



Agenda Abstract

BOARD OF COMMISSIONERS

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| Meeting Date: | Sept. 11, 2023 |
| Department: | Planning and Economic Development |
| Agenda Section: | Regular |
| Public hearing: | Yes |
| Date of public hearing: | Aug. 17, 2023 |

PRESENTER/INFORMATION CONTACT

Tom King, Senior Planner
Shannan Campbell, Planning and Economic Development Manager

ITEM TO BE CONSIDERED

Subject: Unified Development Ordinance text amendment- Section 6.17, Sidewalks (Staff Initiated)

Attachments:

1. UDO Section 6.17 Sidewalks, as proposed to be amended
2. Consistency Statement
3. Ordinance amending the UDO

Summary:

September 2023:

Staff ran the language through a few current and future development scenarios to ensure that the resulting sidewalk requirements would provide sidewalks where the town and Comprehensive Sustainability Plan advise them to be constructed and that a payment in lieu could be accepted in areas where feasibility, constructability, and future connections are a challenge. Staff further organized the ordinance language to be clearer and follow a linear pattern for developments that would be required to build sidewalks, developments that could build and/or provide payment in lieu of sidewalk, and situations where neither construction or providing payment in lieu are necessary.

August 2023:

Staff made some additional changes and re-arranged some of the language for better readability since the last review. The Planning Board's initial discussion was captured in the minutes and included questions about any impacts to street trees and conversations about ways that developers may try to use payment in lieu to avoid building sidewalks in places where the town really does want/need sidewalks and there are no topographical or water way challenges in place. The public hearing was held and comments received were incorporated into subsequent drafts.

June 2023:

The current UDO standards for sidewalks doesn't account for circumstances where sidewalk cannot or should not reasonably be constructed due to topography, insufficient right of way width, stream crossings, etc. It also does not allow for the option for payment in lieu of construction in the above circumstances. The only option for payment in lieu of construction is given for when the sidewalk is a low priority as identified in an older Orange County priority sidewalk plan.

Staff has re-written the full section to better reflect best practices in sidewalk location and allow for creative design where topography, insufficient right of way width, stream crossings or the like are present.

8/17 Joint Public Hearing Draft Minutes:

A. Unified Development Ordinance text amendment- Section 6.17, Sidewalks (Staff Initiated)

King said no member of the public had signed up to speak on this topic. He explained that town staff are running into issues such as challenging topography or lack of connectivity to other sidewalks. The current UDO still refers to the former community connectivity map, but staff is now referencing the new comprehensive sustainability plan, with the intent of pursuing its goals and strategies. He pointed to the proposed new section on exceptions to applicability. He said there were situations where it doesn't make sense to require sidewalks. He displayed a map of a subdivision with a cul-de-sac and eight lots and identified two areas where building a sidewalk wouldn't be feasible, one because of steep slopes and a stream with a riparian buffer of 100' and another segment where there was no connectivity. Weaver asked if it was impossible or just too expensive to build a sidewalk because of topography, noting the town wants residents to be able to move around outside of their street. King said whenever a stream buffer is involved, stormwater staff doesn't want to see the buffer impacted by a sidewalk. He said he had seen one ordinance that does require to build sidewalk over a gully, no matter how difficult. Schultz said if a road can be built there, it seems like a sidewalk could be built as well. King said a buffer authorization would be needed from stormwater staff, who would rather not see sidewalks built in stream buffers. Salvi said a sidewalk might be feasible, but might be expensive, which could be the real reason a developer requests a payment in lieu. Ferguson noted the town has lots of hills and must deal with topography issues, adding that the absence of sidewalks leaves steep shoulders, which can be dangerous. She added she didn't want to give developers an easy out through payment in lieu. Hughes said it was not just developers who are required to make impractical sidewalks. He cited a resident who had removed a mobile home and built a house and was required to put in a sidewalk in an inhospitable location with no curb or gutter and no connectivity to other sidewalks. In this case, he said, payment in lieu would have been a better option. Ferguson said that while there might be sidewalks to nowhere in the short term, in the long view these sidewalks might eventually have connectivity.

Salvi asked how the town would make sure the payment in lieu was sufficient to cover costs. Casadonte noted the board had discussed that question in its last meeting and had agreed to require a payment in lieu equal to 150% of the estimated cost. King said there was no timeline on using a payment in lieu, but the amendment stipulates that it be used on a sidewalk within 1000 feet. Ferguson said that requirement seemed too restrictive and didn't leave the town much flexibility in planning for the future and using the money where it's most needed. King said he believed any payment in lieu had to be spent on sidewalk construction in a nearby area. Weaver asked if that restriction was based on best practices or current law. King said he thought it might be a legal requirement. Ferguson said to the extent the law allows, the town should be strategic in using payments in lieu. King said he would check about laws concerning payment in lieu. He then summarized other changes included in the amendment and explained the rationale behind them.

8/17 Planning Board Recommendation Draft Meeting Minutes (July Joint Public Hearing Canceled):

B. Section 6.17, Sidewalks

Casadonte turned the board's attention to the sidewalk payment in lieu. Several members noted that the board had discussed the proposed changes in its June meeting. King noted that the current ordinance refers to a map and a plan that the town no longer uses and contains confusing language. The changes proposed by staff are intended to eliminate confusion, allow payments in lieu for situations where sidewalks aren't feasible, clarify design and construction standards, clean up language about sidewalk shade trees, and build in flexibility for staff to deal with certain issues.

Schultz said he was comfortable approving the amendments, but asked if town management decided whether construction of a sidewalk is impractical. King explained that the decision would be made by the permit issuing

authority, which would generally be the staff reviewing the plans. He added that he'd would like to make one more amendment to the section on exceptions for the scenario when a business changes ownership without any site improvements. Iglesias asked if the board needed to wait for the revised amendment before it made a recommendation. King said that revision would be addressed by the Board of Commissioners, so the planning board could make a recommendation. Asked by Salvi if the town might still require a sidewalk when property changes ownership without any site improvements, King explained there were legal barriers to doing so.

Motion: Salvi moved to recommend approval of the amendment to the UDO with one addition to the exceptions to applicability suggested by staff as discussed during the hearing. Schultz seconded.
Vote: 5-0.

Financial impacts:

Low. Planning staff will need to work with Finance staff to determine where payments in lieu of sidewalk construction will be captured and tracked for expenditure in future years.

Staff recommendation and comments:

Staff recommends approval of the text amendment as written.

Action requested:

Approve attached amendments, consistency statement, and ordinance, approve with conditions/modifications, or table/continue discussion of the item.