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Zoning Administrator  
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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: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director 

Subject: Proposed Zoning Amendment — §153.315 (B) Accessory Dwelling Units, §153.116 (C) Low Density Residential Zone Permitted Uses, §153.156 (E) High Density Residential Zone Permitted Uses — Add Accessory Dwelling Units for Long Term Occupancy

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 allow accessory dwelling units (ADU's) in residential zoning districts with restrictions for long-term occupancy. As you may recall, the Board of Commissioners adopted an amendment for accessory dwelling units including definition, regulations, and permitted use in the Commercial, Light Industrial 1, and Light Industrial 2 Zoning Districts in March 2021. ADU's in the (C), (LI-1), and (LI-2) zones are permitted uses as an accessory to single family dwellings and are required to comply with the regulations in 153.315.

Attached to this memorandum you will find an amendment to 153.315(B) Accessory Dwelling Units, 153.116(C) Low Density Residential Zone Permitted Uses, and 153.156(E) High Density Residential Zone Permitted Uses. The amendment proposes ADU's as permitted uses in the (RL) and (RH) zones including additional regulations that they can only to be used for long-term occupancy. As you recall, in July 2022, Cluster Homes were amended as a special use in the (RL) zone with similar regulations that required the dwellings be used for long-term occupancy. The intent of the regulations for long-term occupancy for specific land uses in these zoning districts is to try and mitigate the long-term housing needs by promoting land uses for private developers for essential long term-housing.

The Planning Board reviewed this proposed zoning amendment on March 21, 2023 and forwarded it to the Board of Commissioners recommending approval. Staff recommends setting the public hearing for April 26, 2023.

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 and deleting the following ~~stricken~~ language to the sections identified below, as follows:

**§ 153.315 ACCESSORY DWELLING UNITS.**

(A) *Purpose.* The purpose of these provisions for all accessory dwelling units (ADUs) is to allow the efficient use of existing housing stock, parcels of land, and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

(B) *General provisions.* Accessory dwelling units (ADUs) are allowed as permitted uses in Low Density Residential, High Density Residential, Commercial, Light Industrial 1 and Light Industrial 2 Zoning Districts, subject to the following standards:

- (1) An ADU can only be located on a property containing one single-family detached dwelling. The property may contain other accessory structures and uses as permitted in this section.
- (2) No more than one ADU shall be permitted per residential lot.
- (3) ADUs shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser.

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU cannot extend beyond the front of the primary residence.

(5) An ADU must be properly permitted, inspected, and comply with all applicable standards of the State Building Code and Kill Devil Hills Town Code.

(6) The owner must obtain a permit from the County Environmental Health Department that the existing wastewater system can accommodate or be improved to accommodate the establishment of an ADU.

(7) ADUs shall be parked in accordance with § 153.076 Off Street Parking and Loading.

(8) Recreational vehicles, travel trailers and/or manufactured homes shall not be used or approved as an ADU.

(9) An ADU shall not be subdivided or segregated in ownership from the principal dwelling unit.

(10) An ADU in Low Density Residential and High Density Residential Zoning Districts shall only be occupied for long-term occupancy as defined in 153.002. Property owners shall be required to execute and record, with the Dare County Register of Deeds, a long-term use agreement declaring that the dwelling unit shall be used only for long-term occupancy in perpetuity prior to issuance of a building permit.

#### **LOW DENSITY RESIDENTIAL ZONES (RL) – § 153.116 PERMITTED USES.**

In the RL Zone, buildings and/or land shall be used for the following purposes:

(C) On-site accessory uses or buildings to divisions (A) or (B) of this section; Accessory dwelling units (Long-term occupancy) to division (A) of this section.

Proposed Amendment

Chapter 153, Zoning, §153.315 (B) Accessory Dwelling Units, §153.116 (C) Low Density Residential Zone Permitted Uses, §153.156 (E) High Density Residential Zone Permitted Uses  
— Add Accessory Dwelling Units for Long Term Occupancy

**HIGH DENSITY RESIDENTIAL ZONE (RH) – § 153.156 PERMITTED USES.**

In the RH Zone, buildings and/or land shall be used for the following purposes:

(E) On-site accessory uses or structures to divisions (A), (B) or (C) of this section; Accessory dwelling units (Long-term occupancy) to division (A) of this section.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2023. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2023, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

SEAL

\_\_\_\_\_  
Ben Sproul  
Mayor

ATTEST:

\_\_\_\_\_  
James Michael O'Dell  
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 \_\_\_\_\_, 2023 at \_\_\_\_\_ .m.

\_\_\_\_\_  
James Michael O'Dell  
Town Clerk

## 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 — §153.315 (B) Accessory Dwelling Units, §153.116 (C) Low Density Residential Zone Permitted Uses, §153.156 (E) High Density Residential Zone Permitted Uses — Add Accessory Dwelling Units for Long Term Occupancy

**Approval/Denial:** Planning Board finds that the Proposed Zoning Amendment §153.315 (B) Accessory Dwelling Units, §153.116 (C) Low Density Residential Zone Permitted Uses, §153.156 (E) High Density Residential Zone Permitted Uses — Add Accessory Dwelling Units for Long Term Occupancy 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 5 to 0, this the twenty first day of March, 2023.

Attest:

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

  
\_\_\_\_\_  
Secretary of Planning Board