



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

May 27, 2020

TO: KDH Board of Commissioners

FROM: Debora P. Díaz, Town Manager

REF: New Business

1. Recommended amendments to Chapter 153, Zoning (Attached NB-1A, 1B, 1C, 1D, and 1E)

At the direction of the Board of Commissioners, Staff drafted the following amendments to Chapter 153, Zoning, for review and consideration by the Planning Board. At its April 22, 2020 meeting, the Board of Commissioners scheduled public hearings for May 11, 2020 at 6:00 p.m. The General Assembly's recent enactment of SB 704 requires electronically conducted public hearings to receive public comment any time between the notice of the public hearing up to 24 hours after the public hearing, during a state of emergency. The Board took no action on the following items, but through consensus, decided to take action at this meeting. All public hearing comments have previously been forwarded to the Board and also included in these materials.

The Town Attorney has reviewed the proposed amendments and has found them to be in compliance with applicable North Carolina law.

A. § 153.076 Off Street Parking and Loading— reduction in parking setbacks with marked access aisle (No Parking) for structures with 11 or more bedrooms

At its January 22, 2020, joint worksession, the BOC directed Staff to re-draft an amendment to address large single-family dwelling off-street parking issues, and to present it for review prior to submission to the Planning Board. Four draft options were highlighted at the March 9, 2020 meeting, each of which would propose adding a third category for single-family and duplex structures with eleven required parking spaces or more.

Through consensus, the BOC directed Staff to submit an amendment that combined the second and third options to the Planning Board for consideration. At its March 17, 2020, meeting, the Planning Board voted to forward the amendment to the BOC, with a favorable recommendation.

If approved, this ordinance amendment will establish a seven-foot parking setback from the property line for single-family and duplex structures with 11 or more bedrooms; however,

parking setbacks are reduced to five feet with a clearly marked access aisle designed open and unobstructed within 20 feet of the dwelling.

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, Off Street Parking and Loading— reduction in parking setbacks with marked access aisle (No Parking) for structures with 11 or more bedrooms – 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. §153 Setbacks in each Zoning District – additional two feet of side yard setback for single-family and duplex dwellings greater than 6,000 square feet with exception for fire suppression systems

At its January 22, 2020, joint worksession, the BOC directed Staff to develop an amendment to address safety issues, with the potential of fire suppression system incentives for large single-family and duplex dwellings. After reviewing the proposed amendment on March 9th, through consensus approval the BOC directed Staff to forward the amendment to the Planning Board for consideration. At its March 17, 2020, meeting, the Planning Board voted to forward the amendment to the BOC, with a favorable recommendation.

If approved, this ordinance amendment will establish an additional two-foot side yard setback for single-family and duplex structures with a total gross floor area greater than 6,000 square feet; however, such structures are exempt from the additional setback if they are equipped with a fire suppression system reviewed, approved, and inspected annually by the Fire Chief or his designee.

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, Setbacks in each Zoning District – additional two feet of side yard setback for single-family and duplex dwellings greater than 6,000 square feet with exception for fire suppression systems – 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 _____.”

C. §153.073 Landscaping Requirements – modify landscaping requirements to include single-family and duplex dwellings with greater than 6,000 square feet lot coverage

At the direction of the BOC, Staff drafted this amendment to create landscaping buffer requirements for large single-family and duplex development. Following review at its August 20, 2019, meeting, the Planning Board forwarded it to the BOC, with a favorable recommendation. At its October 16, 2019, meeting, the BOC denied the amendment by a vote of 3-2, following a public hearing.

At the January 22, 2020, joint worksession between the BOC and Planning Board, the BOC directed Staff to reintroduce this amendment to the Planning Board for review and recommendation. On February 11, 2020 the Planning Board voted to forward this amendment to the BOC, with a favorable recommendation. At its March 9, 2020, meeting the BOC scheduled this item for a March 25, 2020, public hearing, which has been rescheduled due the March 25th meeting cancellation.

If approved, this ordinance amendment will require single-family and duplex structures with greater than 6,000 square feet of lot coverage to establish vegetative buffering and ornamental landscaping, which will provide spatial separation of land uses and promote the visual aesthetic and character of the Town.

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, Landscaping Requirements – modify landscaping requirements to include single-family and duplex dwellings with greater than 6,000 square feet lot coverage – 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 _____.”

D. §153.310 Cottage Court(s) and §153.311 Cluster Homes – modify cottage court(s) and cluster homes minimum lot dimensions abutting NC 12

At the BOC’s January 22, 2020, joint worksession with the Planning Board, the Board directed Staff to draft an amendment to change minimum lot dimension requirements for cottage courts and cluster homes that abut NC 12, in order to provide more opportunities for the development of Cottage Courts and Cluster Homes. At its February 11, 2020, meeting, the Planning Board voted to forward this amendment to the BOC with a favorable recommendation.

At its March 9, 2020, meeting the BOC scheduled this item for a March 25, 2020, public hearing, which has been rescheduled due the March 25th meeting cancellation.

If approved, this ordinance amendment will decrease the minimum lot width requirement for Cottage Courts and Cluster Homes abutting NC 12 from 100 to 75 feet.

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, Cottage Court(s) and Cluster Homes – modify cottage court(s) and cluster homes minimum lot dimensions abutting NC 12 – 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 _____.”

E. §153.355, §153.357, §153.359, §153.361 – modify approval process for permitted commercial uses to administrative approval process

At its April 16, 2020, meeting, the Planning Board reviewed this recommended amendment and voted to forward it to the BOC for consideration, with a favorable recommendation.

If approved, this ordinance amendment to the Zoning Ordinance will establish a process for administrative approval of commercial site plans which meet the permitted uses requirements. These permitted uses, or “uses by right,” are listed within each zoning district in Chapter 153, Zoning. Each district has a different list of permitted land uses, which refer to a use consistent in the district where the property is located. In these instances, if a commercial site plan meets all requirements of the Town Code, and the use is permitted within its zoning district, then a municipality has no basis on which to deny approval of the site plan.

This review process will decrease the time and financial burden for commercial site developers, with administrative approval within approximately 10 – 20 days from submission, subject to the presentation of a complete, compliant, site plan and the complexity of the development.

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 §153.355, §153.357, §153.359, §153.361 – modify approval process for permitted commercial uses to administrative approval process – 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 _____.”