



## TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

### NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that on Tuesday, November 12, 2024, at 5:30 p.m., the Kill Devil Hills Planning Board will hold its regular meeting of the month in the Town Hall Meeting Room located at 102 Town Hall Drive, Kill Devil Hills.

A printed packet is available for public inspection in the Office of the Town Clerk, 102 Town Hall Drive. To schedule an inspection time, contact the Department at 252-449-5300. Packet materials can be viewed on the Town's website at <https://www.kdhnc.com/743/Meetings-Agendas-Packets-Minutes>.

Written public comments for the Planning Board can be emailed to [info@kdhnc.com](mailto:info@kdhnc.com). Comments must include your name and address and are limited to three minutes for individuals, and five minutes when speaking for a group.

### AGENDA

Call to Order

Agenda Approval

Approval of the Minutes of the September 17, 2024, meeting

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Proposed Zoning Amendment – 153.076 Off Street Parking and Loading - Modify Minimum Parking Space Size and Table of Parking Requirements
2. Proposed Zoning Amendment – 153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, Require An Access Aisle, and Apply Floor Area Ratio (FAR) for Large Single Family Dwellings (over 6,000 SF)

Public Comment

Response to Public Comment

Board Member Comment

Adjournment

Posted this 7<sup>th</sup> day of November 2024.

Jennifer Stecher

Administrative Assistant/Deputy Town Clerk

Copies to: Mayor and Board of Commissioners, Planning Board members in their packet materials; Town Manager; Town bulletin boards; Town Sunshine List, including all local news media; Electronic Distribution List; Town website and social media; file

*Post Office Box 1719 • 102 Town Hall, Kill Devil Hills, North Carolina 27948 • 252-449-5300 • [www.kdhnc.com](http://www.kdhnc.com)*

**Minutes of the Tuesday, September 17, 2024, meeting of the Kill Devil Hills Planning Board held at 5:30 p.m. in the Town Hall Meeting Room, 102 Town Hall Drive, Kill Devil Hills, North Carolina.**

**Members Present:** Chairperson Howard Buchanan, Jenniffer Albanese, Sandie Markland, Ron Seidman, II, and Phillip Wayland

**Members Absent:** Becky Breiholz, vacant seat

**Others Present:** Cameron Ray, Assistant Planning Director; and Jennifer R. Stecher, Deputy Town Clerk

**Call to Order**

At 5:30 p.m., Chairperson Howard Buchanan called the Tuesday, September 17, 2024, meeting of the Kill Devil Hills Planning Board to order and welcomed everyone present.

**Agenda Approval**

Sandie Markland moved to approve the agenda for this meeting. Ron Seidman seconded the motion, which was approved by a unanimous, 4-0, vote.

**Approval of the Minutes of the July 16, 2024 meeting**

Ms. Markland moved to approve the July 16, 2024, meeting minutes, as presented. Jenniffer Albanese seconded the motion, which was approved by a unanimous, 4-0, vote.

**Public Comment**

**Response to Public Comment**

**Ongoing Business**

**New Business**

**1. Zoning Amendment Request — §153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements**

The zoning amendment request, submitted by David Snow, was to amend Town Code section 153.315(B)(4) Accessory Dwelling Units (ADU) to modify (ADU) site requirements. The amendment request was to remove the requirement for detached ADUs to be located behind the primary dwelling. This requirement was included in the original Town Code amendment for ADUs, which was a common regulation for ADUs in neighboring jurisdictions. Since that time, several other jurisdictions have removed this requirement.

Staff supported the change to remove the requirement as requested; however, Staff recommended that the Town include a height restriction for the ADU not to exceed the height of the primary dwelling. This will be consistent with the original intent of this section, which was for the ADU to not be the focal point of the site, but to be an accessory to the primary structure. The applicant agreed to the proposed language addition per Staff's recommendation and is part of the packet material.

Staff recommended forwarding the zoning amendment to 153.315(B)(4) Accessory Dwelling with attached consistency statement to the Board of Commissioners with a favorable recommendation.

Ms. Markland moved to forward the Zoning Amendment Request — §153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements as presented with consistency statement to the Board of Commissioners with a favorable recommendation.

Phillip Wayland seconded the motion, which passed with a unanimous 4-0 vote.

### **Public Comment**

Duke Geraghty, Government Affairs Director of the Outer Banks Home Builders Association (OBHBA), stated in his submitted email that OBHBA welcomes the change to the Accessory Dwelling unit ordinance and approves the zoning text amendment and looks forward to it being approved by the Board of Commissioners. Mr. Geraghty's email was made part of the meeting record.

### **Response to Public Comment**

### **Board Member Comment**

### **Adjournment**

There being no further business before the Planning Board at this time, Ms. Markland moved to adjourn the meeting. Ms. Albanese seconded the motion, which was approved by a unanimous, 4-0, vote.

It was 5:36 p.m.

Submitted by:

Jennifer R. Stecher  
Administrative Assistant/Deputy Town Clerk

Director of  
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

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**PLANNING DEPARTMENT**

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November 12, 2024

Memorandum

To: Planning Board

From: Cameron Ray, Assistant Planning Director (R)

Subject: Proposed Zoning Amendment - 153.076 Off Street Parking and Loading - Modify Minimum Parking Space size and Table of Parking Requirements

House Bill 600, which came into effect January 01, 2024, amended NCGS 160D-702(c)(2) Grant of Power to set the maximum parking size a Town or County could require. The new statutory regulations state:

- (c) A zoning or other development regulation shall not do any of the following:
- (1) Set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.
  - (2) Require a parking space to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.
  - (3) Require additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code for One- and Two-Family Dwellings.

Attached to this memorandum is a proposed zoning amendment to 153.076 Off Street Parking and Loading which modifies the required parking space size to be 9 feet by 20 feet rather than 10 feet by 20 feet. However, staff is proposing a recommended a parking space size of 10 feet by 20 feet because this size has shown to be effective for decades. Additionally, the result of a smaller parking size will allow greater density on a commercial site, which is in conflict with the adopted Land Use Plan. Therefore, the proposed amendment also modifies the parking table to apply to the recommended parking size of 10x20 and if the required parking size of 9x20 is used the table requirements shall be increased by 20% for all development except single-family dwellings.

The proposed amendment is intended to meet the requirements of 160D while also promoting a safer parking area and regulating density consistently with existing developments.

Staff requests the Planning Board forward the proposed amendment and consistency statement to the Board of Commissioners with a favorable recommendation.

## 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—§153.076 Off Street Parking and Loading - Modify Minimum Parking Space size and Table of Parking Requirements

***Approval/Denial:*** Planning Board finds that the Proposed Zoning Amendment §153.076 Off Street Parking and Loading - Modify Minimum Parking Space size and Table of Parking 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 Twelfth day of November, 2024.

Attest:

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

\_\_\_\_\_  
Planning Board Clerk

**AN ORDINANCE AMENDING THE  
KILL DEVIL HILLS CODE OF ORDINANCES,  
CHAPTER 153, ZONING**

**BE IT ORDAINED** by the Kill Devil Hills Board of Commissioners that Chapter 153, Zoning of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

**GENERAL REGULATIONS**

**§ 153.076 OFF-STREET PARKING AND LOADING.**

(A) *Detailed specifications.* Required off-street parking spaces are permanent areas and shall not be used for any other ground purpose; and shall be constructed in accordance with generally accepted engineering practices.

(1) *Dimensions: standard parking spaces.* In all zones, minimum parking space dimensions will be ~~200~~ 180 square feet, ~~ten~~ nine feet by 20 feet. Recommended parking size is 200 square feet, ten feet by 20 feet. However, for commercial and multi-family residential, only 18 feet of the length need to be paved or constructed of turfstone, permeable pavements, including porous concrete, porous asphalt, concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grids. The remaining two feet of length shall remain pervious, and a concrete curb stop shall be placed at the front end of each space to accommodate vehicle overhang on the remaining two feet of length.

(D) *Table of parking requirements.* The following table is for the recommended parking size of 200 square feet (ten feet by 20 feet). If the minimum parking size is utilized (with the exception

of single-family dwelling less than 11 bedrooms) the minimum number of parking spaces shall be increased by 20% of table requirements.

**BE IT FURTHER ORDAINED** that it is the intent of the Board of Commissioners that the provisions of this ordinance shall be made a part of the Kill Devil Hills Code of Ordinances; the sections of this ordinance may be re-numbered or re-lettered; and the word “ordinance” may be changed to “section,” “article,” “chapter,” or other appropriate designation to accomplish such intention as needed.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 202\_. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 202\_, 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 THE KILL DEVIL HILLS TOWN CODE, CHAPTER 153, ZONING, was placed in the Kill Devil Hills Town Code Book on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_, at \_\_\_\_\_ .m.

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

Director of  
Planning and Inspections  
MEREDITH GUNS

Building Inspector  
MARTY SHAW  
CHARLES THUMAN

Code Enforcement Officer  
JORDAN BLYTHE



Assistant Director of  
Planning and Inspections  
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Senior Planner  
RYAN LANG

Zoning Administrator  
DONNA ELLIOTT

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

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**PLANNING DEPARTMENT**

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November 12, 2024

Memorandum

To: Planning Board

From: Meredith Guns, Planning Director 

Subject: Proposed Zoning Amendment – 153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, Require an Access Aisle, and Apply Floor Area Ratio (FAR) for Large Single-Family Dwellings (over 6,000 SF)

On October 14, 2024, the Board of Commissioners reviewed options to regulate density, bulk, parking, and promote safety for large single-family dwellings in the Ocean Impact Residential Zone (OIR). Staff prepared a presentation with several options for the Board of Commissioners to consider to meet their vision to limit bulk, density, parking and promote safety in the OIR. At the conclusion of the presentation and discussion, the Board of Commissioners directed staff to develop a Zoning Amendment for Planning Board Review that included:

- Define *Large Single-Family Dwelling* as structures over 6,000 SF (which is consistent with the SF used in the stormwater and landscaping regulations).
- Require an emergency access lane on all large structures over 11 bedrooms (currently it is an incentive)
- Set a Floor Area Ratio (FAR) for large single-family dwellings located in the Ocean Impact Residential Zone.

Staff has created a presentation for the Planning Board to assist in understanding the issue identified by the Board of Commissioners and the proposed regulations.

Attached to this memorandum is a proposed zoning amendment to:

- 153.002 Definitions – to add a definition for *Large Single-Family Dwelling* and *Stacked Parking*;
- 153.076 Off Street Parking and Loading – to remove previous incentives for access aisle and add a requirement for 12' access aisle on single family dwellings with 11 or more bedrooms;
- 153.096 Permitted Uses Ocean Impact Residential Zone- to add *Large Single-Family Dwellings* as a permitted use, and;

- 153.100 Site Requirements Ocean Impact Residential Zone – to add a tiered Floor Area Ratio for *Large Single-Family Dwellings* beginning with FAR of .25 with options to increase FAR to .35.

Staff recommends the Planning Board review and discuss the proposed amendment. At the conclusion of the presentation and discussion the Planning Board can forward the proposed amendment to the Board of Commissioners with advisory recommendations and consistency statement.

## 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—§153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, Require an Access Aisle, and Apply Floor Area Ratio (FAR) for Large Single-Family Dwellings (over 6,000 SF)

**Approval/Denial:** Planning Board finds that the Proposed Zoning Amendment §153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, Require an Access Aisle, and Apply Floor Area Ratio (FAR) for Large Single-Family Dwellings (over 6,000 SF) 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 Twelfth day of November, 2024.

Attest:

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

\_\_\_\_\_  
Planning Board Clerk

**AN ORDINANCE AMENDING THE  
KILL DEVIL HILLS CODE OF ORDINANCES,  
CHAPTER 153, ZONING**

**BE IT ORDAINED** by the Kill Devil Hills Board of Commissioners that Chapter 153, Zoning of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

**GENERAL PROVISIONS**

**§ 153.002 DEFINITIONS.**

*DWELLING, LARGE SINGLE FAMILY.* A detached building other than a mobile home designed for or occupied exclusively by one family with a gross floor area greater than 6,000 square feet.

*PARKING, STACKED.* Vehicle parked either parallel or perpendicular to each other with limited egress to drive aisles or right-of-way.

**§ 153.076 OFF-STREET PARKING AND LOADING.**

- (A) *Detailed specifications.* Required off-street parking spaces are permanent areas and shall not be used for any other ground purpose; and shall be constructed in accordance with generally accepted engineering practices.

DRAFT Amendment  
Chapter 153, Zoning

153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, require an Access Aisle, and apply Floor Area Ratio (FAR) for Large Single Family Dwellings (over 6,000 SF).

(10) *Parking requirements for single-family and duplex structures.*

(a) *Yards.*

3. Dwellings with 11 bedrooms or more:

a. A minimum of one but no more than two paved driveways of at least ten feet in width and not exceeding a single or combined width of 20 feet shall be permitted in this area. Driveway width shall be maintained from the point on entry at the property line for five linear feet. Parking setback shall be equal to the total width of the driveway(s) measured from the property line. Driveways in the required parking setback area cannot be used for calculation of required parking.

b. Parking setbacks shall be a minimum of ~~seven~~ five feet from the property line for both driveways and parking areas.

c. ~~Exception: Parking setbacks shall be a minimum of five feet from the property line for driveways, access aisles, and parking areas provided with a clearly marked access aisle including "no parking" with the following design requirements.~~ There shall be a minimum of one access aisle designed open and unobstructed within 20 feet of primary dwelling. Minimum access aisle width shall be ~~ten~~ twelve feet. Access aisle shall be clearly marked including "No Parking."

d. Turn around area for properties abutting highways, thoroughfares and/or collector streets shall be within the designated parking area outlined in this section. Driveways with a

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Chapter 153, Zoning

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minimum width of 20 feet may utilize the driveway area within the required setback as the turnaround area.

## OCEAN IMPACT RESIDENTIAL ZONE (OIR)

### § 153.096 PERMITTED USES.

In the OIR Zone, building and/or land shall be used for the following purposes:

- (A) Single-family and large single-family dwellings;

### § 153.100 SITE REQUIREMENTS.

- (D) *Density*.

(1) For any multi-family, cottage courts, cluster homes, or hotel development, the maximum Floor Area Ratio (FAR) shall be up to 0.40 with the following exceptions:

(1a) Increase the minimum required side yard setbacks by two feet on each side, the FAR shall be up to 0.45; and

(2b) Provide a dedicated/recorded five-foot public easement along a side property line for public access to the Atlantic Ocean in addition to (1)(a) above, the FAR shall be up to 0.50.

(2) For large single-family dwellings, the maximum Floor Area Ratio (FAR) shall be up to 0.25 with the following exceptions:

(a) Limit stacked parking to four (4) vehicles, the FAR shall be up to 0.30; and

DRAFT Amendment  
Chapter 153, Zoning

153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, require an Access Aisle, and apply Floor Area Ratio (FAR) for Large Single Family Dwellings (over 6,000 SF).

(b) Increase minimum side yard setbacks by two (2) feet on each side in addition to (2)(a) above, the FAR shall be up to 0.35.

**BE IT FURTHER ORDAINED** that it is the intent of the Board of Commissioners that the provisions of this ordinance shall be made a part of the Kill Devil Hills Code of Ordinances; the sections of this ordinance may be re-numbered or re-lettered; and the word “ordinance” may be changed to “section,” “article,” “chapter,” or other appropriate designation to accomplish such intention as needed.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 202\_. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 202\_, 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

DRAFT Amendment  
Chapter 153, Zoning  
153.002 Definitions, 153.076 Off Street Parking and Loading, 153.096 Permitted Use Ocean Impact Residential Zone, and 153.100 Site Requirements Ocean Impact Residential Zone – Define Large Single-Family Dwelling, require an Access Aisle, and apply Floor Area Ratio (FAR) for Large Single Family Dwellings (over 6,000 SF).

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James Michael O'Dell  
Town Clerk

DRAFT Amendment  
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