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

May 24, 2023

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director CR

Subject: Zoning Amendment Request – §153.180(C) Commercial Zone Density – Change Density Measurement to Floor Area Ratio (FAR)

Attached is a Zoning Amendment request application from Eddie Goodrich to amend Town Code section 153.180(C). The amendment request is to 153.180(C)(1), density requirements in the Commercial Zoning District for multi-family dwellings, cottage courts, and cluster homes to change the unit of measurement from "units per acre" to "floor area ratio" (FAR). As requested, the maximum FAR would be up to .50 with two exceptions allowing the FAR to be up to 0.55 if side yard setbacks are increased by two feet on each side and up to 0.60 if the side yard buffer is increased on each side by two feet. Below is the proposed amendment request to 153.180(C)(1);

On May 16, 2023 the Planning Board recommended approval of the below attached amendment to 153.180(C)(1):

§ 153.180 SITE REQUIREMENT.

(C) *Density.*

(1) Multi-family dwellings, cottage courts, or cluster homes: ~~18 units per acre.~~ The maximum floor area ration (FAR) shall be up to 0.50, exceptions described above in division (D) below.

(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 (D) below.

(D) *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 family, provided the minimum side, front and rear requirements are complied with as set forth in § 153.181;

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

(3) Per division (C)~~(2)~~ above, increase minimum required 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.

Staff recommends setting the required public hearing for June 14, 2023.

PAID

APR 12 2023

TOWN OF KILL DEVIL HILLS

Town of Kill Devil Hills Planning and Inspections
252-449-5318

NON-REFUNDABLE FEES

Date: 4/12/23

☐ Board of Adjustments
☐ CAMA
☐ Copies
☒ Text Amendment
☐ Other:

☐ Exempt plat/Subdivision
☐ Fines and/or Re-Inspection Fee
☐ Site Plan Review
☐ Permit Re-instatement

Amount: $500.00

Received From: Eddie Goodrich

Description:

Text admendment Chapter153.180 multi family floor area ratio density

Received by: Ryan Lang

Kill Devil Hills
North Carolina

CODE AMENDMENT APPLICATION

FEE: $500.00

Planning and Inspections Department
(252) 449 – 5318
102 Town Hall Drive
Kill Devil Hills, NC 27948

The purpose of this application is to ***request*** a code amendment, or a permanent alteration, to the Kill Devil Hills Town Code.

Required attachments/submittals for an application for a code amendment:

1.) A completed application

2.) One copy of the code in question (existing Kill Devil Hills Town Code)

3.) One copy of your proposed code amendment, with the proposed changes highlighted

4.) Application Fee, ***which is nonrefundable***

*****Important: If any of the above requirements are not present at the time of submittal, the application will be deemed incomplete and will not be accepted.*****

Certification:

I (we) hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the Town of Kill Devil Hills Planning and Inspections Department.

Petitioner's Name (Please Print): George E. Goodwin

Petitioner's Signature: George E. Goodwin Date: 4-11-23

For Staff Use Only:

Fee Received by: RL *Date*: 4/12/23

Town of Kill Devil Hills
North Carolina

Application for a Code Amendment

(Please Type or Print)

Petitioner

Name: The Woods at Kitty Hawk, LLC

Address: P.O. Box 3629
Kill Devil Hills, NC 27948

Telephone Number: 252-475-0874

Email: eddieg@vrobx.com

Agent for Petitioner ***(If Applicable)***

Name: Eddie Goodrich

Address: P.O. Box 3629
Kill Devil Hills, NC 27948

Telephone Number: 252-475-0874

Email: eddieg@vrobx.com

I hereby request an amendment to the following specific section of the Town Code:

Chapter: 153 **Code:** 180

Title: Site Requirements

To this application, attach:

- **One copy of the code in question (existing Kill Devil Hills Town Code)**
- **One copy of your proposed code amendment, with the proposed changes highlighted**

Town of Kill Devil Hills
North Carolina

Application for a Code Amendment

1. Please provide a **detailed** justification for the proposed amendment *(attach additional pages as needed)*:

The proposed amendment will replace an antiquated method of calculating multifamily density from units per acre to Floor Area Ratio, the method currently used in calculating and controling hotel density in the Commercial Zone.

2. How does this proposed amendment help to promote the public health, safety, and general welfare? *(attach additional pages as needed)*

The proposed amendment is a more definite and accurate method of measuring and controling multifamily density in the Commercial Zone.

§ 153.180 SITE REQUIREMENT.

(A) *Lot dimensions.* All parcels shall have a minimum width of 50 feet.

(B) *Lot area.*

(1) The minimum building site shall be 15,000 square feet.

(2) The minimum building site for a duplex shall be 15,000 square feet.

(3) Exempt recombination plats for lots platted prior to June 14, 1983 shall have a minimum lot size of 7,500 square feet.

(C) *Density.*

(1) Multi-family dwelling: 18 units per acre.

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(3) Per division (C)(2) above, increase minimum required 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.

(E) *Lot coverage.*

(1) Maximum allowable lot coverage by principal use, all accessory structures, vehicular circulation areas and parking - 65%. (For exceptions, see § 153.082(D).)

(2) Soils classified as wetlands shall be factored into lot coverage calculation based on the following schedule:

(a) If the lot is composed of less than 25% of its total area in wetland soils, then 75% of that area classified as wetlands may be used in calculating lot coverage;

(b) If the lot has between 25% to 50% of its total area in wetland soils, then 50% of that area classified as wetlands may be used in calculating lot coverage;

(c) If the lot has between 50% to 75% of its total area in soils classified as wetlands, then 25% of that area classified as wetlands may be used in calculating lot coverage;

(d) If the lot has 75% or more of its total area classified as wetlands, none of that area classified as wetlands may be used in calculating lot coverage.

(3) *Permeable pavement lot coverage calculations:*

(a) For lots greater than five acres, the use of permeable paving systems, including porous concrete, porous asphalt, concrete grid pavers and permeable interlocking concrete pavers, for parking spaces, drive aisles and vehicular circulations areas, a reduction in the calculated lot coverage shall be allowed. All permeable paving systems shall comply with the criteria of the North Carolina Division of Water Quality Stormwater Best Management Practices Manual (current edition). The following calculated reductions are allowed.

1. Porous concrete without washed stone base - 40% reduction.

2. Porous concrete with at least six inches of washed stone base - 60% reduction.

3. Porous asphalt, concrete grid pavers and permeable interlocking concrete pavers with at least four inches of washed stone base - 40% reduction.

4. Porous asphalt, concrete grid pavers and permeable interlocking concrete pavers with at least seven inches of washed stone base - 60% reduction.

(b) For lots less than five acres, the use of permeable paving systems, including porous concrete, porous asphalt, concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grids for parking spaces, drive aisles and vehicular circulation areas, a reduction in the calculated lot coverage shall be allowed. Plastic reinforcing grids shall be limited to low-intensity applications with low traffic speeds. Examples include, but are not limited to, parking stalls in commercial parking lots, overflow parking areas, utility access, emergency vehicle and fire access lanes, and loading areas. Material to fill the open cells of the pavement system types shall consist of open graded fine aggregate, open graded washed aggregate, sod turf grasses native to the southeast coastal environment and exhibit medium to high permeability rates. All permeable paving systems shall comply with the criteria of the North Carolina Division of Water Quality Stormwater Best Management Practices Manual (current edition). The following calculated reductions are allowed:

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4. Porous asphalt, concrete grid pavers, permeable interlocking concrete pavers and plastic reinforcing grids with at least seven inches of washed stone base - 60% reduction.

5. The pavement section shall consist of the surface course or layer for infiltration, a bedding course (as required), a woven geotextile fabric layer, and aggregate storage layer, and a woven geotextile fabric layer to prevent clogging.

6. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grid installations to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.

(c) In no case shall the total area that is occupied and obstructed by any structure above the ground, including but not limited to parking and drive areas, exceed 75% of the area of the lot.

(F) *Drainage/stormwater runoff.* All development is required to follow the provisions of § 153.070.

(G) *Land disturbance.* See § 153.071.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 04-10, passed 5-26-04; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 10-13, passed 7-12-10; Am. Ord. 11-09, passed 5-25-11; Am. Ord. 15-16, passed 5-16-16 ; Am. Ord. 17-29, passed 3-8-21 ; Am. Ord. 18-4, passed 6-14-21)

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TOWN OF KILL DEVIL HILLS

Land Where Flight Began

PLANNING BOARD REPORT

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.

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 NCGS 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—§153.180(C) Commercial Zone Density – Change Density Measurement to Floor Area Ratio (FAR)

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.180(C) Commercial Zone Density – Change Density Measurement to Floor Area Ratio (FAR) is consistent with the adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is consistent 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 sixteenth day of May, 2023.

Planning Board Chairperson

ATTEST:

Planning Board Clerk