




# TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

MEMORANDUM

October 12, 2020

TO: Mayor and Board of Commissioners

FROM: Debora P. Díaz, Town Manager 

REF: Public Hearing

**1. Zoning Amendment Request – Chapter 153, Zoning – 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 PH-1)**

This amendment would modify the rear yard setback for mixed use development in the Commercial Zoning District, changing from 20% of depth not to exceed 30 feet, to a rear yard setback requirement of 10 feet. This setback change would parallel with commercial setbacks requirements rather than residential ones.

At its meeting on August 18, 2020, the Planning Board reviewed this proposed amendment to the Zoning Ordinance and voted to forward it for consideration by the BOC. At its September 14, 2020, meeting, the Board of Commissioners scheduled the proposed amendment for this public hearing.

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 proposed amendment to Chapter 153, Zoning, 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) (inconsistent) with all comprehensive plans or other official adopted plans of the Town of Kill Devil Hills that are applicable and that the amendment is (reasonable) (unreasonable) in the public interest because

\_\_\_\_\_.”

Director of  
Planning and Inspections  
MEREDITH GUNS

Building Inspector  
MARTY SHAW  
CHARLES THUMAN

Code Enforcement Officer  
JORDAN BLYTHE



Assistant Director of  
Planning and Inspections  
CAMERON RAY

Senior Planner  
RYAN LANG

Zoning Administrator  
DONNA ELLIOTT

**THE TOWN OF KILL DEVIL HILLS**  
NORTH CAROLINA

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**PLANNING DEPARTMENT**

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September 14, 2020

Memorandum

To: Debbie Diaz, Town Manager

From: Meredith Guns, Planning Director *MFG*

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).

**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.

On August 18, 2020, the Planning Board recommended approval of the attached amendment as modified to Chapter 153.181(B) Setbacks for Mixed Use Development (Dwelling and Business). Staff recommends setting the required public hearing for October 12, 2020.

**Guns, Meredith**

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**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](mailto: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: _____	

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 sections identified below, as follows:

**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.~~

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2020. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

\_\_\_\_\_  
Ben Sproul  
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 \_\_\_\_\_, 2020 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—§ 153.181(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.

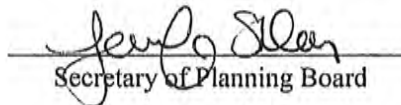
**Therefore,** the Planning Board finds the proposed amendment is consistent with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of 4 to 0, this the eighteenth day of August, 2020.

Attest:



Planning Board Chairman



Secretary of Planning Board