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

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**PLANNING DEPARTMENT**

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March 21, 2023

Memorandum

To: Planning Board

From: Cameron Ray, Assistant Planning Director 

Subject: Proposed Zoning Amendment — §153.211(B) Light Industrial Two Zone & §153.231(B) Light Industrial One Zone — Modify Mixed Use Development Setback Requirements

On October 18, 2022, the Planning Board and Board of Commissioners held a joint work session to discuss options that the Town has to promote long term housing and try to alleviate the housing issue in Dare County. Several options were presented by staff for consideration. One of those options was to relax setbacks for mixed use development in the Light Industrial Zones. As you may recall, the Board of Commissioners adopted an amendment to relax setbacks for mixed use development in the Commercial Zone in October 2020.

Currently, setbacks for commercial development in the Light Industrial 1 and 2 zones is minimum 10-foot side yard, 30-foot front yard and 5-foot rear yard setback. For mixed use development the setbacks for lots over 7,500 are 10-foot side yard, 30-foot front yard, and 30-foot rear yard. The current variation in setbacks for commercial and mixed use makes redevelopment of existing structures not possible. Therefore, staff recommends amending mixed use setbacks in the Light Industrial 1 and 2 zones to match the commercial setbacks unless abutting the Residential Low Zoning District (to protect single family dwellings from a more intense land use).

Attached is a proposed zoning amendment to §153.211(B) Light Industrial Two Zone & §153.231(B) Light Industrial One Zone to modify setback requirements for mixed use development. Staff recommends the Planning Board forward the amendment and consistency statement to the Board of Commissioners with a favorable recommendation.

## **LIGHT INDUSTRIAL TWO ZONE (LI-2)**

### **§ 153.211 SETBACKS.**

(B) Buildings erected for mixed use, namely for both dwellings and business purposes, shall abide by the setback requirements of the Light Industrial Two Zone except when abutting the RL Zoning District where the setback requirements shall abide by the setback requirements of the RH Zone governing such buildings.

## **LIGHT INDUSTRIAL ONE ZONE (LI-1)**

### **§ 153.231 SETBACKS.**

(B) Buildings erected for mixed use, namely for both dwellings and business purposes, shall abide by the setback requirements of the Light Industrial One Zone except when abutting the RL Zoning District where the setback requirements shall abide by the setback requirements of the RH Zone.

## 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 — §153.211(B) Light Industrial Two Zone & §153.231(B) Light Industrial One Zone — Modify Mixed Use Development Setback Requirements

***Approval/Denial:*** Planning Board finds that the Proposed Zoning Amendment §153.211(B) Light Industrial Two Zone & §153.231(B) Light Industrial One Zone — Modify Mixed Use Development Setback Requirements *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 twenty first day of March, 2023.

Attest:

\_\_\_\_\_  
Planning Board Chairman

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Secretary of Planning Board