

Memorandum

To: Town Board of Commissioners and Planning Board
From: Molly Boyle, Planner II
Cc: Shannan Campbell, Planning & Economic Development Manager
Date: August 15, 2024
Subject: Staff analysis – Waterstone South annexation and rezoning requests



Summary of Proposal

| Proposed Annexation and Rezoning Details – Waterstone South | |
|---|--|
| Property Owners/Applicants | Capkov Ventures, Inc. and Woodsedge Properties, LLC |
| Property Location | East of I-40, west of NC 86 S, and south of Waterstone Drive (vicinity map on the next page) |
| Project Size | 99.14 acres (97.02 proposed for annexation) |
| Parcel ID Numbers | <ul style="list-style-type: none">• 9872-49-0872• 9873-41-6716• 9873-42-2375• 9873-50-4152• 9873-41-5972• 9873-41-0172 (portion)• 9873-50-2573• 9873-42-5076• 9873-51-0737• 9873-42-5271 |
| Applicant Request | <ol style="list-style-type: none">1) Annex the project area that is not already within town limits.2) Rezone approximately 99.14 acres from R1 (County), EDH-2 (County), and ESU (Town) to a Planned Development (PD) district for apartments, townhomes, and various non-residential uses, including medical, office, and neighborhood commercial uses |
| Proposed Residential Land Uses | <ul style="list-style-type: none">• 450 apartment units• 205 townhome units• 15% of the units to be affordable to those making 80% of the median income |
| Proposed Non-Residential Land Uses | <ul style="list-style-type: none">• 200,000 sq. ft. along Waterstone Drive (allowable uses to include medical and general office, outpatient services, hospital, restaurant, and childcare facility)• 40,000 sq. ft. along NC 86 S (allowable uses to include neighborhood commercial, retail, daycare, and restaurant) |

Staff review

The submittal was reviewed by the town's Technical Review Committee (TRC) in February and April 2024. The TRC includes representatives from various departments related to development, including Planning, Utilities, Stormwater, Public Works, the NC Department of Transportation, and the Fire Marshal.

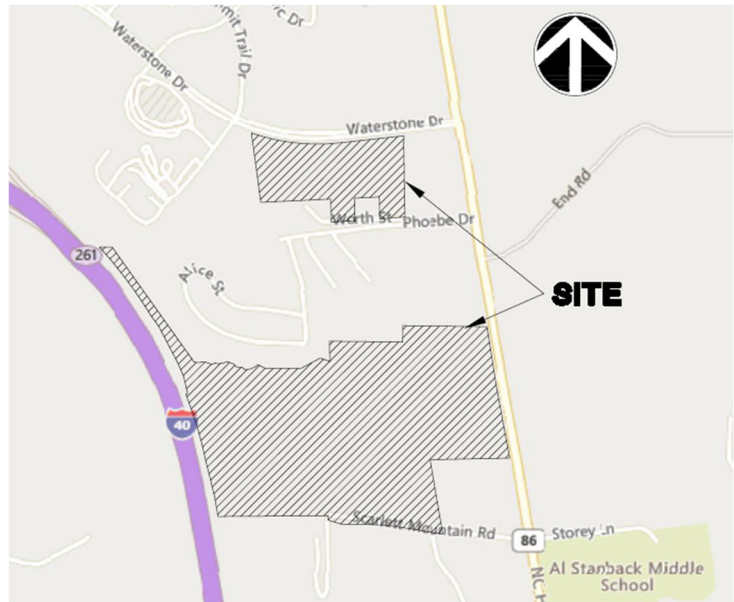
Compliance with Unified Development Ordinance

After TRC review, Planning staff found the submittal complies with the Unified Development Ordinance (UDO) regulations for Map Amendments and Planned Development Districts, specifically:

- Section 3.7 *Administrative Procedures - Unified Development Ordinance and Map Amendments*
- Section 4.6.1 *Zoning Districts – Planned Development (PD)*
- Section 5.2.39 *Use Standards – Planned Development*

The UDO is available on the town's website:

<https://www.hillsboroughnc.gov/about-us/departments/community-services/planning/unified-development-ordinance>.



Waterstone South Vicinity Map

Consistency with Comprehensive Sustainability Plan

The North Carolina General Statutes and the UDO require the Planning Board and Commissioners consider if a zoning amendment is consistent with the comprehensive plan. Staff finds the proposal generally consistent with the Comprehensive Sustainability Plan, with the exception of Figure 4.4 *Potential Growth Areas* (page 4-23). A portion of the project area is outside of the town's identified "potential growth area" (shown in orange in the image at right).

Note that the Board of Commissioners can determine that a zoning amendment is inconsistent (in full or in part) with its comprehensive plan and still approve the amendment. [NC GS § 160D-605 \(a\), Governing board statement – Plan Consistency](#) states, "if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required."



Excerpt from Figure 4.4 in the CSP

The Comprehensive Sustainability Plan is available online at

<https://www.hillsboroughnc.gov/home/showpublisheddocument/572/638556087250230532>.

Planning Board review and recommendation

Under the North Carolina General Statutes, the Planning Board is to offer comment to the Board of Commissioners on zoning amendments (see [NC GS § 160D-604 \(b\) Planning Board review and comment – Zoning Amendments](#)).

Since this is a planned development, which is a type of conditional zoning district, the town and the applicant may agree to various conditions of approval for the project pursuant to [NC GS § 160D-703 \(b\) Zoning districts – Conditional Districts](#). A draft set of conditions is included as **Attachment 5**.

The Planning Board is to make a recommendation to the Board of Commissioners about whether to approve the rezoning request, but not the annexation (annexations are not subject to Planning Board review and comment). As part of this recommendation, the Planning Board may comment on the draft conditions and recommend additional ones. Ultimately, the applicant and the Board of Commissioners will negotiate the conditions, and both parties must agree to the conditions for the zoning amendment to be approved.

Please note that this proposal is for annexation and rezoning (*i.e.*, land use). The submitted Master Plan is therefore broad and covers allowable land uses, general development standards, and a conceptual layout. Detailed development plans (*e.g.*, site plans, construction drawings) are not submitted at this stage. The applicant will submit detailed plans for staff review and approval later should the annexation and rezoning requests be approved.

Board of Commissioners decision

The Board of Commissioners is tentatively scheduled to vote on this proposal on August 26, 2024. At that time, the Commissioners and the applicant must mutually agree to any conditions if the proposal is to be approved.