

Minutes of the November 16, 2021, meeting of the Kill Devil Hills Planning Board held at 5:30 p.m. in the Meeting Room of the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Chairperson Howard Buchanan, Vice Chairperson Mark Evans, T. Dillon Heikens, Mike Lowack, Natalie Painter, Ron Seidman, II, and Mary Simpson

Others Present: Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; Ryan Lang, Senior Planner; and Jennifer Stecher, Clerk to the Planning Board

Guest: Eddie Goodrich, Applicant

Call to Order

At 5:30 p.m., Chairperson Howard Buchanan called the November 16, 2021, meeting of the Kill Devil Hills Planning Board to order and welcomed everyone present.

Agenda Approval

Mr. Evans moved to approve the agenda for this meeting, as presented. Mr. Seidman seconded the motion, which carried by a unanimous, 6-0, vote.

Approval of the Minutes of the October 12, 2021 meeting

Mr. Lowack moved to approve the minutes of the October 12, 2021, meeting, as presented. Ms. Simpson seconded the motion, which carried by a unanimous, 6-0, vote.

Public Comment

Response to Public Comment

Old Business

New Business

1. Special Use Application —2003 South Croatan Highway in the Commercial Zone - Add Outdoor Dining Activity Area

Enclosed is a Special Use Application submitted by Noosa Beach Grille for an Outdoor Dining Activity Area at 2003 South Croatan Highway in the Commercial Zone. The proposed plan calls for an Outdoor Dining Activity Area at the existing Restaurant use, “Noosa Beach Grille”, located at 2003 South Croatan Highway. The proposed location has been shown on the attached

site plan. As you recall, Outdoor Dining Area(s) are listed as a Special Use under 153.177(H) as an accessory to a restaurant use and includes several conditions. Additionally, attached you will find a commercial site plan application, proposed site plan, applicant's response to staff technical review 1, and Dare County Health Department Approval.

The applicant has addressed most of the staffs initial technical review comments; however, the following condition remains to be addressed:

1. Fence bordering Outdoor Dining Activity Area shall be four feet in height 153.177(H). Existing fence is only 36”.

Staff recommends that the Planning Board forward the plan to the Board of Commissioners with a favorable recommendation after the above listed condition has been addressed.

Mr. Lowack noted limited parking problems at a few establishments in town that he had personally observed. He is concerned that limited parking at 2003 South Croatan Highway can become a problem in the future. Ms. Guns noted that Mr. Lowack's concern can be brought up during the Board Member Comment section of the Planning Board meeting to discuss a change to the parking ordinance for this use.

Mr. Evans moved to forward the special use application for 2003 South Croatan Highway in the Commercial Zone - Add Outdoor Dining Activity Area to the Board of Commissioners after the Fence condition has been addressed. Mr. Seidman seconded the motion, which carried by a unanimous, 6-0, vote.

2. Zoning Amendment Requests — 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, <u>Light Industrial Two</u> , 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 § <u>153.076(C)</u> .
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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 make a separate motion for each zoning amendment request and forward separate consistency statements to the Board of Commissioners with a recommendation for each.

Mr. Lowack believes it would be better to proceed cautiously with increasing the Floor Area Ratio. He recommends increasing with a smaller number.

Eddie Goodrich, the applicant, reiterated that he is not asking for an increase in height, or increase in lot coverage, not asking for a reduction in parking. Purpose is solely to create year-round housing in the Light Industrial Zone for local people. After his discussion with Staff, Mr. Goodrich agrees with their recommendation of no decrease in parking.

Ms. Simpson asked for clarification regarding parking spaces per bedroom. Ms. Guns explained that it is one space per bedroom with a minimum of two spaces.

Mr. Heikens asked Mr. Goodrich if he agreed with staff's recommendation to deny parking decrease. Mr. Goodrich said he agreed with Staff's recommendation to have two parking spaces for one-bedroom housing.

Mr. Seidman moved to forward the proposed Zoning Amendment Request 153.210(C) Light Industrial Two Zone – Increase Floor Area Ratio for Multi Family Development as presented with consistency statement to the Board of Commissioners with a favorable recommendation. Ms. Simpson seconded the motion, which carried by a 5-1 vote, with Mr. Lowack against.

Mr. Heikens moved to forward the Zoning Amendment Request 153.076(D) Off Street Parking and Loading - Reduction to Parking Requirements for Multi-Family Development in Light

Industrial Two Zone as presented with an unfavorable recommendation and accompanying consistency statement to the Board of Commissioners. Mr. Evans seconded the motion, which carried by a unanimous, 6-0, vote

3. Zoning Amendment Request – 153.310(A) and 153.311(A) Cottage Courts & Cluster Homes – Remove Requirement to Abut NC12: Commercial and Ocean Impact Residential Zone

Attached is a Zoning Amendment request from Eddie Goodrich to amend Town Code sections 153.310(A) Cottage Courts Lot Dimensions & 153.311(A) Cluster Homes Lot Dimensions and staff review comments. The amendment request is to remove the requirement for Cottage Courts and Cluster Home developments to abut NC12 in the Commercial and Ocean Impact Residential Zone.

Staff recommends the Planning Board forward the Zoning Amendment request below and consistency statement to the Board of Commissioners with a favorable recommendation.

§ 153.310 COTTAGE COURT(S).

Cottage court(s). In addition to the below specific standards, cottage court(s) shall also abide by regulations associated with the zoning district where the development is located.

(A) *Lot dimensions.* All parcels shall have a minimum width of 75 feet ~~abutting NC-12~~ in the Ocean Impact Residential and Commercial Zone.

§ 153.311 CLUSTER HOMES.

Cluster homes. In addition to the below specific standards, shall also abide by the regulations associated with the zoning district where the development is located.

(A) *Lot dimensions.* All parcels shall have a minimum width of 75 feet ~~abutting NC-12~~ in the Ocean Impact Residential and Commercial Zone.

Mr. Lowack moved to approve the proposed Zoning Amendment Request – 153.310(A) and 153.311(A) Cottage Courts & Cluster Homes to remove requirement to Abut NC12 and add Commercial and Ocean Impact Residential Zone as presented with the consistency statement and forward to the Board of Commissioners. Mr. Heikens seconded the motion, which carried by a unanimous, 6-0, vote

4. Proposed Zoning Amendment — 153.100(D) Ocean Impact Residential Zone and 153.180(C) Commercial Zone to add Density Requirements for Cottage Courts & Cluster Homes and 153.076(A)(13) Off Street Parking and Loading to add sidewalk requirements for Cottage Courts & Cluster Homes.

During the recent cluster home review, it has come to staff's attention that no density requirements were established when Cluster Homes and Cottage Courts were added to the Zoning Ordinance in 2018 and 2019. Staff recommends adding Cottage Courts and Cluster Home to the density requirements within the zoning districts that they are allowed, Ocean Impact Residential Zone and Commercial Zone. Attached is a proposed zoning amendment to 153.100 Ocean Impact

Residential Zone (OIR) Site Requirements and 153.180(C)(2) Commercial Zone (C) Site Requirements to add Cottage Courts/Cluster Homes Density Requirements.

OCEAN IMPACT RESIDENTIAL ZONE (OIR)

§ 153.100 SITE REQUIREMENTS.

(D) Density. For any multi-family, cottage courts, cluster homes, or hotel development, the maximum Floor Area Ratio (FAR) shall be up to 0.40 with the following exceptions.

(1) Increase the minimum required side yard setbacks by two feet on each side, the FAR shall be up to 0.45; and

(2) Provide a dedicated/recorded five-foot public easement along a side property line for public access to the Atlantic Ocean, the FAR shall be up to 0.50.

COMMERCIAL ZONE (C)

§ 153.180 SITE REQUIREMENT.

(C) Density.

(1) Multi-family dwelling, cottage courts, or cluster homes: 18 units per acre.

(2) Hotel and motel: For any hotel/motel development, the maximum floor area ratio (FAR) shall be up to 0.50; exceptions described in division

Additionally, if Cottage Courts and Cluster homes are allowed in the entire Commercial Zone, as proposed in the zoning amendment request by Eddie Goodrich, staff would like to clarify that sidewalks will be required along US158, similar to all other multi-family and commercial developments. Staff recommends the following amendment to 153.076(A)(13) Off Street Parking and Loading:

§ 153.076 OFF-STREET PARKING AND LOADING.

(A) Detailed specifications. Required off-street parking spaces are permanent areas and shall not be used for any other ground purpose; and shall be constructed in accordance with generally accepted engineering practices.

(13) Sidewalk requirements for commercial, cottage courts, cluster homes, and multi-family development abutting US 158 in the Commercial Zoning District. Sidewalk improvements shall be installed along the entire length of properties fronting US 158. The sidewalk improvements shall be a minimum width of five feet and meet all NCDOT standards.

Staff recommends forwarding both amendments with separate consistency statements to the Board of Commissioners with a favorable recommendation.

Mr. Lowack moved to approve the proposed zoning amendment 153.100(D) Ocean Impact Residential Zone (OIR) Site Requirements and 153.180(C)(2) Commercial Zone (C) Site Requirements to add Cottage Courts/Cluster Homes Density Requirements as presented be forwarded to the Board of Commissioners with the consistency statement. Mr. Evans seconded the motion, which carried by a unanimous, 6-0, vote

Ms. Painter moved to approve the proposed zoning amendment 153.076(A)(13) Off Street Parking and Loading to add sidewalk requirements for Cottage Courts & Cluster Homes as presented be forwarded to the Board of Commissioners with the consistency statement. Mr.

Seidman seconded the motion, which carried by a unanimous, 6-0, vote.

5. Minor Subdivision Review – Tides OBX: Cluster Home development – 709 North Virginia Dare Trail – Proposed 14-Lot Minor Subdivision

A minor subdivision meeting the requirements of §152 *Subdivisions* is enclosed for the “Tides OBX” Cluster Homes at 709 North Virginia Dare Trail in the Ocean Impact Residential Zone. The sketch plan and preliminary plat requirements have been waived and the technical review certified by the Planning Director consistent with §152.25. A minor subdivision requires the approval by signature of the Planning Board Chairman prior to recordation.

Public Comment

Response to Public Comment

Board Member Comment

The group discussed their role to bring up topics of interest in the future during this section of the meeting. If there is group consensus on a particular topic, Staff will give their recommendation and if it is suitable for further research.

Adjournment

There being no further business before the Planning Board at this time, Ms. Simpson moved to adjourn the meeting. Mr. Heikens seconded the motion, which passed with a unanimous, 6-0, vote.

It was 6:20 p.m.

Submitted by:

Jennifer Stecher
Planning Board Clerk