TOWN OF KILL DEVIL HILLS

Land Where Flight Began

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that on Monday, June 14, 2021 at 6:00 p.m. the Kill Devil Hills Board of Commissioners will hold a public hearing to receive public comment, both written and oral, regarding a requested amendment to the Kill Devil Hills Town Code, Chapter 153, Zoning:

§ 153.177 Conditional Uses.

(I) Tattoo Studio(s)

(1) Tattoo Studio(s) are an establishment in which the activity of tattooing occurs. Tattooing means the inserting of permanent markings or coloration, or the production of scars, upon or under human skin through puncturing by use of a needle or other method. Tattoo Studio(s) shall be a conditional use within the Commercial Zone.

(2) Tattoo Studio(s) shall meet the separation requirements listed below for a minimum distance measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo studio is conducted to the nearest portion of a building or structure listed below.

a. Church, School, Public Park, or libraries 200 feet

b. Other Tattoo Studios or establishments: 400 feet

(3) Health Department and any other applicable agency approval is required.

(4) Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.

(5) The Planning Board may recommend to the Board of Commissioners, and the Board of Commissioners may impose, any additional conditions they determine are appropriate based on surroundings.

The regular meeting and public hearing can be accessed by the public through live-streaming on the KDH Facebook page: https://www.facebook.com/townofkdh/

Written comments, which will be included with the record of the public hearing on this public hearing item may be submitted to the Town Clerk, P.O. Box 1719, Kill Devil Hills, NC 27948, or by e-mail to: odell@kdhnc.com. Comments must include your name and address and should be limited to three minutes when read aloud.

At the conclusion of the public hearing, the Board of Commissioners may take action on the requested amendment to Chapter 153, Zoning, § 153.177 Conditional Uses (I) Tattoo Studio(s), such action to include approval, disapproval, or tabling the requested amendment for further consideration.

Posted this 28th day of May 2021.

Mary E. Quidley
Town Clerk

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

Ordinance Number _____

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:

§ 153.177 Conditional Uses.

(I) Tattoo Studio(s)

(1) Tattoo Studio(s) are an establishment in which the activity of tattooing occurs. Tattooing means the inserting of permanent markings or coloration, or the production of scars, upon or under human skin through puncturing by use of a needle or other method. Tattoo Studio(s) shall be a conditional use within the Commercial Zone.

(2) Tattoo Studio(s) shall meet the separation requirements listed below for a minimum distance measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo studio is conducted to the nearest portion of a building or structure listed below.

a.	Church, School, Public Park, or libraries	200 feet
b.	Other Tattoo Studios or establishments:	400 feet

(3) Health Department and any other applicable agency approval is required.

(4) Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.

(5) The Planning Board may recommend to the Board of Commissioners, and the Board of Commissioners may impose, any additional conditions they determine are appropriate based on surroundings.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the _____ day of _____, 2021. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the _____ day of _____, 2021, by a vote of _____ in favor and _____ opposed.

SEAL

_____
Ben Sproul
Mayor

ATTEST:

_____
James Michael O'Dell
Deputy 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 _____, 2021 at _____ ___.m.

_____
James Michael O'Dell
Deputy Town Clerk

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 26, 2021

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director CR

Subject: Zoning Amendment Request — Amend §153.176 Commercial Zone Permitted Uses to Add "Tattoo Studio"

Originally, applicant Michael Smith submitted a request to amend *§153.176 Commercial Zone Permitted Uses* to add *Tattoo Studio(s)*, a use not currently permitted within any of the Town's zoning districts. His application was taken to the May 18, 2021 meeting of the Planning Board.

Staff obtained some additional information on *Tattoo Studio(s)* after the Planning Board packet was distributed and discussed it with the applicant. This discussion modified the use's designation from *permitted use* to *conditional use*. Staff and Mr. Smith discussed modification of the requested amendment to establish several conditions to the use, and to re-assign the amendment to *§153.177 Commercial Zone Conditional Uses.* Mr. Smith agreed, and the revised amendment was presented and discussed during the Planning Board meeting.

The Planning Board voted to recommend approval of the revised amendment *§153.177 Commercial Zone Conditional Uses* as follows:

§153.177 Commercial Zone Conditional Uses (subject to adoption of the ordinances changes mandated by NCGS Chapter 160D, *conditional uses* changes to *special uses* in KDH Chapter 153 after the June 14th public hearing.)

(II) Tattoo Studio(s)

1) Tattoo Studio(s) are an establishment in which the activity of tattooing occurs. Tattooing means the inserting of permanent markings or coloration, or the production of scars, upon or under human skin through puncturing by use of a needle or other method. Tattoo Studio(s) shall be a conditional use within the Commercial Zone.

2) *Tattoo Studio(s)* shall meet the separation requirements listed below for a minimum distance measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a tattoo studio is conducted to the nearest portion of a building or structure listed below.

a. Church, School, Public Park, or libraries: 200 feet
b. Other Tattoo Studios or establishments: 400 feet

3) Health Department and any other applicable agency approval is required.

4) Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m.

5) The Planning Board may recommend to the Board of Commissioners, and the Board of Commissioners may impose, any additional conditions they determine are appropriate based on surroundings.

Staff recommends setting the required public hearing to be held by the Board of Commissioners to amend Chapter 153, Zoning, to include Tattoo Studios as a conditional use in the Commercial Zone(s) for June 14, 2021.

Kill Devil Hills
Code Amendment Application

Name of Applicant: Michael J. Smith

Address of Applicant: 19557 Carleno dr, East Lake, N.C. 27953

Telephone Number: 252-202-5685

Agent for Applicant (if applicable): _____

Agent Address: _____

Telephone Number: _____

I hereby request an amendment to the following specific section of the Town Code: Title XV section 153.176 Permitted Uses Within the Commercial Zone

Proposed language for code amendment: I would like the town to add section (II) Tattoo Studio.

Justification for Amendment: I have an interest in opening a Tattoo Studio in the Commercial District of Kill Devil Hills N.C. I have viewed and discussed the use of a leased property which is located in the Commercial District that would fit my needs wonderfully that the Real Estate company in charge of would be ready to enter into a rental agreement with me pending the outcome of this zoning application.

Signature of Applicant/Agent: _____

Staff Only:

Date Received: 4/14/21

Received by: Ryan Lay

Ray, Cameron

From: Mike Smith <m1984smith@gmail.com>
Sent: Thursday, May 20, 2021 10:38 AM
To: Ray, Cameron
Subject: Re: Zoning amendment request for "Tattoo Studio"
Attachments: image001.png

Yes, I, Michael J Smith, do accept and agree with the recommend changes by the kill devil hills planning department to my requested zoning amendment application.

On Thu, May 20, 2021, 09:52 Ray, Cameron <Cameron@kdhnc.com wrote:

Good Afternoon Mike,

Attached is the agreed upon revision to your zoning amendment request from your original requested amendment to Ch.153.176 Commercial Zone Permitted Uses to Ch. 153.177 Commercial Zone Special Use. For the record, please respond with your agreement for the changes recommended by the Planning Board to your requested amendment.

Sincerely,

Cameron Ray, CFM

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

www.kdhnc.com

From: Mike Smith [mailto:m1984smith@gmail.com]
Sent: Monday, May 17, 2021 12:48 PM
To: Ray, Cameron <Cameron@kdhnc.com>
Subject: Re: Zoning amendment request for "Tattoo Studio"

Attached is the NCDHHS regulations for tattoo permitting and operation. Section 15A NCAC 18A .3202 on page one refers to the local permitting required that we had discussed earlier that I couldn't recall directly. Currently the unincorporated areas permit through the dare county environmental health services department. Cassandra is very familiar with them as she's been permitted by them for the past 9 years. Each artist requires a permit as well as the establishment the artist is working out of.

Thanks again for your time. If you have any more questions please feel free to contact me.

On Mon, May 17, 2021, 11:37 Ray, Cameron <Cameron@kdhnc.com wrote:

Mike,

Pleasure chatting with you earlier. If you have any questions leading up to the meeting tomorrow night do not hesitate to contact me.

Sincerely,

Cameron Ray, CFM

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

www.kdhnc.com

From: Mike Smith [mailto:m1984smith@gmail.com]
Sent: Sunday, May 16, 2021 6:09 PM
To: Lang, Ryan <rlang@kdhnc.com>; Guns, Meredith <MEREDITH@kdhnc.com>
Subject: Zoning amendment request for "Tattoo Studio"

To whom it may concern:

In preparation for the Planning board meeting on Tuesday May 18th 2021, with regards to the Zoning Amendment application for "Tattoo Studio", I have put together a comprehensive business plan which includes various examples and definitions of what other towns with similar demographics to Kill Devil Hills allow for Tattoo Parlors or Studios. I have attached a copy for your viewing if you're interested and will also have several printed copies with me at the meeting in case anyone else would like a copy. If you could pass this along to anyone that might be interested and may be present at the meeting on Tuesday. With current covid restrictions I wasn't sure if anyone would prefer an e-mailed copy over a hard copy. Thank you for your time and I look forward to working with the planning board on Tuesday.

PLANNING BOARD REPORT

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Per NCGS 160A-383, the Planning Board shall advise and comment on whether the proposed zoning amendment is consistent with all applicable officially adopted plans, and provide a written recommendation to the Town Council 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 officially adopted plans shall not preclude consideration or approval of the proposed amendment by the Town Council.

PLANNING BOARD RECOMMENDATIONS

Proposed Amendment Title: Proposed Zoning Amendment — §153.176 Commercial Zone Permitted Uses to Add "Tattoo Studio"

Approval/Denial: Planning Board finds that the Proposed Zoning Amendment §153.176 Commercial Zone Permitted Uses to Add "Tattoo Studio" ***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 5 to 0, this the Eighteenth day of May, 2021.

Attest:

Planning Board Chairman

Secretary of Planning Board