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Planning and Inspections
MEREDITH GUNS

Building Inspector
MARTY SHAW
CHARLES THUMAN

Code Enforcement Officer
JORDAN BLYTHE



Assistant Director of
Planning and Inspections
CAMERON RAY

Senior Planner
RYAN LANG

Zoning Administrator
DONNA ELLIOTT

THE TOWN OF KILL DEVIL HILLS NORTH CAROLINA

PLANNING DEPARTMENT

January 15, 2024

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director *CR*

Subject: Proposed Zoning Amendment – 153.310 Cottage Courts & 153.311 Cluster Homes –
Proposed modification to Cottage Court and Cluster Homes Regulations

On August 14, 2023, the Board of Commissioners directed staff to prepare an amendment for additional regulations for cottage courts and cluster homes. Currently, the effective Town Code sections that include cottage courts and cluster homes are 153.310 Cottage Courts and 153.311 Cluster Homes, which include minimum lot dimensions, minimum lot area, size and arrangement standards, minimum building separations, and driveway access standards. In addition to these requirements, these uses are required to comply with all development standards of the zoning district where the development is located (OIR, Commercial, RL).

Cottage courts and cluster homes were originally adopted into the zoning ordinance to provide additional options for development, especially on the oceanfront as an incentive instead of large single-family dwellings. In 2022, density requirements were adopted for these uses in both the Ocean Impact and Commercial Zoning Districts to regulate the density of these developments consistently with other similar development types.

Since adoption of the ordinance, three Cluster Home/Cottage Court developments have been approved by the Town for construction. During the plan approval process and during the construction of these projects, concerns have been conveyed about the unforeseen effects of this development including structure separation, height, and perceived bulk. Staff proposed several options to the Board of Commissioners for ways the Town's cottage courts and cluster homes ordinances could be amended to address these concerns and in response to discussion.

Attached is a proposed zoning amendment to 153.310 Cottage Courts and 153.311 Cluster Homes. The proposed amendments will create an additional front yard setback in the OIR, reduce the maximum size of dwellings units, and create a tiered separation of structures based on gross square footage and height. These amendments were developed by reviewing existing cottage courts and cluster home plans and researching other municipalities ordinances.

During the October 17, 2023, Planning Board meeting this proposed amendment was reviewed and tabled by the Planning Board for further review. On December 19, 2023, the Planning Board reviewed the amendments and recommended approval with one modification to the original amendment to reduce the maximum size of structures in cottage courts and cluster homes to 1,500 square feet. Staff recommends setting the required public hearing for February 05, 2024.

**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:

§ 153.310 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 in the Ocean Impact Residential and Commercial Zone.

(B) Lot area. The minimum building site shall be 20,000 square feet.

(C) Size, height, and arrangement. Each detached single-family dwelling unit shall be designed and arranged for occupancy by one family ~~operating as a housekeeping unit~~ and shall contain at least 500 square feet, but no more than ~~2,500~~ 1,500 square feet of gross floor area. ~~One structure may be up to 5,000 square feet if it includes two or more separate but complementary accessory or principal uses, e.g. a dwelling unit and an on-site management office.~~ Each detached single-family dwelling unit shall be an independent dwelling unit. The development shall be limited to following size, height, and separation design regulations in the table below:

GFA in square feet (SF)	Height (as defined in this chapter)	30' or less	31'-38'	Greater than 38'
500-750 SF		10'	12'	14'
751-1000 SF		10'	14'	16'
1001-1500 SF		12'	16'	18'

~~(D) Building separation. Within a cottage court, detached single-family dwelling units shall be separated from one another by a minimum of ten feet.~~

~~(D)~~(E) Driveway access. Each detached single-family dwelling unit shall have access to a shared driveway. The shared driveway must be designed to a minimum width of 20 feet to allow fire-fighting apparatus to locate within 150 feet of all sides of all structures on the property. The shared driveway may be reduced to a minimum width of 12 feet where it is closer than 150 feet to all sides of all structures on the property. A shared driveway width less than 20 feet may be reviewed and approved by the Fire Marshal in conjunction with an approved alternative life safety plan or an approved fire suppression system. The shared driveway material shall support the weight of fire apparatus as determined by the Fire Marshal.

~~(E)~~(F) Setbacks. In the Ocean Impact Residential Zone, the minimum front yard setback requirement shall be equal to the lot width not to exceed 100'.

§ 153.311 CLUSTER HOMES.

Cluster homes. In addition to the below specific standards, cluster homes 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 in the Ocean Impact Residential and Commercial Zone. All parcels shall have a minimum width of 100 feet in the Low Density Residential Zone.

(B) *Lot area.* The minimum building site shall be 20,000 square feet in the Ocean Impact Residential and Commercial Zone. The minimum building site shall be a minimum of 1 acre in the Low Density Residential Zone.

(C) Size, [height](#), and arrangement. ~~In the Ocean Impact Residential and Commercial Zone,~~ [Each detached single-family dwelling unit shall be designed and arranged for occupancy by one family operating as a housekeeping unit and shall contain at least 500 square feet, but no more than 2,500 \[1,500\]\(#\) square feet of gross floor area. One structure may be up to 5,000 square feet if it includes two or more separate but complementary accessory or principal uses, e.g. a dwelling unit and an on-site management office. Each detached single-family dwelling unit shall be an independent dwelling unit. In the Low Density Residential Zone, each detached single-family dwelling unit shall be designed and arranged for long-term occupancy ~~and shall contain at least 500 square feet but no more than 1,500 square feet of gross floor area. Each detached single-family dwelling unit shall be an independent dwelling unit.~~ \[The development shall be limited to following size, height, and separation design regulations in the table below:\]\(#\)](#)

GFA in square feet (SF)	Height (as defined in this chapter)	30' or less	31'-38'	Greater than 38'
500-750 SF		10'	12'	14'
751-1000 SF		10'	14'	16'
1001-1500 SF		12'	16'	18'

~~—(D) Building separation. Within a cottage court, detached single-family dwelling units shall be separated from one another by a minimum of ten feet.~~

~~(D)~~(E) *Driveway access.* Each detached single-family dwelling unit shall have access to a shared driveway. The shared driveway must be designed to a minimum width of 20 feet to allow fire-fighting apparatus to locate within 150 feet of all sides of all structures on the property. The shared driveway may be reduced to a minimum width of 12 feet where it is closer than 150 feet to all sides of all structures on the property. A shared driveway of less than 20 feet may be reviewed and approved by the Fire Marshal in conjunction with an approved alternative life safety plan or an approved fire suppression system. The shared driveway material shall support the weight of fire apparatus as determined by the Fire Marshal.

~~(E)~~(F) Setbacks. In the Ocean Impact Residential Zone, the minimum front yard setback requirement shall be equal to the lot width not to exceed 100'.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the _____ day of _____, 2024. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the _____ day of _____, 2024, by a vote of _____ in favor and _____ opposed.

SEAL

John Windley
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 _____, 2024, 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

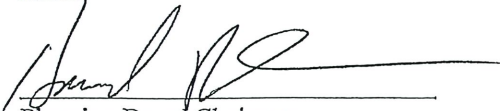
Proposed Amendment Title: Proposed Zoning Amendment - §153.310 Cottage Courts and §153.311 Cluster Homes – Considerations for Additional Regulations

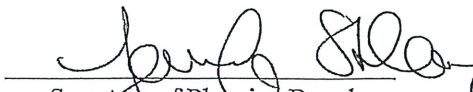
Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.310 Cottage Courts and §153.311 Cluster Homes – Considerations for Additional Regulations is/is not consistent with the adopted Land Use Plan.

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 4 to 0, this the Nineteenth day of December, 2023.

Attest:


Planning Board Chairman


Secretary of Planning Board