



TOWN OF KILL DEVIL HILLS

Post Office Box 1719, 102 Town Hall Drive
Kill Devil Hills, North Carolina 27948
252-449-5300
www.kdhnc.com

November 20, 2024

Mayor
JOHN L. WINDLEY

Mayor Pro Tem
IVY RAY INGRAM

Commissioners
TERRY L. GRAY
T. DILLON HEIKENS
BERNARD B. MCAVOY, JR.

Town Manager
DEBORA P. DIAZ

Assistant Town Manager
CHARLENE S. ALLEN

Town Clerk
JAMES MICHAEL O'DELL

Town Attorney
CASEY C. VARNELL

Honorable Senator Bobby Hanig
300 N. Salisbury Street, Rm. 629
Raleigh, NC 27603

Honorable Senator Norman Sanderson
300 N. Salisbury Street, Rm. 309
Raleigh, NC 27603

Dear Honorable Senators Hanig and Sanderson,

Yesterday the Town of Kill Devil Hills was alerted of a pending bill, Senate Bill 382, which started as a Dental Practice Act Changes, was brought to the floor, as a result of a conference report, as a 131-page bill entitled "Disaster Relief-3/Budget/ Various Law Changes". Local Governments were provided no time to review or comment on the proposed legislation prior to its adoption by the House (11/19/2024). There is a specific provision of the bill, Part III-K Local Government (page 131), that amends 160D as follows (strikethroughs as deleted, underlines as additions):

NO LOCAL GOVERNMENT INITIATED DOWN-ZONING WITHOUT CONSENT OF AFFECTED PROPERTY OWNER

SECTION 3K.1.(a) G.S. 160D-601(d) reads as rewritten:

"(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be ~~initiated nor is it enforceable~~ initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment, ~~unless the down-zoning amendment is initiated by the local government.~~ amendment. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.*
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.*
- (3) By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.*

SECTION 3K.1.(b) If any provision of this section is declared unconstitutional or invalid by the courts, it does not affect the validity of this section as a whole or any part other than the part so declared to be unconstitutional or invalid.

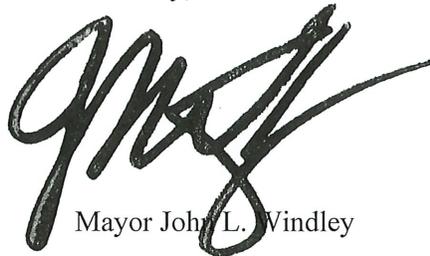
SECTION 3K.1.(c) This section is effective when it becomes law and applies to local government ordinances adopted on or after that date and any local government ordinance enacting down-zoning of property during the 180 days prior to the date this section becomes effective. Ordinances adopted in violation of this section shall be void and unenforceable.

It is unclear why this change was included into/added to the current bill now being considered. This specific provision will make legislating land use provision in the best interest of the community nearly impossible. Land use trends are continually changing and evolving and local governments ability to govern land use is essential to maintain a sustainable community. The Town would appreciate the ability to have input on such a major legislative change to land use law. Given input, the Town can provide examples of how this will negatively impact communities especially in rapidly growing regions of North Carolina including eastern North Carolina. The local government provision of the bill is ill placed in a bill that includes disaster relief for those regions devastated by the effects of Hurricane Helene.

It is our understanding that no amendments can be made to a conference report bill therefore Kill Devil Hills is requesting that you vote "nay" for Senate Bill 382 and request a disaster recovery bill that will assist those in need be reintroduced without changes to 160D that restrict all local governments in North Carolina's ability to control growth and maintain a sustainable community.

Please let us know if there is any information you need from us that would support not approving this change.

Sincerely,

A handwritten signature in black ink, appearing to read 'John L. Windley', written over a printed name.

Mayor John L. Windley

cc Honorable Governor Roy Cooper