



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Town of Kill Devil Hills Planning Board will hold a regular meeting on Tuesday, August 18, 2020 at 5:30 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road. In order to maintain the safety of Town residents, Staff, and Planning Board members, limited public seating observing social distancing guidelines will be available during the meeting in the meeting room. The items to be discussed are listed below:

AGENDA

Call to Order

Agenda Approval

Approval of the Minutes of the July 21, 2020 meeting

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Old Business

New Business

1. Zoning Amendment Request - Tracy Ryder - 153.181(B) Setbacks for Mixed Use Development (Dwelling and Business) – Request to modify setback for mixed use development to commercial standards rather than residential standards.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Board Member Comment

Adjournment

All citizens are cordially invited to attend.

Posted this 13th day of August 2020.

Jennifer Stecher
Personnel Technician

Copies to: Mayor and Board of Commissioners, Planning Board members in their packet materials; Town Manager; Town bulletin boards; Sunshine List, including all news media; Electronic Distribution List; Town website and social media; file

Minutes of the July 21, 2020, meeting of the Kill Devil Hills Planning Board held at 5:30 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Chair Howard Buchanan, James Almonee, Mark Evans, Ron Seidman, II, Mary Simpson, and Eddie Valdivieso

Members Absent: Mike Lowack

Others Present: Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; and James Michael O'Dell, Deputy Town Clerk

Call to Order

At 5:30 p.m., Chair Howard Buchanan called this meeting of the Kill Devil Hills Planning Board to order and welcomed everyone present.

Agenda Approval

Mark Evans moved to approve the agenda for this meeting, as presented. James Almonee seconded that motion, and the motion carried by 5-0 vote.

Approval of the Minutes of the April 16, 2020 meeting

Ron Seidman, II, moved to approve the minutes of the April 16, 2020, meeting as presented. Eddie Valdivieso seconded that motion, and the motion carried by 5-0 vote.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Old Business

1. Land Use Plan Update – Final Draft Review

Planning Director Meredith Guns provided an overview of the Land Use Plan (LUP) review process by the State of North Carolina. She stated that on March 19, 2019, the Planning Board had conducted a final review of the draft LUP, prior to submission to the State of North Carolina for review. On April 18, 2019, the plan was submitted to Coastal Management for review. Since that time, the LUP has been through three comment periods before it was sent to the State for final comments on October 31, 2019. All comments were addressed and the State

provided final approval on March 31, 2020. Due to the complexities of the LUP, this item was held for consideration until the Planning Board could conduct an in-person meeting. She noted that Staff had provided copies of the LUP for distribution to the Planning Board on July 10 to give everyone time to review the extensive document.

Mr. Valdivieso inquired about item I.9 on page 6-8 that stated in part: “The Town does not support signs using LED, LCD, or similar technologies,” noting that the recommended amendment under consideration at this meeting was to permit LED string accent lighting in the commercial zone. After some discussion, Ms. Guns suggested changing the sentence in section I.9 to “Town supports minimal use of LED and does not support the use of LCD or similar technologies.”

Mary Simpson moved to accept the final draft of the Town’s LUP, with the change to page 6-8, item I.9, forwarding it to the Board of Commissioners (BOC), recommending adoption. Mr. Evans seconded the motion, which passed with a unanimous, 5-0, vote.

New Business

1. Site Plan Review – Swell Brewery – 1802 S. Virginia Dare Trail- Commercial Zone – Proposed Brewery with tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements.

Assistant Planning Director Cameron Ray provided an overview of the site plan for Swell Brewery, planned for 1802 South Virginia Dare Trail, which includes a brewery, tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements. Mr. Ray reviewed the Staff comments from the technical review, and said that most items had been addressed by the applicant; however, Staff from the various departments has not reviewed them. He noted that the applicants were working with Town Engineer Pete Burkheimer to address a drainage issue. Mr. Ray noted that the applicants and engineer were present at the meeting for any questions.

Staff recommended that the Planning Board forward the site plan to the BOC with favorable recommendation, after the listed conditions have been addressed. The conditions would be reviewed prior to the BOC meeting to verify that all Town departments are satisfied.

Mr. Valdivieso asked about the deck above the outdoor dining activity area, and whether there was an interior access. Mr. Ray stated there was an exterior stairwell to access the deck. Mr. Almoney said he had inquired about parking lot lighting with the Planning Staff earlier. Mike Robinson, P.E., replied that the light pole units were dimmable and programmable to take into account any issues with brightness. Mr. Valdivieso said that although it is not required, he suggested an east-west sidewalk or crushed gravel connector traversing the right-of-way at the north end of the parking lot for pedestrians to access the property easier. Mr. Robinson replied that he would discuss the suggestion with the applicants.

Ms. Simpson moved to approve the site plan for Swell Brewery – 1802 S. Virginia Dare Trail – Commercial Zone – Proposed Brewery with tasting room, outdoor dining activity area, 30 parking spaces, and associated site improvements, as presented, with the comments outlined

in the Staff memorandum addressed. Mr. Evans seconded the motion, which was approved by a unanimous, 5-0, vote.

2. Proposed Zoning Amendment- 153.077 Signs - Modifications to allow *LED String Accent Lights* in the Commercial Zone

Ms. Guns stated that on May 27, 2020, the BOC directed Staff to identify alternatives that would allow some LED accent lighting on commercial structures. Board guidance included limiting the height of accent lighting on structures, small scale accent lighting, minimization of light pollution, protection of oceanfront wildlife, and limitation of light proliferation on a structure. The full listing was highlighted in Ms. Guns' accompanying memorandum, which was included in the packet materials. She noted that this recommended amendment will be located in the Town's sign ordinance because LED string accent lights would be on a structure to attract attention rather than to provide security, safety, etc. Ms. Guns said that the conditions under (D)(15) LED String Accent Lighting were mis-numbered and that Staff would correct the numbering.

Mr. Almoney inquired about whether the seasonal permitting of string electric light bulbs for commercial sites would be abolished with this ordinance amendment. Ms. Guns replied that holiday strings of lightbulbs would continue to be permitted seasonally. She clarified that café lighting for outdoor dining activity areas was permitted through an executive order in response to the COVID-19 situation. Ms. Guns said that café lighting are plug-in appliances, and not permanently affixed to a structure.

Mr. Valdivieso observed that the recommended amendment required the lighting to be parallel to the ground and no higher than 15 feet, but could not follow the roof line. Ms. Guns stated that the amendment's intent was to permit LED accent lighting on roof eaves or parapets, but not along a roof line. Mr. Almoney said that a local business, Dairy Queen, had incorporated LED string accent lights, and had been the subject of discussion at previous Board of Commissioner meetings. Permitting the two lines of accent lighting with the four-foot limitation under this amendment would accommodate that business. Mr. Ray stated that the business had begun an extensive remodeling in December 2019, and at final inspection, went into violation of the Town's sign ordinance on May 5, 2020. The building has two LED accent light lines on its canopy; The BOC considers this type of lighting could benefit other businesses in Town. Ms. Guns noted that the BOC expressed concern that such lighting could get out of control so it recommended limitations. Mr. Seidman stated that this recommended amendment would affect a limited number of businesses. Ms. Guns stated that the Town would consider the effects and the proliferation, and determine future options. It was the consensus of the Planning Board to move forward with the current recommended amendment and consider making any changes in the future.

Mr. Seidman made a motion to forward the recommended amendment, Zoning Amendment- 153.077 Signs - Modifications to allow *LED String Accent Lights* in the Commercial Zone along with the corrections, and accompanying consistency statement to the BOC with a favorable recommendation. Mr. Evans seconded the motion, which was approved by a unanimous, 5-0, vote.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Response to Public Comment

Board Member Comment

Other Business

Adjournment

There being no further business before the Planning Board at this time, Mr. Evans moved to adjourn this meeting. Mr. Almoney seconded the motion, which passed with a unanimous, 5-0, vote.

It was 6:15 p.m.

Submitted by:

James Michael O'Dell
Deputy Town Clerk

Director of
Planning and Inspections
MEREDITH GUNS



Assistant Director of
Planning and Inspections
CAMERON RAY

Building Inspector
MARTY SHAW
CHARLES THUMAN

Senior Planner
RYAN LANG

Code Enforcement Officer
JORDAN BLYTHE

THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

Zoning Administrator
DONNA ELLIOTT

PLANNING DEPARTMENT

August 18, 2020

Memorandum

To: Planning Board

From: Meredith Guns, Planning Director *MBG*

Subject: Zoning Amendment Request - Tracy Ryder - 153.181(B) Setbacks for Mixed Use Development (Dwelling and Business) – Request to modify setback for mixed use development to commercial standards rather than residential standards

Attached is a Zoning Amendment request from Tracy Ryder and staff comments. The request is to modify the setback for mixed use development in the Commercial Zoning District. Currently, the regulation for mixed use development including dwelling and business purposes requires the development to meet the setback requirements of the Residential High Zoning District (*Front Yard: 30', Side Yard 10', Rear Yard 20% of depth not to exceed 30'*). The applicant is requesting that this is modified for mixed use development to comply with the setback requirements for Commercial Purposes (Front Yard: 30', Side Yard 10', Rear Yard 10'). Additionally, the request states that when mixed use development in the Commercial Zone abuts either the RL or RH Zoning District that the setbacks meet the setback requirements of the Residential High Zoning District (*Front Yard: 30', Side Yard 10', Rear Yard 20% of depth not to exceed 30'*). Staff supports this amendment and agrees it could benefit the Town by encouraging mixed use development and increase the availability of affordable housing. During Administrative review, Staff requested revision to the text to meet staff comments and the applicant has provided in writing their consent to the changes (attached).

Staff recommends the Planning Board forward the Zoning Amendment request below as modified and consistency statement to the Board of Commissioners with a favorable recommendation.

COMMERCIAL ZONE (C)

§ 153.181 SETBACKS.

(B) Buildings erected for mixed use, namely for both dwelling and business purposes, shall abide by the setback requirements of the ~~RH Commercial~~ Zone ~~governing such buildings~~ except when abutting the RL or RH Zoning District where the setback requirements shall abide by the requirements of the RH Zone.

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Proposed Zoning Amendment—§ 153.181(B) Setbacks for Mixed Use Development (Dwelling and Business) – Request to modify setback for mixed use development to commercial standards rather than residential standards

Approval: Planning Board finds that the Proposed Zoning Amendment §153.181(B) Setbacks for Mixed Use Development (Dwelling and Business) – Request to modify setback for mixed use development to commercial standards rather than residential standards is consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is **consistent** with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of ____to____, this the eighteenth day of August, 2020.

Attest:

Planning Board Chairman

Secretary of Planning Board

Guns, Meredith

From: tracy Ryder <taxiryder@comcast.net>
Sent: Friday, August 14, 2020 12:25 PM
To: Guns, Meredith
Subject: Re: Staff recommended revisions

I accept the recommended modification to the zoning amendment. Thank you.

Tracy I. Ryder
President
Room in the Inn
PO Box 1354
Kill Devil Hills, NC 27948
(252)255-1133 office
(434)665-8294 cell

On Aug 14, 2020, at 12:19 PM, Guns, Meredith <MEREDITH@kdhnc.com> wrote:

As we discussed staff has recommended a modification to your zoning amendment request to specifically call out the residential zoning districts we have in town rather than simply referring to it as "residential Zone". Please let me you if you are willing to modify your request to staff recommend language below. It does not change the intent of your request.

COMMERCIAL ZONE (C)

§ 153.181 SETBACKS.

(B) Buildings erected for mixed use, namely for both dwelling and business purposes, shall abide by the setback requirements of the RH Commercial Zone governing such buildings except when abutting the RL or RH Zoning District where the setback requirements shall abide by the requirements of the RH Zone.

Thank you
Meredith Guns
Town of Kill Devil Hills
Planning Director
PO Box 1719
Kill Devil Hills, NC 27948
252-449-5318



Kill Devil Hills
Zoning Amendment Application
Chapter 153 Zoning

Name of Applicant: OBX Room in the Inn

Address of Applicant: PO Box 1354, Kill Devil Hills, NC 27948

Telephone Number: (252)255-1133 For Immediate assistance call (434) 665-8294 Tracy Ryder

Agent for Applicant (if applicable): Tracy I. Ryder, President of Board of Directors

Agent Address: 4029 Creek Road, Kitty Hawk, NC 27949 Email: taxiryder@comcast.net

Telephone Number: (434) 665-8294

I hereby request an amendment to the following specific section of the Zoning Ordinance: _____

153.181.B

Proposed language for zoning amendment: (B) Buildings erected for mixed use, namely for both dwelling and business purposes, shall abide by the setback requirements of the RH Commercial Zone governing such buildings **except when abutting a Residential Zone where the setback and business purposes, shall abide by the setback requirements of the RH Commercial Zone**

Justification for Amendment: Relaxing the restrictions on mixed use buildings containing a residential **component can increase the likelihood of much need affordable housing.**

A \$250.00 non-refundable application fee is due and payable to the Town of Kill Devil Hills.

Signature of Applicant/Agent: Tracy I. Ryder

Staff Only:	
Date Received: _____	_____
Received by: _____	_____

Guns, Meredith

From: Harris, Dana
Sent: Friday, August 7, 2020 6:36 AM
To: Guns, Meredith
Subject: RE: Zoning Amendment Request - Tracy Ryder - 153.181(B) Commercial Setbacks for Mixed Use Development

Meredith,

I do not see anything at this time that would negatively affect the police departments responsibilities.

Dana

From: Guns, Meredith
Sent: Thursday, August 6, 2020 4:53 PM
To: Ray, Cameron <Cameron@kdhnc.com>; Elliott, Donna <DONNA@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Tilley, Troy <troy@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>
Subject: Zoning Amendment Request - Tracy Ryder - 153.181(B) Commercial Setbacks for Mixed Use Development

Attached is a Zoning Amendment Request from Tracy Ryder. The request is to change the setback for mixed use development in the commercial zone to Commercial setbacks (Front 30 feet, rear 10 feet side 10 feet) rather than Residential High Setback required now (front 30 feet, side 10 feet, **rear 20% of depth not to exceed 30 feet**). This amendment also recommends that the Residential High Setback be required for Mixed Use if the development abutting a Residential Zoning District.

Please provide your comments by **NOON, Wednesday, August 12, 2020**. Your comments are important and will be provided to the Planning Board and Board of Commissioners when considering the proposed request.

Meredith Guns
Town of Kill Devil Hills
Planning Director
PO Box 1719
Kill Devil Hills, NC 27948
252-449-5318

Guns, Meredith

From: Elliott, Donna
Sent: Friday, August 7, 2020 2:54 PM
To: Guns, Meredith
Subject: RE: Zoning Amendment Request - Tracy Ryder - 153.181(B) Commercial Setbacks for Mixed Use Development

I have reviewed the proposed zoning amendment and I have the following comments:

- 1) Correct the language to say that when it abuts a residential zone (RL or RH) it should meet the RH Zone setbacks.

From: Guns, Meredith <MEREDITH@kdhnc.com>
Sent: Thursday, August 06, 2020 4:53 PM
To: Ray, Cameron <Cameron@kdhnc.com>; Elliott, Donna <DONNA@kdhnc.com>; Albright, Steve <Steve@kdhnc.com>; Dail, Derek <derek@kdhnc.com>; Harris, Dana <dharris@kdhnc.com>; Tilley, Troy <troy@kdhnc.com>; Lang, Ryan <rlang@kdhnc.com>
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