



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

January 14, 2019

TO: Mayor and Board of Commissioners

FROM: Debora P. Diaz, Town Manager

REF: Public Hearings

1. Public Hearings

- A. **Eddie Goodrich – amend §153.002 Definitions to add *Zero Lot Line Development*; amend §153.096(L) Ocean Impact Residential Zone Permitted Uses and §153.176(FF) Commercial Zone Permitted Uses, to add *Zero Lot Line Development* as a permitted use in each section; and add a new section: §153.291 *Zero Lot Line Developments* – to create associated regulations (Attached PH-1A)**

At their November 13, 2018 meeting, the Planning Board considered an amendment to Chapter 153, Zoning, which was requested by Eddie Goodrich. During Planning Board discussions the amendment was proposed for modification. It was the modified amendment that was voted on to be recommendation for approval by the Board of Commissioners. Mr. Goodrich agreed to those modifications.

If adopted, the Ocean Impact Residential Zone and Commercial Zones will be amended to establish regulations for “cluster homes,” a use similar in nature to “cottage courts”

The attached memorandum from the Town Attorney explains the inadvertent use of applicant’s application in picking up the phrase, “zero lot line” development” which had been used throughout the application, rather than the “cluster homes” established in the application revision.

At the conclusion of the public hearing, the Board of Commissioners may take action on this amendment, such action to include approval, disapproval, or tabling the amendment for further consideration.

B. Randy Appleton - request for removal of property at 2024 North Virginia Dare Trail from Municipal Service District (Attached PH-1B)

At the December 10, 2018 meeting, the Board heard a report from the Town Attorney on Mr. Randy Appleton's request for his property at 2024 North Croatan Highway to be removed from the beach nourishment Municipal Service District. In his request, Mr. Appleton asserted:

- His property, a part of the Clay Don Inc. Subdivision, has no need of the protections provided by the MSD since the Clay Don, Inc. owners had "performed independent erosion control measure(s) which acted to create a large, vegetated dune on the oceanfront portion..." of his (Appleton) property; and,
- Because of the dune line, his property did not need the MSD functions to a demonstrably greater extent than the remainder of the Town.

In his response, the Town Attorney concluded, based on his findings, that the Town had "adequate foundation for its decision to include the applicant's property within the adopted MSD, and the Town is not legally obligated to grant the applicant's request for removal."

At the conclusion of the public hearing a motion will be in order to approve removal of the property at 2024 North Virginia Dare Trail from the Beach Nourishment Municipal Service District as requested; to deny the request; or to table the request for further consideration.

A motion will be in order.

Note: On the Town's website, www.kdhnc.com, at this link <https://www.kdhnc.com/829/January-14-2019-Board-of-Commissioners-M>, additional information related to this matter is available for review:

- December 10, 2018 – *Town Attorney's Agenda* – Request for removal of property from Municipal Service District
- October 8, 2018 – *Public Comment* – Randy Appleton – 2024 N. Virginia Dare Trail – Submitted written request to the clerk to have his property removed from the MSD
- December 12, 2016 – *Old Business* – Second Vote – Proposed Amendment to the Beach Nourishment Municipal Service District
- April 13, 2015 – *Public Hearing* – Proposed beach nourishment municipal service district and the proposed service to be provided within the municipal service district and adoption of resolution establishing municipal service district