



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

April 28, 2021

TO: Mayor and Board of Commissioners
FROM: Ben Sproul, Mayor
REF: Mayor's Agenda

1. Resolution (Attached MA-1A)

A. Resolution Opposing HB401/ SB349 Increase Housing Opportunities

The General Assembly is considering legislation through HB401 and SB349 that would eliminate the single-family dwelling category and establish higher densities that would be contrary to the Town's Land Use Plan, radically reducing the authority of Kill Devil Hills and towns throughout North Carolina to regulate density, which is essential in order to protect public health and safety.

I recommend approval of this resolution and a motion would be in order for its adoption.



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A RESOLUTION IN OPPOSITION TO HB401/SB349, INCREASING HOUSING OPPORTUNITIES

WHEREAS, the Increasing Housing Opportunities Senate Bill 349, and an identical bill, House Bill 401, were filed on March 24, 2021 (referred as “the Bill”); and

WHEREAS, the purpose of the Bill is to provide reforms to local government zoning authority to increase housing opportunities and to make various changes and clarifications to the zoning statutes; and

WHEREAS, Part 1 and Part 2 of the Bill propose significant changes to Chapter 160D (local planning and development regulation) of the General Statutes that significantly reduce the autonomy of local government in establishing and enforcing local zoning and land use regulation; the state-wide regulations proposed in the Bill would obstruct a local government’s ability to thoughtfully plan for growth and evaluate development proposed in a community; and

WHEREAS, the Bill would establish higher densities within Kill Devil Hills that are contrary to the Town’s Land Use Plan; and

WHEREAS, the Town has maintained its three-tier approach to land use and housing mix, with land west of US 158 used primarily for its permanent population residing in detached single-family dwellings; east of NC 12, single-family homes, hotels, and multi-family structures; and commercial zoning districts between the two highways that contain single-family dwellings used in commercial application, as well as private residences; and

WHEREAS, Sections 1.1-1.4 of the Bill eliminate single-family zoning by allowing for middle housing types (defined as residential duplexes, triplexes, quadplexes, and townhouses) in areas zoned for residential use and mandating the allowance of accessory dwelling units in all residential zones; while such mandates would increase housing supply statewide, there is no guarantee of housing quality, affordability, or neighborhood compatibility; and

WHEREAS, the Bill’s Sections 2.1, 2.4 and 4.6 significantly alter the development review and development appeals process to the disadvantage of local authority; specific examples include the following: precluding using traffic as a basis for denying a development permit; barring local governments from conditioning the acceptance or processing of a permit application unless specifically statutorily authorized; and authorizing a court to award reasonable attorneys’ fees and costs to a party successfully challenging the actions of a local government; and

WHEREAS, Section 1.5 of the Bill directs local governments to adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions of Part 1 of the Bill by October 1, 2021; local governments are investing significant time and resources to comply with new Chapter 160D requirements recently enacted by the General Assembly (S.L.2020-25).

This proposed Bill would significantly alter those ongoing planning processes, waste government resources, and erode public trust; and

WHEREAS, the intent of the Bill is to increase the statewide housing supply, the General Assembly should seek input from municipalities and conduct a rigorous analysis of the local and statewide fiscal, environmental, health, and service impacts, both positive and negative, prior to passage of such sweeping legislation, with adequate timelines for determining organized and deliberate approaches to be included in any legislation to mitigate negative impacts; and

WHEREAS, the ability for a local government to regulate density is essential in order to protect public health and safety; and

WHEREAS, the Bill would strip the Town's ability to make decisions on what is best for the development of Kill Devil Hills, while also being responsive to its citizenry and meeting a majority of constituent desires;

NOW, THEREFORE BE IT RESOLVED, that the Kill Devil Hills Board of Commissioners opposes HB401/SB349, the Increasing Housing Opportunities Bill as proposed. The General Assembly is encouraged to directly engage with local and county governments to consider strategies that increase housing supply and affordability without compromising the authority and effectiveness of North Carolina's local governments.

This the ____ day of April, 2021.

SEAL

Ben Sproul
Mayor

ATTEST:

James Michael O'Dell
Deputy Town Clerk