



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

April 24, 2019

TO: Mayor and Board of Commissioners

FROM: Debora P. Diaz, Town Manager

REF: Public Hearings

1. Public Hearings

These proposed amendments to Chapter 153, Zoning, were reviewed at the Planning Board's March 19, 2019 meeting. The Board of Commissioners scheduled the public hearings for tonight's meeting at the April 8, 2019 meeting.

A. **§153.176 Commercial Zone Permitted Uses and §153.076(D) Off-Street Parking and Loading, Table of Parking Requirements – to add *Brewery* as a Permitted Use and create parking standard for *Brewery* with secondary uses (Attached PH-1A)**

If approved, this ordinance amendment will add *Brewery* as a permitted use in the Commercial Zones and establish a parking standard for *Brewery* with secondary uses, as outlined in the attached ordinance amendment.

At the conclusion of the public hearing a motion will be in order to approve, disapprove, or table the amendment for further consideration. Additionally, a finding must be established by the Board with respect to the change, therefore in the motion to approve or disapprove the amendment, the following language should be included:

“The Board of Commissioners finds that the amendments to Chapter 153, Zoning, 153.176 Commercial Zone Permitted Uses and §153.076(D) Off-Street Parking and Loading, Table of Parking Requirements – to add *Brewery* as a Permitted Use and create parking standard for *Brewery* with secondary uses – are (consistent) (inconsistent) with all comprehensive plans or other officially adopted plans of the Town of Kill Devil Hills that are applicable and that the amendment is (reasonable) (unreasonable) in the public interest because

_____.”

B. §153.101 Ocean Impact Residential (OIR) Zone (A) Setbacks – (5) reduce side yard setback to 10 feet for all Cluster Housing and Cottage Courts in the OIR (Attached PH-1B)

The original language regarding Cluster Housing and Cottage Courts was adopted at the January 14, 2019 Board of Commissioners meeting. The current requests asks to reduce side yard setbacks by two feet in the Ocean Impact Residential Zone from 12 feet to 10 feet, a total four foot reduce.

At their March 19, 2019 meeting the Planning Board voted to forward this proposed amendment to the Board of Commissioners with a recommendation for denial, based on:

- Divergence between the proposed amendment and the Town’s Land Use Plan. The purpose of land use setback is to provide separation, safety, privacy and environmental protection; these are not supported by the intent of the amendment. And,
- The inequality through the Ocean Impact Residential Zone for properties with widths of 75 feet or more. As proposed, uses including single-family dwellings, multi-family dwellings, and duplexes would actually be required to meet minimum 12-foot setbacks on lots greater than 75 feet in width; cluster homes or cottage court developments, with a minimum of three independent dwellings would have setback requires of only 10 feet with a greater lot width of 100 feet.

At the conclusion of the public hearing a motion will be in order to approve, disapprove, or table the amendment for further consideration. Additionally, a finding must be established by the Board with respect to the change, therefore in the motion to approve or disapprove the amendment, the following language should be included:

“The Board of Commissioners finds that the amendments to §153.101 Ocean Impact Residential (OIR) Zone (A) Setbacks – (5) reduce side yard setback to 10 feet for all Cluster Housing and Cottage Courts in the OIR – are (consistent) (inconsistent) with all comprehensive plans or other officially adopted plans of the Town of Kill Devil Hills that are applicable and that the amendment is (reasonable) (unreasonable) in the public interest because _____.”

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,
CHAPTER 153, ZONING

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 153, Zoning, of the Kill Devil Hills Town Code, shall be amended by adding the underlined language and deleting the following stricken language to the sections identified

§ 153.076 OFF-STREET PARKING AND LOADING.

(D) Table of parking requirements.

Restaurant Use with secondary use(s): Brewery with secondary use(s) (bar, restaurant, retail and the like)

Required Parking: One (1) parking space per 200 square feet of gross floor area for the Brewery, plus parking for secondary uses as required in this chapter.

§ 153.176 PERMITTED USES.

(HH) Brewery.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the ____ day of _____, 2019. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of _____, 2019, by a vote of ____ in favor and ____ opposed.

SEAL

Sheila F. Davies, Ph.D.
Mayor

ATTEST:

James Michael O'Dell
Deputy Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

The undersigned hereby certifies that the foregoing official amendment, designated AN ORDINANCE AMENDING CHAPTER 153, ZONING, was placed in the Kill Devil Hills Town Code Book on the _____ day of _____, 2019 at _____ .m.

James Michael O'Dell
Deputy Town Clerk

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: Zoning Amendment Request—Alex Wolcott— Amend §153.176 Commercial Zone Permitted Uses and §153.076(D) Off-Street Parking and Loading, Table of Parking Requirements—Add Brewery as Permitted Use and Create Parking Standard for Brewery with Secondary Uses.

Approval: Planning Board finds that the proposed amendment to Zoning Amendment Request—Alex Wolcott— Amend §153.176 Commercial Zone Permitted Uses and §153.076(D) Off-Street Parking and Loading, Table of Parking Requirements—Add brewery as permitted use and create parking standard for brewery with secondary uses is/is not consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is consistent/inconsistent 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.

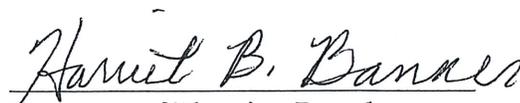
This report reflects the recommendation of the Planning Board with a vote of 6 to 0, this the nineteenth day of June, 2018.

March 2019
HRB

Attest:



Planning Board Chairman



Secretary of Planning Board

AN ORDINANCE AMENDING THE KILL DEVIL HILLS TOWN CODE,
CHAPTER 153, ZONING

BE IT HEREBY ORDAINED BY THE Kill Devil Hills Board of Commissioners that Chapter 153, Zoning, of the Kill Devil Hills Town Code, shall be amended by adding the underlined language to the section identified below, as follows:

OCEAN IMPACT RESIDENTIAL ZONE (OIR).

§153.101 Setbacks.

(A) Side Yard

(5) For all Cluster Housing and Cottage Courts the side yard setback shall be 10 feet.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the ____ day of _____, 2019. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of _____, 2019, by a vote of ____ in favor and ____ opposed.

SEAL

Sheila F. Davies, Ph.D.
Mayor

ATTEST:

James Michael O'Dell
Deputy Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

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James Michael O'Dell
Deputy Town Clerk

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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: Zoning Amendment Request— Eddie Goodrich— Amend §153.101 Ocean Impact Residential (OIR) Zoning District (A) Setbacks— (5) Reduce Side Yard Setback to Ten Feet for All Cluster Housing and Cottage Courts in the OIR

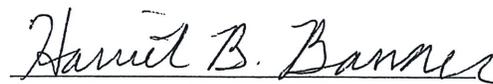
Denial: Planning Board finds that the proposed amendment to Zoning Amendment Request—Eddie Goodrich— Amend §153.101 Ocean Impact Residential Zoning District (A) Setbacks—(5) Establish Separate Side Yard Setback of Ten Feet for All Cluster Housing and Cottage Courts ***is not*** consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is **inconsistent** 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 6 to 0, this the 19th day of March 2019.

Attest:


Planning Board Chairman


Secretary of Planning Board