



TOWN OF KILL DEVIL HILLS
Land Where Flight Began

MEMORANDUM

September 11, 2019

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager

REF: Public Hearings

1. Recommended amendments to Chapter 153, Zoning

The Planning Board reviewed these recommended amendments to Chapter 153, Zoning, at its July 16, 2019 meeting, and voted to forward them to the Board of Commissioners, with favorable recommendations. The Board of Commissioners scheduled the public hearings for tonight's meeting at the August 12, 2019 meeting. The Town Attorney has reviewed the recommended amendments and has found them to be in compliance with applicable North Carolina law.

A. Chapter 153, Zoning, §153.072 Sewage Disposal— Update Sewage Disposal Regulatory Agencies (Attached PH-1A)

If approved, this ordinance amendment will clarify outdated language under Sewage Disposal, updating the regulatory agencies. 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 amendment to Chapter 153, Zoning, Update Sewage Disposal Regulatory Agencies – is (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. Chapter 153, Zoning, §153.070 Stormwater Management— Clarify Commercial and One and Two-Family Dwelling Requirements and Create Maintenance Requirements (Attached PH-1B)

If approved, this ordinance amendment will require all commercial (new and substantial improvements) and one- and two-family dwellings that exceed 6,000 square feet in lot coverage (new and substantial improvements) to submit a drainage plan and to maintain drainage improvements. 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 amendment to §153.070 Stormwater Management— Clarify Commercial and One and Two-Family Dwelling Requirements and Create Maintenance Requirements – is (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 below, as follows:

§ 153.072 SEWAGE DISPOSAL.

(A) Each application for site plan review shall be accompanied by plans of the proposed methods of sewage disposal with an approval or tentative approval by the appropriate County or State agencies having jurisdiction of such facilities over the land being developed ~~authorizing agency~~. The plans submitted shall be of sufficient detail to demonstrate compliance with applicable sewage disposal regulations and show the exact location of all subsurface facilities, including but not limited to treatment facilities, tanks, piping, laterals and disposal areas.

(B) Any such application shall specify the method or methods to be used and shall describe any special conditions to be met. Such methods, and the approvals required, include but are not limited to the following:

- (1) Connection to public sewer operated by a municipality, sanitary district or other governmental agency: connection approval by an authorized officer of such system;
- (2) Connection to community sewer operated by a responsible person, firm or corporation other than a governmental agency: connection approval by an authorized officer of such system;

(3) Installation of other than public or community sewer systems: design approval by the appropriate County or State agencies Dare County Health Department and the town.

(C) The sewer system to which connections are to be made shall be authorized as follows:

~~(1) For a septic tank and nitrification, approval by the Dare County Health Department;~~

(1) For on-site sewer disposal systems regulated by the Dare County Health Department, approval from the Dare County Health Department is required.

(2) For sewage systems regulated by the North Carolina Department of Environmental Quality (NCDEQ), approval from NCDEQ and/or appropriate applications with engineering certifications satisfactory for NCDEQ permitting is required.

~~(2) For a sewerage system serving facilities regulated by the North Carolina Department of Environment and Natural Resources, for example, institutions, restaurants, motels and the like, approval by the Dare County Health Department and the town; and~~

~~(3) For a sewer system serving all other uses, for example, industry, commerce, communities and the like, approval by the North Carolina Department of Environment and Natural Resources and the town.~~

(D) Privately owned facilities treating, processing or transmitting sewage or wastewater are permitted in all zoning districts, subject to the following conditions:

(1) Any new private utility or privately owned facility must be a part of and located within the boundaries of a subdivision or property immediately within or adjacent to the facility or homes being serviced. The person, firm or corporation operating a sewer system for which a rate is charged shall hold a certificate of public convenience and necessity from the State Utilities Commission, and there shall be recorded with a plat of the property the written affidavit of a registered engineer, engaged in the independent practice of civil engineering, that sewer mains

and laterals comply with pertinent standards of the North Carolina State Department of Environmental Quality ~~Human Resources~~ and a bond or bonds, or trust instruments, or other form of written assurance, satisfactory to the Board, assuring the continuous proper maintenance and operation of such sewer systems. Where a community sewerage system furnishing services for two or more customers within a multi-family or group development project is assessed a periodic fee by a property owners' association and a portion of that fee is used for the purpose of paying the cost and expense of operating, maintaining and repairing the community sewerage system, then all requirements of this subsection must be satisfied;

(2) This facility shall be used and serve only the occupants of the subdivision, multi-family development project or commercial development for which it was constructed and approved by the town;

(3) This section shall not be applicable to individual septic tanks.

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: Proposed Zoning Amendment—§153.070 Stormwater Management— Clarify One- and Two-Family Dwelling Requirements and Create Maintenance Requirements

Approval: Planning Board finds that the Proposed Zoning Amendment—§153.070 Stormwater Management— Clarify One- and Two-Family Dwelling Requirements and Create Maintenance Requirements 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 5 to 0, this the 16th day of July, 2019.

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 and deleting the following stricken language to the sections identified below, as follows:

§ 153.070 STORMWATER MANAGEMENT.

(B) ~~Site plans for one and two family dwellings shall be approved by the Public Services Department, Public Works Division. If such dwellings are greater than 3,000 square feet a comprehensive plan of all surface water to systems on and off the property in question to ensure proper drainage may be required by the Public Services Department. For a~~ All commercial development (new or substantial improvements) and one or two-family dwellings greater than 6,000 square feet lot coverage (new or substantial improvements) ~~there shall be provided~~ shall provide a comprehensive plan for the proper drainage of all surface water to systems on and off the property in question. The design criteria as stated in the following divisions or that as may be specified by state or federal agencies, whichever is the most restrictive, will be used. Every reasonable effort will be made to retain a maximum of the runoff on site to the extent feasible and practical. The Stormwater Management Plan shall be certified by a North Carolina registered ~~professional engineer~~ design professional for compliance to requirements of this section.

(Q) Stormwater Management maintenance. To ensure the proper operation, the owner shall be responsible for the operation and maintenance of all required stormwater management features:

(1) All features of the approved stormwater management plan must be regularly maintained and repaired as necessary in order for the system to function as originally designed and shall comply with the criteria of the North Carolina Division of Water Quality Stormwater Design Manual (current edition).

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SEAL

Sheila F. Davies, Ph.D.
Mayor

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James Michael O'Dell
Deputy Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
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Planning Board Chairman



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