



## Agenda Abstract

### BOARD OF COMMISSIONERS

Meeting Date: March 13, 2023  
Department: Planning and Economic Development  
Agenda Section: Regular  
Public hearing: Yes  
Date of public hearing: Jan. 19, 2023

#### PRESENTER/INFORMATION CONTACT

Planning and Economic Development Manager Shannan Campbell

#### ITEM TO BE CONSIDERED

**Subject:** General use rezoning: 1509 Orange Grove Rd. (PIN 9864924639); R-10 to Multifamily

##### Attachments:

1. Rezoning Ordinance
2. Consistency Statement
3. Rezoning Application Materials

##### Summary:

The request is for a general use rezoning – meaning a range of uses are permitted by right and some require additional review. This is a legislative decision for the board – meaning the members can take a wide range of information into consideration and testimony may be in writing and does not need to be sworn. The boards have broad discretion in determining whether to approve this request. No statements by the applicant as to potential use of the property are binding on the applicant or the town. For this reason, the town requires no development plans from applicants seeking rezoning to a general-purpose district. No conditions can be placed if the application is approved. The application is complete.

Items discussed at the Joint Public Hearing included: concerns about water and sewer serviceability from town utilities, concerns from Exchange Club Park representatives about sewage smell in the park, support for mixed use generally, and questions about density standards in the UDO. Two Planning Board members voted against recommending approval at the February regular meeting.

#### GENERAL STANDARDS/FINDINGS OF FACT:

Before amending this ordinance or the Official Zoning Map, the town board must find, after conducting the process below, that the request is not inconsistent with the adopted Comprehensive Plan for the Town of Hillsborough.

Amending the Official Zoning Map (Rezoning) is a matter committed to the legislative discretion of the town board. In determining whether to adopt a proposed amendment, the town board shall consider and weigh the relevance of the following factors:

- (a) The extent to which the proposed amendment is consistent with all applicable town-adopted plans;
- (b) The extent to which there are changed conditions that require an amendment;
- (c) The extent to which the proposed amendment addresses a demonstrated community need;

- (d) The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land;
- (e) The extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;
- (f) The extent to which the proposed amendment would encourage premature development;
- (g) The extent to which the proposed amendment would result in strip or ribbon commercial development;
- (h) The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts;
- (i) The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and
- (j) The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

#### January Joint Public Hearing Minutes:

##### A. General use rezoning: 1509 Orange Grove Road (PIN 9864924639); R-10 (residential) to multifamily

Planning and Economic Development Manager Shannan Campbell polled the audience to ensure anyone that wished to speak during the public hearing was signed in.

Campbell reviewed the item before the boards. She said the project did not require a land use plan amendment or annexation request. Campbell shared comments from the utilities department that did not make it into the staff report. She said water is available to serve the project, but sewer is constrained in this basin. The utilities department is not sure they can serve the site with sewer, and they are not currently in favor of rezoning due to that uncertainty. She said it may be possible to serve the project with septic, but that option has not been explored since the rezoning has not yet been approved. She explained that the applicant will identify viable water and sewer options if the rezoning is approved. (Hughes came in during Campbell's comments at 7:02 p.m.)

Johnston reminded the board that if the property were to be rezoned, any use allowed in that district could be developed. He then asked if the applicants would like to speak.

Applicant Michelle Robinson said she and her husband bought the property to develop, stating he is a general contractor. She then invited her husband to speak. (Lloyd came in during Michelle Robinson's comments at 7:04 p.m.)

Applicant Nathan Robinson gave an overview of the proposed project and showed a map of neighboring uses, pointing out that no adjacent parcels are zoned residential and most are zoned commercial. He also showed a map of the future land use plan. Robinson said they bought the property because they liked the walkable community in Hillsborough and envisioned a residential use for this parcel adjacent to commercial and nearby Exchange Park. He showed conceptual images to demonstrate plans for 5 townhome-style duplexes.

Nathan Robinson said he contacted the planning staff prior to purchasing the property and all feedback was positive. He said he was notified about the sewer issues by Utilities Director Marie Strandwitz 2 hours before closing and was surprised to learn from Campbell's earlier comments that the utilities department was not in

favor of the rezoning. He referred to an email he had received in August saying that a standard septic system would be acceptable as an option.

Nathan Robinson said the steps he is taking to advance the project are to first have the property rezoned before engaging an engineer. He said there would significant expense involved so they wanted to pursue the rezoning first.

He said he discussed phased development with Strandwitz by which she suggested building 3 of the 5 homes in phase I on a septic system and that by 2024 there may be more sewer capacity to serve the other 2 homes in phase II.

There was discussion by the members during which Campbell and Nathan Robinson were engaged to allow members to orient themselves more fully with the location of the property. Members considered other factors, such as traffic, density, and access. Some members continued to ask questions about how the sewer and septic needs would be addressed, and Nathan Robinson again explained that he viewed the first step to be getting the rezoning approved.

Johnston reminded that this meeting was a public hearing only and no decisions would be made. He said he wanted to make sure any staff comments were on the record. Campbell reiterated the concerns shared with her by the utilities department that they do not want the applicant to perceive a rezoning approval as an entitlement for having the project served by sewer if that's not possible. Nathan Robinson said that he understands that.

Mayor Weaver asked Hornik if rezoning would cause a problem for the future development of the project. Hornik explained that the project could only be developed to the extent that future permitting would allow water and sewer development regardless of the rezoning. Nathan Robinson gave the example that the properties in the area already zoned for commercial use could not be commercially developed if the sewer constraints prevented it.

Planning Board Member Sherra Lawrence asked why the rezoning was necessary since the requested use was residential and residential was already a permitted use under the current zoning. Campbell explained it was a density issue. She explained that the only zoning district where this density can be achieved is multifamily.

Planning Board Member Frank Casadonte asked if a single-family residence would be permitted to connect to the sewer. Campbell said that the sewer usage of that land use type is relatively low and Utilities has been allowing single family construction in this basin.

Planning Board Member Saru Salvi asked if the email that had been referenced from the utilities department could be shared with the members. Campbell displayed it on the screen and read it aloud.

Hughes said it is a simple rezoning and it could be otherwise re-zoned in the future, if necessary.

Johnston asked if there were any public comments. Oliver Fowler said he is a big fan of mixed use and thinks multifamily use is better than single family.

Nathan Robinson said that he recognizes the utility constraints but does not want to spend tens of thousands of dollars to determine the sewer needs if he cannot get it rezoned.

Debra Butler, President of the Exchange Club, said she was there to represent the interests of the park. She said there is already a sewage smell at the park at times, so she attended the meeting to see what type of

development is being proposed. She said she hopes that the existing sewer capacity issues in the area will be addressed because the smell has a negative impact on the park.

With no other public comments, Johnston thanked members of the public and moved on to the next item.

February Regular Planning Board Meeting:

B. General use rezoning: 1509 Orange Grove Rd. (PIN 9864924639); R-10 to Multifamily

Johnston came in at the start of this item at 6:35 p.m. and led the meeting from this point.

Planning and Economic Development Manager Shannan Campbell reviewed the item and said the proposed use is consistent with the land use plan. Salvi reminded the board that Utilities does not want this request approved because they are not sure of being able to provide sewer service. Schultz said if rezoning is in line with the town plan, the project won't get served with sewer there is not capacity to serve it. Town Attorney Bob Hornik agreed. Iglesias said the board should ask if it is a reasonable request. He said if it is consistent with the land use plan this step should not be a hindrance to the project moving forward. Board member Alyse Polly agrees. Schultz said it is outside of the board's purview to consider whether the project can be served by sewer. Casadonte agrees.

Motion: Schultz moved to recommend approval of the text amendment to the town board. Casadonte seconded.

Vote: 5-2. Salvi and Giglia were nays. Giglia said it seems premature.

**Financial impacts:**

None.

**Staff recommendation and comments:**

Staff recommends approval as written.

**Action requested:**

Approve, deny, or approve with changes the language modifying the Unified Development Ordinance.