



# TOWN COUNCIL MINUTES

## REGULAR MEETING

**Monday, July 21, 2025 @ 6:00 p.m.**

The Kure Beach Town Council held its regular meeting on Monday, July 21, 2025 @ 6:00 p.m. Town Attorney Jim Eldridge was present, and there was a quorum of Council members present.

### COUNCIL MEMBERS PRESENT

Mayor Allen Oliver

MPT David Heglar

Commissioner Dennis Panicali

Commissioner Connie Mearkle

### COUNCIL MEMBERS ABSENT

Commissioner John Ellen

### STAFF PRESENT

Town Clerk – Beth Chase

Director of Administration – Mandy Sanders

Director of Development and Compliance – Bethany White

Public Works Director – Jimmy Mesimer

Finance Officer – Arlen Copenhaver

Fire Chief – Ed Kennedy

Recreation Director – Nikki Keely

Police Chief – Brandon Bailey

Mayor Oliver called the meeting to order at 6:00 p.m., and gave the invocation followed by the Pledge of Allegiance.

### APPROVAL OF CONSENT AGENDA ITEMS

1. Accept the resignation of Linda Collora from the Community Center Committee
2. Appoint Michael McMahon to the Community Center Committee
3. Allow the Bike/Ped Committee to host the Tour de Island Bike Ride on Kure Beach streets and Ocean Front Park on Saturday, October 18, 2025
4. Minutes:
  - July 1, 2025 Special
  - June 16, 2025 Closed
  - June 16, 2025 Special
  - June 16, 2025 Regular

MOTION – MPT Heglar made a motion to approve the consent as presented

SECOND – Commissioner Panicali

VOTE – Unanimous



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## ADOPTION OF THE AGENDA

MOTION – MPT Heglar made a motion to adopt the agenda as presented

SECOND – Commissioner Panicali

VOTE – Unanimous

## PUBLIC COMMENT

None.

## PRESENTATIONS

None.

## QUASI JUDICIAL HEARING - SPECIAL USE PERMIT SEAMIST SUITES

Mayor Oliver opened the hearing and stated that this is a hearing under Town of Kure Beach Code of Ordinances (hereinafter “KBC”) 15.08.080.B on the application for a special use permit submitted by Seamist Suites LLC (“Applicant”) for the property located at 106 Fort Fisher Boulevard South, Kure Beach, North Carolina (“Property”). The application seeks a special use permit for a 3-story mixed-use development of the Property with retail on the ground floor and 10 (5 on each floor) residential units on the top 2 levels. Instructions to Council Members:

- In making factual determinations, Council members may only consider competent, material, and substantial evidence from parties who have standing.
- Non-expert opinion testimony, including opinions relating to diminution of property values and traffic safety issues, may not be considered in making findings of fact.
- Council is not precluded from relying on evidence that would not be admissible under the North Carolina Rules of Evidence if the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for Council to rely upon it.
- Council shall make Findings of Fact and identify the evidence supporting each finding. A worksheet has been provided for that purpose.
- Under KBC 15.08.080.B, the Applicant is entitled to a special use permit if it proves, by competent, material, and substantial evidence, that the proposed special use:
  - Will not materially endanger the public health, safety, or welfare if located where proposed.
  - Meets all required conditions and specifications under the Town Code.
  - Will not substantially injure the value of adjoining property.



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- If developed and used as proposed, will be harmonious and compatible with the area in which it is proposed to be located and is generally consistent with the Town's comprehensive plan.
- Council may impose reasonable and appropriate conditions and safeguards when granting a special use permit.
- Council's decision will be set forth in writing and delivered to the Applicant in accordance with the provisions of KBC 12.06.050.J.
- For the purposes of this hearing, the Town Attorney will be appearing in an advisory capacity to Council and not as an advocate for any party.

Mayor Oliver stated each Council member shall state whether a conflict of interest exists due to direct financial benefit, bias or fixed opinion, undisclosed outside contacts, or a close family or commercial tie. Should such a conflict exist, the Council member shall recuse his/her self from the hearing and Council shall vote to excuse that member from voting on the matter. He has no conflict.

MPT Heglar stated no conflict.

Commissioner Mearkle stated no conflict.

Commissioner Panicali stated no conflict.

Mayor Oliver gave the oath "Raise your right hand, place your left hand on the Bible, and repeat after me: "I swear to tell the truth, the whole truth, and nothing but the truth, so help me God." to Town Clerk Chase, Director of Development and Compliance White, Applicant Adam Khatib, Applicant Attorney Leith Khatib, D Luke Menius, Cal Morgan and Resident Michael Bennett.

Town Clerk Chase stated she is tendering into the record the following Exhibits:

- Exhibit #1 - Updated Special-Use-Permit-Application Seamist Suites
- Exhibit #2 - Updated Seamist site plan
- Exhibit #3 - Seamist Parking Plan
- Exhibit #4 - Email regarding Ownership
- Exhibit #5 Notice of Hearing
- Exhibit #6 Certification of Posted Notice
- Exhibit #7 Certification of Mailed Notice
- Exhibit #8 Email of Record to Town Council and the Applicant received on July 18, 2025



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Applicant Attorney Leith Khatib entered into the record Exhibit #9 the PowerPoint Presentation hereby incorporated into the record.

- This property is in the B1 Zoning District, every property on this block is zoned B1 as this is the commercial hub of the Town
- According to the 2022 Land Use Plan for the Town of Kure Beach Mixed Use is the most desirable uses in the B1 district
- Wants to bring this project as a family focused mixed use of retail and residential space
- Proposing a Mixed Use consisting of 3 Floors
- The First Floor will be 2 Retail Store Fronts, Second Floor will be 10 Apartments/dwelling units
- For a Special Use Permit the applicant must prove 4 things by competent material evidence
- The use will not materially endanger the public health, safety, or welfare if located where proposed
- The use meets all required conditions and specifications under the Town Code;
- The use will not substantially injure the value of adjoining property (or alternatively, is a public necessity); and
- If developed and used as proposed, will be harmonious and compatible with the area in which it is proposed development is to be located and is generally consistent with the Town's comprehensive plan.
- Specific requirements for Mixed Use Development in the Business District:
- For Dwellings: Dwelling when constructed in conjunction with permitted use provided such dwellings are an integral part of the main building of such a permitted use.
- Retail is permitted by right in the Business District.
- The applicant is seeking to have dwellings on top of the retail
- He is going to turn this over to the Engineer D. Luke Menius with Stroud Engineering

D. Luke Menius, PE, with Stroud Engineering stated

- The plan has the required 20 parking spaces, 8 additional spaces for the retail and is ADA compliant
- Bumpers are provided along the entire site as required
- The stormwater for the site will be permitted through the Town stormwater program
- The utility connections- The water connection will be connected to 3<sup>rd</sup> Avenue and the sewer connection will be at Fort Fisher BLVD
- He will answer questions on how the systems will work



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MPT Heglar stated are you considering impervious stormwater for the parking area at all or consider it in the plan?

D. Luke Menius, PE, with Stroud Engineering stated he has not considered that because when he did the predevelopment impervious number and it was feasible to complete this site plan with that number.

MPT Heglar commented that stormwater is an issue on Fort Fisher BLVD so just a request to consider it in the site plan if it doesn't drive up the cost.

Attorney Eldridge stated a pedestrian easement is going to come forward this evening can you share where this is on the property.

Applicant Attorney Leith Khatib commented there is what he believes to be a floating pedestrian easement deeded back from 1913 that requires a 4-foot pathway for ingress and egress of the property. He could not find the location of the easement so believes it is a floating easement of the property. He is willing to hear out the property owner where he believes the easement is on the property. The applicant is committed to having ingress and egress for the property owner from his property to Fort Fisher BLVD.

Cal Morgan MAI, AI-GRS tendered into the record his letter hereby incorporated into this section as Exhibit #10. He read his letter to Town Council. (Please see Exhibit #10)

Commissioner Panicali asked how is the retail space being divided?

Applicant Attorney Leith Khatib stated it will be two retail spaces.

Applicant Adam Khatib commented it will be two spaces for retail on the ground floor this would be moving the Islander Quik mart to the new property. There is so much that could be carried by the store and he wants to bring a better grocery store to Kure Beach. Also, want to have a Kure Beach gift shop.

Applicant Attorney Leith Khatib stated he wants to testify to the section that if developed and used as proposed, will be harmonious and compatible with the area in which it is proposed development is to be located and is generally consistent with the Town's comprehensive plan. In the 2022 Land Use Plan it states the following "Restaurants, cafes, food markets, and retail establishments – particularly small-scale locally owned businesses – that are compatible with the residential and family-friendly atmosphere in the Town of Kure Beach are supported within



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commercially zoned areas.” This is a family business, and they believe the combination of retail and residential will be family friendly. The applicant wants this mixed use to serve the Kure Beach residents. The store was made year-round, which was a bad financial decision because it doesn’t make the same income but it better served the Kure Beach community. This grocery store will be kept open year-round as well. Mixed Use Development is a desired use and most desirable use for this area. We want to be part of the commercial hub.

Commissioner Mearkle stated it definitely fits with the land use plan the plan for the retail. The residential levels, is this going to be something that a resident could rent year-round? Is it going to be affordable housing?

Applicant Attorney Leith Khatib commented that the applicant is considering both year-round housing or vacation rentals. It is going to be determined based on what is achievable.

Director of Development and Compliance White read her memo that is hereby incorporated into this section as Exhibit #11. (Please see Exhibit #11)

- The special use permit application before you was submitted 5/21/25, by Seamist Suites LLC, proposing residential dwellings in the B-1 district, in compliance with 15.26.020 Permitted Uses D. Dwelling when constructed in conjunction with permitted use provided such dwellings are an integral part of the main building of such a permitted use; (S) The (S) indicates that this is a permitted use in the B-1 District under a special use permit. .
- The proposed location is currently comprised of 3 separate parcels including parcels R09217-005-010, R09217-005-014, and R09217-005-015. These parcels are currently being used as a parking lot and are in process of being combined into 1 parcel equaling 25,000 square feet.
- The proposed mixed use 3 story building will contain retail on the ground floor area, and 10 residential dwellings on the 2<sup>nd</sup> and 3<sup>rd</sup> floors.
- Density requirements for a multi-family dwelling is 2,500 square feet per unit, the 3 parcels once combined will equal 25,000 square feet meeting this requirement.
- Parking required for multi-family residential dwellings is 2 spaces per 2 bedrooms. The proposed site plan shows 20 reserved parking spaces, meeting this requirement.
- In my opinion, the proposed use will be generally consistent with the Town’s comprehensive land use plan and will meet all conditions and specifications under the Towns code.

Mayor Oliver commented is all ADA requirements being met? Town Council needs to discuss the garbage collection and what is being proposed on the plan as it shows a dumpster site.





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Director of Development and Compliance White commented that it is not reissuing providing two ADA spaces. Garbage has been discussed and can continue to be discussed regarding the plan. All department heads have reviewed the plan.

Resident Michael Bennett tendered into the record Exhibit #12 and Exhibit #13. He is here because of his pedestrian easement that the applicant was aware of as he gave him the easement 3 years ago. It says it won't reduce the value of his property, but his house will back up to a 35 foot building. He does not want to upset anyone, and he does not understand why he is just hearing about it now.

Attorney Eldridge stated it favors that the easement is on the property and does not agree with the floating easement. The only evidence he sees regarding the easement is he does not see anything recorded. If the applicant is going to provide Mr. Bennett, with an easement Town Council may want to consider granting the Special Use Permit with the condition that an agreement needs to be recorded between the two parties for the easement.

Applicant Attorney Leith Khatib stated there is a sidewalk on the side of the building which would allow him to ingress and egress from the property. He believed it was a floating easement.

Attorney Eldridge asked Mr. Bennett does using the sidewalk accomplishes the goal of the easement.

Mr. Bennett answered yes, it does.

Applicant Attorney Leith Khatib commented they can add a gate to ensure he can access the sidewalk for the easement.

MPT Heglar commented he agrees with the Attorney Eldridge it needs to be recorded.

Town Attorney Eldridge stated:

1. The Applicant's name and the address of the property where the proposed special use is to be located. Seamist Suites, LLC. 106 Fort Fisher Boulevard South, Kure Beach, North Carolina (hereinafter, the "Property").
2. What is the Applicant's interest in the Property (owns, rents, option to purchase)? Applicant owns the Property.
3. What is the proposed special use? The application seeks a special use permit for a 3-story mixed-use development of the Property with retail on the ground floor and 10 (5 on each floor) residential units on the top 2 levels.



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4. What is the Department of Development and Compliance's opinion on the proposed special use? All code requirements have been provided.
5. The proposed special use (will/will not) materially endanger public health, safety, or welfare if located where proposed.
6. The proposed special use (does/does not) meet all the required conditions and specifications under the Town Code.
7. The proposed special use (will/will not) injure the value of adjoining property.
8. The proposed special use, if developed and used as proposed, (will/will not) be harmonious and compatible with the area in which it is proposed to be located and is generally consistent with the Town's comprehensive plan.

MOTION- MPT Heglar made a motion that the proposed special use will not materially endanger public health, safety, or welfare if located where proposed.

SECOND- Commissioner Panicali

VOTE- Unanimous

MOTION- MPT Heglar made a motion that the proposed special use does meet all the required conditions and specifications under the Town Code.

SECOND- Commissioner Panicali

VOTE- Unanimous

MOTION- MPT Heglar made a motion that the proposed special use will not injure the value of adjoining property.

SECOND- Commissioner Panicali

VOTE- Unanimous

MOTION- MPT Heglar made a motion that the proposed special use, if developed and used as proposed, will not be harmonious and compatible with the area in which it is proposed to be located and is generally consistent with the Town's comprehensive plan.

SECOND- Commissioner Panicali

VOTE- Unanimous

MOTION- MPT Heglar made a motion to close the hearing

SECOND- Commissioner Mearkle

VOTE- Unanimous





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MOTION – MPT Heglar made a motion that the Applicant has shown that each of the 4 of the requirements set forth in No. 3 above have been met

SECOND- Commissioner Mearkle

VOTE – Unanimous

MOTION- MPT Heglar made a motion to grant the Special Use Permit for Seamist Suites with the condition of Applicant Adam Khatib and Mr. Michael Bennet pedestrian easement for egress and ingress as shown by the recorded document

SECOND- Commissioner Mearkle

VOTE- Unanimous

## DISCUSSION OF COMMITTEE BUSINESS

### Planning and Zoning Commission

- Discussion of amending KBC 11.20.010 Oceanfront Deck Encroachment

Chairman Ashbridge commented this topic came forward from personal interest. He owns an Ocean Front Property and knew about the change with the CAMA 60-foot setback with the first line of vegetation rather than the static line. Over the winter he got a better understanding working with Director of Development and Compliance White on what you can do with Ocean Front Properties. Their property sits back 120 feet from the first line of vegetation. There is also a development line and a beach nourishment easement line. He shared all the information with the Planning & Zoning Commission. There is currently only one provision KBC 11.20.010 that allows for 250 feet of unattached decking to be within 15 feet of the easement line, but there is also a secondary condition that it must be within 5 feet of the CAMA setback. There is not a single property in Kure Beach that would have this opportunity. One option would be to delete this text all together which would mean any encroachment request would come to Town Council to be voted on an exemption basis. The other would be to eliminate the 5 feet into the CAMA setback condition so that you wouldn't be into the CAMA setback but could encroach into the easement.

Mayor Oliver stated he would not want it to be on a case-by-case basis and rather have a set rule. Would Bryan Hall be a resource?

Director of Development and Compliance White commented he may be. This is a Town easement. The Town was allowing pools into the easement and put a stop to it. The recommendation made via motion from the Planning and Zoning Commission was to delete the ordinance all together. The rest of the easements are on a case-by-case basis.



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MPT Heglar stated there are no Town services in the easement, so the Public Works Department does not have a stance. The Corps of Engineer is going to protect the Town. If a resident wants to put something there and it must be removed, then that is up to the property owner. The protection for this easement is to protect beach nourishment and it would be important to get the Corps of Engineer opinion on items being in the easement. He would need to hear from them before he votes on it.

Director of Development and Compliance White to reach out to Byran Hall with the County and to the Corps of Engineer.

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Administration Department

- Discussion of Landscape Proposal with High Tide Landscaping & Design

Director of Administration Sanders commented a couple weekends ago had a light rain in Town and there was flooding to an office at Town Hall. It is due to the drainage behind Town Hall. Public Works has fixed the pump in the one area but had a landscape company give an estate to upgrade the drainage. The Public Works Department is extremely busy so requesting approval to move forward with this project.

Mayor Oliver commented that he thinks this is the right step to take to correct the issue.

MOTION- MPT Heglar made a motion to approve the Landscape Proposal with High Tide Landscaping & Design

SECOND- Commissioner Panicali

VOTE- Unanimous

Director of Administration Sanders commented that the benefits were changed when the league dropped their medical coverage. The benefits for vision, dental, long-term disability, short term disability, and supplemental life insurance normally would not become active till 30 days after hire date but now with this new group the Town does not have a choice, and it will now mirror the health insurance and be active the first of the month after hire date.

### 2. Public Works Department

Public Works Director Mesimer stated the street paving is almost complete. The Public Works Department has been out on the north end of Town and has jetted 1700 linear feet of stormwater ditches/pipe and will continue to do this the rest of the month. The water meters that were damaged and should be fixed soon.



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### DISCUSSION AND CONSIDERATION OF OLD BUSINESS

None.

### DISCUSSION AND CONSIDERATION OF NEW BUSINESS

None.

### CLOSED SESSION

None.

### ADJOURNMENT

MOTION – MPT Heglar made a motion to adjourn the meeting at 7:39 p.m.

SECOND – Commissioner Mearkle

VOTE – Unanimous

ATTEST: Beth Chase, Town Clerk

Allen Oliver, Mayor

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>agendas&minutes