ("Design Standards"). Subsection 15.08.120 E of those Design Standards entitled "**Downtown Preservation Overlay District - Design Standards**" provides that "[b]uildings and structures within the POD shall comply with the Design Standards." In that connection, Certificates of Appropriateness ("COAs") are issued based on compliance with the Design Standards. The COAs are required by Subsections F, G, H, I & K of Section 15.08.120.

Section 4.3 of those Design Standards found at page 6 specifically contemplates residences in the B-1/POD:

4.3. Specific Standards for New Residential Buildings and Structures

New residential buildings and structures shall be designed with an architectural scale that is consistent and harmonious with the District's neighborhood and is compatible with the surrounding

buildings and structures which contribute to the District's special character in terms of height, form, size, scale, proportion, architectural style, and roof shapes. [bold italics added]

The proposed text amendment allowing a one-family dwelling in the B-1 district on a lot where there was a previously a non-conforming residential use is consistent with this Design Standard, which is to be enforced through the Town's Certificate of Appropriateness procedures applicable to the Downtown Preservation and Historic District. Those procedures assure that new residential buildings permitted by the proposed text amendment would be consistent and harmonious with the District neighborhood and contribute to the District's special character in terms of height, form, size, scale, proportion, architectural style, and roof shapes. Accordingly, the text amendment is also consistent with the Plan's Policies for this overlay district.

4. **The text amendment is in keeping with the Town's desire that residential uses not become the dominant use in the B-1 Zoning District.**

The Plan at 5-5 (a) states that the "Town Center is intended to be maintained with its current character, which is that of a 1940's-1970s coastal community", (b) lists "Residential Uses not associated with commercial uses" as an example of "Undesired Uses" in the Town Center. While at first blush the proposed text amendment would allow a so-called "Undesired Use", it in fact does not when one examines the character of the Town Center in the 1940s-1970s and the underlying policies designed to maintain that character.

Character of the Town Center

During the 1940s-1970s, residences were nestled among the businesses serving as the Town's commercial hub, many of which remain to this day.

Underlying Policies Designed to Maintain Town Center Character

Preserving those residences is a goal of Policy 5.1.N and Design Standard 4.3 of the Downtown Preservation Overlay District_- *Design Standards*. While at first these policies of the Plan may appear to be in conflict with the Plan's listing of a residence as an Undesired Use in the Town Center, it is not when one examines the goal of the Town expressed in the Town's 2006 CAMA Land Use Plan concerning the B-1 District that "Kure Beach wishes to conserve the commercial district ***and not allow residential uses to become the dominant use in the district***"¹. Thus, the rationale behind these Policy statements is to prevent development of

¹ The quote from the 2006 CAMA Land Use Plan is obtained from page 3 of 2007 Kure Beach Study of the B-1 Zoning District. The Study states the quote is from at pages 123-125 of the 2006 Plan].

residences in the District where they were not previously located. This policy achieves a balance by encouraging commercial uses in the B-1 District while at the same maintaining and preserving the degree of residential use that has always existed in the District.

Here, the proposed text amendment is consistent with this policy rationale. The proposed text amendment would allow a residence only where there was a previously located residential use. Consequently, the amendment would not allow residences to be constructed at any location in the B-1 District where such uses did not previously exist alongside the historical commercial character of the Town Center. This would prevent residential uses becoming a dominant use in the District.

B. Reasonableness of Text Amendment Statement

The Planning Board recommends that Town Council find that a text amendment allowing a “**one-family dwelling (a) on a lot on which the most recent use can be proven to be a nonconforming residential use, and (b) which meets yard and setback minimum requirements for the RA-1A residential district, and (c) which the impervious ground-covering surface does not exceed sixty-five (65) percent of the lot**” in the B-1 district is **reasonable** upon consideration of the following factors set forth in N.C.G.S. § 160D-605(b) and Section 12.08.050 C of the Town’s ordinances:

- i) the size, physical conditions, and other attributes of the area proposed to be rezoned*

The B-1 District is described in detail in studies conducted by the Town, such as the 2007 Kure Beach Study of the B-1 Zoning District and the 2009 N.C.S.U. Economic Development Study of the District. The District consists of a mix of apartment, duplex and single family residential uses, as well as businesses. The text amendment would allow construction of a single family residence that is consistent with the housing types in the District, as well as throughout the Town.

- ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community;*

Allowing the text amendment benefits all concerned in that it would allow development of a single-family residence on vacant property upon which was formerly located dilapidated non-conforming residential structures. Such would improve the property values of all concerned. The current economic conditions that have prevailed since 2007 do not militate in favor of vacant property in the District to be developed for business uses. (See 2007 Kure Beach Study of B-1 Zoning

District/) And single family residences are favored in the Town's 2022 Comprehensive Land Use Plan.

- iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;*

See response to (ii) above.

In addition, the proposed text amendment requirements imposing the same yard and setbacks as the RA-1A district set forth in Section 15.12.30 and the 65% impervious surface maximum in all districts (except B-1) in Section 15.36.30 would make the a new one-family dwelling in B-1 consistent with current actual development in B-1 and adjacent districts.

Note further that the proposed text amendment does not affect the ability of existing non-conforming duplexes and apartments to rebuild due to the wording of the Town's non-conformity ordinance, Section 15.38.020.

- iv) why the action taken is in the public interest;*

See reasons set forth in the Statement of Consistency set forth above. Further, the fact that the B-1 District/Town Center is within the Town's Preservation Overlay District (thereby requiring that any development take place with a Certificate of Appropriateness obtained beforehand) assures that any development will be consistent with preferred development in the Town.

- v) any changed conditions warranting the amendment.*

Vacant properties in the B-1 District are not being developed for business uses due to prevailing and persistent economic conditions that discourage investment in businesses in the B-1. The economic climate is more favorable to tasteful single-family dwellings consistent with the Town's historical characteristics. [See cited studies above].

Adopted by the Planning Board of the Town of Kure Beach on this the 7th day of February, 2024.

Bryon Ashbridge, Chairman
Planning Board, Town of Kure Beach