

STAFF REPORT

Amendments to the Unified Development Ordinance

May 28, 2026, Town Council Meeting



At their April 28, 2026, regular meeting, the Town Council voted to remove this proposed amendment from the agenda and referred it back to the Planning Board for further consideration, including coordination with the Environmental Advisory Board (EAB).

Requested by Planning Staff:

- 1) **Amendments to Sec. 2.1.9.A *Review and Decision-making Bodies, Apex Environmental Advisory Board, Powers and Duties*, to formalize the Board's authority to review and provide recommendations regarding a project's compliance with the Town's adopted legislative considerations in Sec. 2.3.3.F.5 *Developmental Review, Conditional Zoning Districts, Legislative Considerations*, including an evaluation of how effectively the project design minimizes environmental impact.**

Background: Planning Staff propose an amendment to Sec. 2.1.9.A *Review and Decision-making Bodies, Apex Environmental Advisory Board (EAB), Powers and Duties* to clarify and formalize the Board's role in the review of certain Conditional Rezoning applications. Currently, the UDO authorizes the EAB to review conditional rezoning applications and provide suggested zoning conditions to applicants based on the Board's adopted list of recommendations. However, Town Council has expressed its intent for the EAB to more directly evaluate an application's ability to comply with Sec. 2.3.3.F.5 *Legislative Considerations, Design minimizes environmental impact*, and to provide a formal recommendation to Town Council based on that evaluation.

Sec. 2.3.3.F.5 reads as follows:

- 5) *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

In practice, while the EAB is often engaged early in the review process, the absence of a defined review framework has resulted in limited transparency and continuity between the Board's recommendations and the final rezoning application. Specifically, the EAB frequently provides recommended zoning conditions but does not receive follow-up regarding which recommendations are ultimately incorporated, nor does it currently provide a formal recommendation on the merits of the rezoning request.

The proposed amendment establishes a more structured and predictable review process by clarifying the EAB's role and creating a clearer feedback loop between the Board, staff, and the applicant. Under this framework, the EAB will provide a formal recommendation to Town Council on the rezoning request based on the project's ability to demonstrate that design minimizes environmental impact, including the protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

This amendment shall have an effective date of July 1, 2026.

2.1.9 Apex Environmental Advisory Board

A) *Powers and Duties*

The Environmental Advisory Board shall have the following powers and duties under the provisions of this Ordinance:

...

- 2) Review, with applicants, during the staff review phase of a proposal, certain requests for conditional rezoning and recommend zoning conditions to the applicant and Town Council that will mitigate anticipated impact to the natural environment as a result of the project under consideration. **The Board shall provide a recommendation to Town Council regarding approval or denial based on the application's ability to comply with Sec. 2.3.3.F.5 Legislative Considerations, Design minimizes environmental impact.**

The following conditional rezoning requests shall be exempt from review by this Board:

- a) Rezoning to amend zoning conditions which have no environmental impact on a site including but not limited to revisions to architectural standards, building height, setbacks, and uses;
- b) Rezoning to resolve nonconformities;
- c) Rezoning of 10 acres or less; and
- d) Rezoning within the Small Town Character Overlay District.

PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

At their May 11, 2026, meeting, the Planning Board discussed the intent of the proposed amendment with Mayor Pro Tempore Mahaffey, conducted additional deliberations among Board members, and held a new vote on the proposed amendment.

A motion was made to recommend denial of the amendment and the Board reiterated its concern that the amendment would bring unnecessary added time and complexity to the current process. The motion to recommend denial passed by a vote of 8-1. The dissenting member's comments are included in the attached Planning Board Report to Town Council.

During discussion, the Planning Board also expressed interest in establishing a formal process that would allow the Environmental Advisory Board to submit documentation to the Town Council and Planning Board identifying specific comments, requests, and concerns related to their review of each rezoning application.