

**Minutes of the March 15, 2022, 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:** T. Dillon Heikens, Mike Lowack, Natalie Painter, and Ron Seidman, II

**Members Absent:** Chairperson Howard Buchanan, Mary Simpson

**Others Present:** Meredith Guns, Planning Director; Cameron Ray, Assistant Planning Director; and Jennifer Stecher, Administrative Assistant

### **Call to Order**

At 5:33 p.m., Jennifer Stecher, clerk to the Planning Board, called the March 15, 2022, meeting of the Kill Devil Hills Planning Board to order, and then conducted the nominations and election of Vice Chairperson.

### **New Business**

#### **1. Elect Vice Chairperson**

T. Dillon Heikens nominated Ron Seidman for Vice Chairperson of the Planning Board. Natalie Painter seconded the nomination. With no further nominations offered, nominations were closed. Ron Seidman was elected Vice Chairperson by a unanimous, 4-0, vote.

### **Agenda Approval**

Mike Lowack moved to approve the agenda for this meeting, as presented. Ms. Painter seconded the motion, which carried by a unanimous, 4-0, vote. Mr. Seidman then chaired the remainder of the meeting.

### **Approval of the Minutes of the February 15, 2022 meeting**

Mr. Heikens moved to approve the minutes of the February 15, 2022, meeting, as presented. Ms. Painter seconded the motion, which carried by a unanimous, 4-0, vote.

### **Public Comment**

**Marie Read, 405 West Martin Street** - Ms. Read expressed opposition to the proposed zoning map amendment request due to the potential of increased noise and traffic.

**Carmen Paris, 1107 Fox Street** - Ms. Paris shared her opposition to the proposed zoning map amendment request, citing the potential increase in noise, crime, and traffic.

**Shirley Cook, 1103 Fox Street** - Ms. Cook opposed the proposed zoning map amendment request. She expressed concerns about the loss of greenery, as well as increased noise and traffic.

**Kevin Joyce, 1106 Fox Street** - Mr. Joyce, a long-time resident, expressed support for single family dwellings, but not large complexes. He opposed the proposed zoning map amendment request.

**Patricia Colb, 500 West Martin Street** - Ms. Colb shared her opposition to the proposed zoning map amendment request due to possibility of increased traffic and noise.

**Jane McKie, 1204 Fox Street** - Ms. McKie opposed the proposed zoning map amendment request due to an expected increase of noise and traffic in the area. She believed there will be destruction of the current character and quality of life in the neighborhood.

**Jackie Riddle, 1200 Fox Street** - Ms. Riddle opposed the proposed zoning map amendment request due to the possibility of increased traffic. She requested the area remain single residential homes.

**Casey Ball, 1102 Cardinal Street** - Ms. Ball opposed the proposed zoning map amendment, requesting the neighborhood stay residential.

### **Response to Public Comment**

Ms. Painter thanked all the residents for taking the time to come to the meeting and speaking up as members of the community.

Vice Chairperson Seidman read the three emails submitted for public comment that will be part of the record of the meeting. All submitted electronic comments were opposed to the proposed zoning map amendment.

### **New Business**

#### **2. Zoning Map Amendment Request – Lots 9-15, Block 18, Kill Devil Hills Realty Corp Subdivision**

A Zoning Map Amendment request was submitted by Eddie Goodrich for lots 9-15, block 18, Kill Devil Hills Realty Corp Subdivision. The request proposed a change from the current zoning classification of Low Density Residential Zone (RL) to Commercial Zone (C).

In accordance with the 2020 Kill Devil Hills Land Use Plan, the Town's Zoning is considered a pyramid zoning scheme. This method uses zoning districts to definitively set apart land uses based on intensity, while including bulk and height restrictions. At the top of the pyramid are most restrictive zoning districts such as Maritime Forrest and Low Density Residential and at the bottom are the least restrictive zoning districts, such as Light Industrial 1&2 and Commercial. In this pyramid zoning structure uses can slide down into more intensive zones, but not up. For example, Single Family Dwellings can be developed in the Commercial

Zone (high intensity zone), but restaurants cannot be developed in Low Density Residential (low intensity zone). This type of zoning allows property owners the right for broad development types in high intensive zones, but provides greater protections in low intensive zones.

The Low Density Residential Zone was established for the principle use of land for single-family residences intended to preserve and enhance low-to-medium density neighborhoods. The zoning classification that is being requested is for Commercial Zone. This zone was established to encourage convenient and accessible sales, entertainment, and professional/business facilities to the general public in a manner that will not infringe, nor degrade the natural qualities of residential neighborhoods.

Currently, the adjacent property owners have an expectation for existing land uses in this area. Planning Department staff shared that this zoning change will infringe and degrade the natural qualities of the neighborhood. Several items that could affect the neighborhood are: variety of commercial permitted uses that would be allowed, increased height, increased bulk, increased allowable noise limits including higher decibels and extended hours of allowed noise, increased lighting, higher allowable density and lot coverage, and increased traffic.

Lots in the Kill Devil Hills Realty Corp. subdivision were platted in 1953 and were sized appropriately for the use of single family development west of US158. As illustrated on the adopted zoning map, the commercial zoning district follows a consistent line from Boundary Street north to Colington Road. The requested rezoning would create inconsistency with the adopted Town Zoning Map. The Town Land Use Plan Future Land Use Map (Map 13 Page 5-4) illustrates these lots for the future land use “Low Density Residential” and was adopted to demonstrate the Town’s vision for future land use and to be used as a foundational guide for rezoning decisions.

Staff shared that although the applicant’s request indicates the intent for the map amendment is to construct multi-family housing, any use currently allowed in the Commercial Zone would be permitted with a zoning designation change.

It was noted that the request is not consistent with the 2020 Kill Devil Hills Land Use Plan Specifically, Goal 7: “Preserve Kill Devil Hills’ residential areas” and Land Use Compatibility Policy: “The Town will maintain its three-tier approach to land use and housing mix, with land west of US 158 primarily used for its permanent population residing in single-family dwellings.”

The request is inconsistent with the 2020 Kill Devil Hills Land Use Plan, as well as inconsistent with the methodology of the Zoning Code, and creates potential negative affects to adjacent properties. Therefore, staff recommended the Planning Board forward the Zoning Map Amendment request recommending denial and statement of inconsistency.

The applicant, Eddie Goodrich, was present and submitted packets to the Planning Board members; that information has been included with the record of the meeting. Mr. Goodrich stated the intention is to build multi-unit housing for local, year-round residents that live and work in Dare County. He felt that the 2020 Kill Devil Hills Land Use Plan is not representative of what is currently needed for residents of the Town and can be changed if need be. Mr. Goodrich said the survey completed to develop the Land Use Plan did not ask enough questions or represent responses from a majority of Town residents in order to create an appropriate Land Use Plan. Mr. Goodrich proposed to use Fox Street as a buffer between a multi-unit complex and the existing neighborhood. In order to mitigate traffic on Martin Street Mr. Goodrich suggested having the access to the proposed property come off Boundary Street, as well as utilize Blue Jay

Street. Mr. Goodrich stated that creating housing is a way to support the need for housing in the community and support the area's workforce in order to preserve the Town's future.

The Planning Department Staff shared that if the applicant's Zoning Map Amendment request is approved, it is currently inconsistent with the Town's Land Use Plan; therefore, the Land Use Plan will require an update to conform to the Zoning Map Amendment. Ms. Guns clarified in response to the applicant's comment regarding the process to change the Land Use Plan, the change is an extensive process that involves State evaluation, a 90-day review period, several public hearings, review by the Planning Board and Board of Commissioners, and another public hearing, along with publication requirements throughout the process. She also shared requirements for workforce housing, currently a special use in the Light Industrial zone, and would require a text amendment process. Cameron Ray specified that by state statute, right-of-ways do not separate land uses. Staff asked Planning Board members to consider all the potential uses under the Commercial zoning and not what a developer says they plan to build.

Mr. Heikens moved to forward the Zoning Map Amendment Request – Lots 9-15, Block 18, Kill Devil Hills Realty Corp Subdivision to the Board of Commissioners recommending denial with the statement of inconsistency. Mr. Lowack seconded the motion, which carried by a unanimous, 4-0, vote.

### **Public Comment**

**Carmen Paris, 1107 Fox Street** – Ms. Paris expressed concerns about the vacant lot at 1106 Blue Jay Street. If the commercial lot is developed, her concern is increased traffic to the adjacent residential neighborhood.

### **Response to Public Comment**

### **Board Member Comment**

### **Adjournment**

There being no further business before the Planning Board at this time, Ms. Painter moved to adjourn the meeting. Mr. Heikens seconded the motion, which passed with a unanimous, 4-0, vote.

It was 6:22 p.m.

Submitted by:

Jennifer Stecher  
Administrative Assistant