Director of
Planning and Inspections
MEREDITH GUNS

Building Inspector
MARTY SHAW
CHARLES THUMAN

Code Enforcement Officer
JORDAN BLYTHE

THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA

Assistant Director of
Planning and Inspections
CAMERON RAY

Senior Planner
RYAN LANG

Zoning Administrator
DONNA ELLIOTT

PLANNING DEPARTMENT

November 16, 2021

Memorandum

To: Planning Board

From: Cameron Ray, Assistant Planning Director CR

Subject: Zoning Amendment Request - 153.210(C) Light Industrial Two Zone – Increase Floor Area Ratio for Multi Family Development and 153.076(D) Off Street Parking and Loading - Reduction to Parking Requirements for Multi-Family Development in Light Industrial Two Zone

Attached is a Zoning Amendment request from Eddie Goodrich to amend Town Code sections 153.210(C) & 153.076(D) and staff review comments. The amendment request is to 153.210(C) Light Industrial Two Zone (LI-2) site requirements to allow for multi-family dwelling development to use Floor Area Ratio (FAR) for density requirements similar to requirements in the Ocean Impact Residential Zone and Commercial Zone. The request is to allow a graduated (FAR) from 0.50 to 0.60. The base (FAR) would be .50, however, if the developer increased the side yard setbacks the (FAR) would be increased to a maximum of .55. Finally, in addition to increased setback, if the developer increases the side yard buffer by two feet the (FAR) would be a maximum of .60.

Additionally, the request is to 153.076(D) Off-Street Parking and Loading to multi-family dwelling development to have a staggered parking reduction depending on how many units are proposed and only if they are not stacking the parking. This is currently allowed for multi-family dwelling development in the Commercial (C) and Ocean Impact Residential (OIR) Zone as a result of a zoning amendment request that was approved in 2008.

Staff supports the change to Floor Area Ratio in the Light Industrial Two Zone (LI-2). However, staff has several concerns about the reduction of parking. In 2008, when the request of reduced parking for multi-family dwelling development was presented as a Town wide parking reduction. Staff presented several concerns about this reduction in areas where multi-family was developed as potential long term housing (see attached memorandum from 2008 and minutes). The applicant at the time amended the original request by limiting the parking reduction to multi-family developments that do not utilize stacked or assigned parking. The reduction is based on a graduated scale with a minimum of 15 units. The applicant agreed to revise the amendment to limit the reduction to the Ocean Impact Residential Zone and Commercial Zone, realizing there is a distinction between parking needs at multi-family used as vacation rentals and those used as permanent residences. The following staff's concerns exist today including:

- It should be considered whether the development is primarily a vacation-rental or year round use. Multi-family units on or near the oceanfront are likely vacation rental, which is the highest and best use of the land. Staff's opinion is that a year round unit will have all the occupant's vehicles parked at the development, where at a vacation rental unit, vacationers will likely consolidate into less vehicles. In this thought, parking requirements for multi-family may need to vary by zone.

Multi-family dwellings in the LI-2 will be more likely to be occupied long-term tenants. Using the basis for the previous changes for parking reductions, staff does not support a reduction in parking for multi-family dwelling development in the LI-2.

During Administrative review, Staff requested some revisions to original request and the applicant has provided in writing their consent to the changes (attached). The following amendment request is for Planning Board consideration:

LIGHT INDUSTRIAL TWO ZONE (LI-2)
§ 153.210 SITE REQUIREMENTS.
(C) Density.
(1) Multi-family dwelling: The maximum floor area ratio (FAR) shall be up to ~~0.40~~ 0.50 with the following exception described in division (E) below.
(E) Exceptions.
(1) Where a lot or parcel of land has an area of less than the above required minimum area and was of record on June 14, 1983, such lot may be occupied by one single-family dwelling, provided the minimum side, front and rear requirements are complied with as set forth in § 153.101.
(2) Per division (C)(1) above, increase minimum side yard setbacks by two feet on each side the FAR shall be up to 0.55; and
(3) Per division (C)(1) above, increase minimum side yard buffer as set forth in § 153.184 by two feet on each side and items in division (C) above the FAR shall be up to 0.60.

§ 153.076 OFF-STREET PARKING AND LOADING.
(D) Table of parking requirements.

Dwellings – multi-family (Commercial, Light Industrial Two, and Ocean Impact Residential Districts only)	2 parking spaces per dwelling, plus one parking space for each bedroom over 2. With the exception of stacked or assigned parking the number of spaces may then be reduced as follows: For 15-19 units a 10% reduction, for 20-24 units a 15% reduction, and for 25 units or more a 20% reduction. This may not be combined with the reductions permitted by § 153.076(C).

Staff recommends a favorable recommendation of the amendment to 153.210, Light Industrial Two - Site Requirements, to modify density to Floor Area Ratio as presented above and staff recommends denial of the request to 153.076 Off-Street Parking and Loading to reduce parking for multi-family in the Light Industrial Two zone. Staff request the Planning Board forward the amendment with separate consistency statement to the Board of Commissioners with a recommendation for each.

PLANNING BOARD REPORT

Per NCGS 160D-604(b), Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

Per NCGS 160D-604(d), Plan Consistency – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board 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 comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Proposed Zoning Amendment—§153.210(C) Light Industrial Two Zone - Floor Area Ratio Increase

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.210(C) Light Industrial Two Zone - Floor Area Ratio Increase ***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 ____to____, this the Sixteenth day of November, 2021.

Attest:

_____ _____

Planning Board Chairman Secretary of Planning Board

PLANNING BOARD REPORT

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Per NCGS 160D-604(d), Plan Consistency – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board 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 comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Proposed Zoning Amendment—§153.076(D) Light Industrial Two Zone - Off-Street Parking Reduction for Multi-Family

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.076(D) Light Industrial Two Zone - Off-Street Parking Reduction for Multi-Family ***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 ____to____, this the Sixteenth day of November, 2021.

Attest:

_____ _____

Planning Board Chairman Secretary of Planning Board

Ray, Cameron

From: Eddie Goodrich <EddieGoodrich@villagerealtyobx.com>
Sent: Tuesday, October 26, 2021 4:18 PM
To: Ray, Cameron
Cc: 'Mike Robinson'; Kirk , Mike
Subject: RE: Planning Board

Cameron,
I'm OK with both text amendments and will see you tomorrow.
Eddie

From: Ray, Cameron <Cameron@kdhnc.com>
Sent: Tuesday, October 26, 2021 4:04 PM
To: Eddie Goodrich <EddieGoodrich@villagerealtyobx.com>
Subject: RE: Planning Board

November 16, 2021 is the next Planning Board meeting.

Let me know your thoughts on the (2) potential text amendments so we can get them on the agenda.

Cameron Ray, CFM
Assistant Planning Director
PO Box 1719
Kill Devil Hills, NC 27948
252-449-5311 phone
252-441-4102 fax
www.kdhnc.com

From: Eddie Goodrich [mailto:EddieGoodrich@villagerealtyobx.com]
Sent: Tuesday, October 26, 2021 2:51 PM
To: Ray, Cameron <Cameron@kdhnc.com>
Subject: Planning Board

What is the meeting date?
Eddie

Ray, Cameron

From: Ray, Cameron
Sent: Wednesday, October 20, 2021 3:50 PM
To: Guns, Meredith
Subject: Zoning Amendment Ideas

Thoughts for the Zoning Amendment

LIGHT INDUSTRIAL TWO ZONE (LI-2)

§ 153.210 SITE REQUIREMENTS.

(C) Density.

(1) Multi-family dwelling: The maximum floor area ratio (FAR) shall be up to ~~0.40~~ 0.50 with the following exception described in division (E) below.

(E) Exceptions.

(1) Where a lot or parcel of land has an area of less than the above required minimum area and was of record on June 14, 1983, such lot may be occupied by one single-family dwelling, provided the minimum side, front and rear requirements are complied with as set forth in § 153.101.

(2) Per division (C)(1) above, increase minimum side yard setbacks by two feet on each side the FAR shall be up to 0.55; and

(3) Per division (C)(1) above, increase minimum side yard buffer as set forth in § 153.184 by two feet on each side and items in division (C) above the FAR shall be up to 0.60.

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www.kdhnc.com

Kill Devil Hills
Zoning Amendment Application
Chapter 153 Zoning

Name of Applicant: Eddie Goodrich

Address of Applicant: 801 Bermuda Bay Blvd, Kill Devil Hills, NC 27948

Telephone Number: 252-475-0874

Agent for Applicant (if applicable): same

Agent Address: Same

Telephone Number: Same

I hereby request an amendment to the following specific section of the Zoning Ordinance: Light Industrial Two 153.210 Site Requirements and 153.076 Off Street Parking and Loading

Proposed language for zoning amendment:

153.210 Site Requirements (C) 1 Multifamily - the maximum FAR shall be 0.60

153.076 Off Street Parking and Loading (D) Table of Parking Requirements - add under Residential and related Dwellings and Multifamily Light Industrial II Zone

Justification for Amendment: Housing year round

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

Signature of Applicant/Agent: George E. Goodrich

Staff Only:

Date Received: 10/18/21

Received by: CR

Town of Kill Devil Hills

OCT 18 2021

Planning & Inspections Department

Minutes of the October 21, 2008 meeting of the Kill Devil Hills Planning Board held at 7:00 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive.

Members Present:	Vice Chair Howard Kimble, Matthew Byrne, Stan Clough, Jerry Froehlich, and Ben Sproul
Members Absent:	Mike Hogan and Helen Czernik
Others Present:	Meredith Guns, Assistant Planning Director; Shanda Davenport, Planner; Harriet Banner, Administrative Assistant; Seth Rary, Student Involvement Program

Call to Order

Vice Chair Howard Kimble brought the meeting to order at 7:00 p.m., noting that all regular members of the Planning Board were present except for Chair Mike Hogan and Helen Czernik.

Agenda Approval

Ben Sproul made a motion to approve the amended agenda as presented. Matthew Byrne seconded that motion. The motion carried, 4-0.

Approval of the Minutes of September 16, 2008 and October 7, 2008

Mr. Byrne made a motion to approve the minutes of the September 16, 2008 and October 7, 2008 meetings as presented. Mr. Sproul seconded that motion. The motion carried, 4-0.

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

Old Business

New Business

1. **Zoning Amendment Request – to amend Chapter 153.076(D) – *General Regulations – Off-Street Parking and Loading – Table of Parking Requirements* – to decrease the required parking for multi-family dwellings over five units**

This request was submitted by Cahoon and Kasten Architects on behalf of Marvin Fabrikant and MPF Investments. The amendment would reduce the number of required parking spaces for multi-family dwellings having five or more units from one space per bedroom with a

minimum of two spaces by 20%. Staff concerns included the application of the amendment for townhouses having a ground floor garage or stacked parking, the appropriateness of using a percentage reduction for the number of required spaces, and consideration of the primary use (vacation/rental versus year-round) of the dwelling. If less spaces are needed than currently required, a change in the schedule using a graduated scale rather than a percentage reduction may be better to best fit all scenarios. Dwellings located on the oceanfront are primarily vacation units, and there is a likelihood that fewer cars are parked due to more passengers traveling in one car. The reduction may therefore be better suited for multi-family dwellings in the oceanfront zone. Finally, a parking reduction currently exists in the ordinance, which is 10% for 100-space lots. A determination of the affect on that reduction by the proposed amendment needs to be made.

Ben Cahoon was present representing the applicant, and he indicated that his client was flexible in considering Staff's concerns. He would be agreeable to exclude townhouses from the amendment, and Mr. Cahoon expressed he himself was in favor of a graduated scale. He was willing to work further with Staff to arrive at a more reasonable means at arriving at an appropriate reduction. Mr. Cahoon was wary of applying the amendment only to certain zones as he pointed out that the intended use of a project could sometimes change in the course of development.

Mr. Sproul made a motion to table the requested zoning amendment to Chapter 153.076(D) – *General Regulations – Off-Street Parking and Loading – Table of Parking Requirements* – to decrease the required parking for multi-family dwellings over five units to allow time for Mr. Cahoon to work with Staff to arrive at a more suitable proposal for resubmission. Mr. Froehlich seconded that motion. The motion carried, 4-0.

1. Site Plan Review – *Lightning Marine* – proposed 3,750 square foot warehouse and office space with 11 parking spaces located in the Light Industrial Two Zone

This site plan was presented with only two conditions outstanding to meet all requirements. One parking space needed to be marked on the plans, and the stormwater calculations exceed the standards. In his comments, the Town Engineer has provided a statement that it would be acceptable to make the retention basin more shallow.

Marty Barnette, RLS was present to represent the developer. He indicated there would be no problem satisfying the two conditions as outlined. The Planning Board was complimentary of the site's landscaping features, including retaining existing trees.

Stan Clough made a motion to forward the site plan for *Lightning Marine* – proposed 3,750 square foot warehouse and office space with 11 parking spaces located in the Light Industrial Two Zone to the Board of Commissioners along with the two conditions outlined by Staff with a recommendation for approval. That motion was seconded by Mr. Sproul. The motion carried, 4-0.

2. **Change of Planning Board Meeting Date – Reschedule November 4, 2008 meeting date due to Election Day**

The first meeting in November falls on Election Day; therefore, that Planning Board meeting requires rescheduling due to the Meeting Room's use as a polling place.

Mr. Sproul made a motion to reschedule the next meeting to Wednesday, November 5, 2008 at 7:00 p.m. Mr. Froehlich seconded that motion. The vote was a favorable 4-0.

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

Response to Public Comment

Board Member Comments

Adjournment

There being no further business before the Planning Board, Mr. Sproul made a motion to adjourn, which was seconded by Mr. Froehlich. The motion carried, 4-0.

It was 7:38 p.m.

Submitted by:

Harriet B. Banner

Harriet B. Banner, Administrative Assistant

These minutes were approved at the November 5, 2008 meeting of the Planning Board.

M. G. Hogan

M.A. Hogan, Chair

Minutes of the December 2, 2008 meeting of the Kill Devil Hills Planning Board held at 7:00 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive.

Members Present:	Chair Mike Hogan, Matthew Byrne, Stan Clough, Jerry Froehlich, Howard Kimble, and Ben Sproul
Members Absent:	Helen Czernik
Others Present:	Greg Loy, Planning Director; Meredith Guns, Assistant Planning Director; Shanda Davenport, Planner; Harriet Banner, Administrative Assistant

Call to Order

Chair Mike Hogan brought the meeting to order at 7:00 p.m., noting that all regular members of the Planning Board were present except Helen Czernik. Seth Rary of the Student Involvement Program was also absent due to a schedule conflict.

Agenda Approval

Howard Kimble made a motion to approve the agenda as presented. Ben Sproul seconded that motion. The motion carried, 5-0.

Approval of the Minutes of November 5, 2008

Mr. Kimble made a motion to approve the minutes of the November 5, 2008 meeting as presented. Mr. Sproul seconded that motion. The motion carried, 5-0.

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

Old Business

1. **Zoning Amendment Request – §153.076(D) – *General Regulations – Off-street Parking and Loading – Table Of Parking Requirements* – to Decrease Required Parking for Multi-Family Developments over Fifteen Units**

The Planning Board tabled a zoning amendment request submitted by Cahoon and Kasten Architects on behalf of Marvin Fabrikant and MPF Investments at their October 21, 2008 meeting that requested a reduction in the parking requirements from one space per bedroom with a minimum of 2 spaces to allowing multi-family developments having five or more units to a 20% parking reduction. The Planning Board expressed concerns during that meeting that Mr. Cahoon attempted to address in this revised application. The revised amendment limits the parking reduction to multi-family dwellings not using stacked or assigned parking, and is based

on a graduated scale with a minimum of 15 units.

Staff identified remaining items for discussion to be consideration of less parking for all multi-family developments rather than a percentage reduction, and the effect the difference a vacation rental versus a permanent residence may have on the number of spaces needed. Mr. Cahoon and Mr. Fabrikant were both present at the meeting to address these concerns.

Mr. Cahoon said that he would be in favor of amending the request to apply only to the Ocean Impact Residential and Commercial Zones, which is the location of the majority of rental property. Mr. Fabrikant owns First Flight Retreat, a new oceanfront multi-family development. He explained that his request was initiated by the anecdotal evidence that the facility had too many parking spaces simply by viewing the parking lot during the busiest season when the facility was full. Most people use the parking provided underneath the building, leaving the exterior parking lot empty. He continued that when vacationers rent a one-bedroom unit, they usually travel in one car even though two parking spaces are provided by ordinance requirement. Even renters of a two-bedroom unit often travel in an SUV, therefore requiring only one space. Mr. Fabrikant agreed with the distinction between parking provisions needed by dwellings used as a permanent residence as opposed to a vacation rental property.

Mr. Kimble questioned if visitors were required to register their vehicles upon arrival for a designated parking space. Mr. Fabrikant explained that reservations were conducted remotely and the renter was provided a key code at that time, so there was no need for them to sign-in upon arrival. Therefore, there was no empirical data to indicate the number of vehicles at any given time; his conclusion that there was too much parking was based on the empty parking lot.

Mr. Fabrikant continued that due to the present parking requirements, he did not have the space to provide storage space for items such as beach chairs and umbrellas for his renters. Also, the configuration forced him to locate his dumpsters in the front area, making it unattractive.

Mr. Kimble said that if the requested amendment was approved, then he hoped that the situation would be re-examined to make sure it had not become problematic and leading to parking on the grass and other inappropriate areas.

Chair Hogan said that he did not have a problem with the requested amendment in theory; however, was concerned about the lack of data other than the anecdotal evidence.

Mr. Cahoon agreed to change his request designating the requirements for "Dwellings – single-family, duplexes and townhouses (including mobile homes)" and add "multi-family"; and "Dwellings – multi-family" to add "located in the Ocean Impact Residential and Commercial Zones."

Mr. Sproul made a motion to forward the zoning amendment request to §153.076(D) – *General Regulations – Off-street Parking and Loading – Table Of Parking Requirements* – to Decrease Required Parking for Multi-Family Developments over Fifteen Units with the inclusion of the references to the OIR and Commercial Zones made during this meeting, along with the consistency statement to the Board of Commissioners with a recommendation for approval. Matthew Byrne seconded that motion. During further discussion, Mr. Clough commented that he was still not convinced that the change needed to be limited to OIR and Commercial Zones. He did not think that a parking reduction would negatively affect dwellings in any zone.

Chair Hogan called for a vote on the motion on the table, and the motion carried, 5-0.