



Agenda Abstract

BOARD OF COMMISSIONERS

Meeting Date: Oct. 10, 2022
Department: Planning and Economic Development
Agenda Section: Regular
Public hearing: Yes
Date of public hearing: July 21, 2022

PRESENTER/INFORMATION CONTACT

Planning and Economic Development Manager Shannan Campbell

ITEM TO BE CONSIDERED

Subject: UDO Text Amendments to Sections 3-6 and Section 9 to create a Planned Development conditional zoning district

Attachments:

1. Ordinance amending the UDO with text amendment revised language
2. Consistency Statement

Summary:

Due to changes made at the state level with regard to municipal planning and zoning, the town lost the ability to continue to implement 'special use' zoning districts used previously. This left general use zoning as the only option, however towns are still permitted to do conditional use zoning districts. Conditional zoning districts can allow a developer to master plan a large tract of land or provide infill development on a small tract, as the flexibility with conditional zoning districts allows for negotiation between the town and the developer on conditions and uses on development-by-development basis. Having an available zoning district where a development plan and/or development agreement are part of the rezoning process is a helpful tool because it informs the future development of a parcel or tract better than a general use rezoning does.

August Planning Board Recommendation Minutes:

Text amendment to the Unified Development Ordinance: Creating a Conditional Zoning Process and Planned Development District

Polly arrived at 6:36 p.m.

Campbell summarized the staff report, noting she heard no definitive changes to the proposed text amendment requested at the July 21, 2022, public hearing.

The board members discussed the seven bullet points that were discussed at the July 21, 2022, public hearing, outlined on Page 14 of the agenda packet.

Regarding the neighborhood meeting requirements, Campbell confirmed the consensus from the public hearing seemed to be to notify neighbors within 500 feet of a proposed Planned Development District project rather than within 1000 feet. She confirmed notifications then would be sent to the entire town for the required public hearings for such projects. Salvi advocated for such hearings to be highlighted on the town's website, and Campbell agreed to ask the town Communications Division to do so.

Regarding the high-, medium- and low-density designations, Campbell confirmed she decreased the densities for each designation to after the June 16, 2022, Planning Board meeting based on feedback from the board members. She outlined the densities for each designation. She said the modified language designates low density at 5 units per acre, medium density at 15 units per acre and high density at 25 units per acre.

Campbell noted review staff had raised concerns about calculating densities using people per acre rather than units per acre. She said making those calculations could be complicated, and the calculations probably would not yield useful information. Campbell recommended calculating the density designations based on dwelling units per acre instead of people per acre. She explained calculating the number of people per acre would be an estimate.

The board members discussed the two options for calculating density. When asked, Campbell confirmed the data would be used only by the Planning and Economic Development Division. Campbell and Town Attorney Bob Hornik outlined how area schools, emergency services and water and sewer needs are calculated. Members Frank Casadonte, Scott Taylor, Polly and Schultz agreed calculating an estimate of people per acre would be superfluous. Chandler advocated for calculating people per acre as a way to improve planning. Salvi and Chandler agreed the Planning Board and Planning and Economic Development Division should work with local services to better plan for the community's needs. Campbell outlined the systems currently in place for sharing such information. Campbell confirmed developers applying for the Planned Development District would calculate the density. Hornik said he found calculating people per acre confusing and recommended continuing to calculate density based on dwelling units per acre. Campbell noted all other town zoning districts calculate density based on the number of dwelling units. Chandler agreed all zoning districts' densities should be calculated the same way. Johnston recommended returning to the density calculation discussion after discussing the other bullet points on Page 14 of the agenda packet.

Johnston summarized the board members seemed comfortable with the high-density designation set at 25 units per acre, the medium-density designation at 15 units per acre and the low-density designation at 5 units per acre.

Regarding whether to offer a density bonus for affordable housing, Salvi said she felt a density bonus of 40 units per acre would be too high. Schultz said offering 40 units per acre would be a greater incentive for developers. Schultz noted he is in favor of dense building and believes larger planned developments look better and are better for the town's growth. Hornik said the density allowed in the Planned Development District would not change the densities allowed in the entire town. Hornik pointed out there are not many sites in town large enough for such a planned development.

The board members generally agreed building affordable housing units dispersed throughout a development is preferable to building all affordable units together. Salvi suggested offering a higher density bonus for dispersed affordable housing and a lower density bonus for grouped affordable housing.

Schultz and Hornik pointed out the Planning Board and town board do not have to approve proposed Planned Development District plans. Hornik said the conditional zoning process would allow the town board to negotiate for things such as dispersed affordable housing.

Campbell said the town has heard from developers that building affordable housing is not economically feasible unless the units are grouped together. Salvi said the town should be firm with developers, noting developers want to build in Hillsborough and should have to make some concessions.

Campbell suggested adding a line to the proposed amendment stating the town prefers affordable housing dispersed throughout a development, noting the wording could help set developers' expectations. Johnston and Polly agreed.

Regarding the open space requirements on Page 127 of the agenda packet, Campbell confirmed she adjusted the required open space percentages so conservation subdivisions would have the most required open space. Salvi advocated for requiring 40% open space for conservation subdivisions rather than the current 35%. Chandler asked if developers might cut down trees to provide open space. Schultz read part of the current language in Section 6.9.3.3 of the ordinance, allaying Chandler's concerns.

Regarding whether golf courses should be counted toward open space requirements, Schultz emphasized he did not think golf courses should count as open space. He said he would like that provision removed from the ordinance. Chandler and Salvi agreed. Campbell and Hornik confirmed Section 6.4.12.8 of the ordinance on Page 129 of the agenda packet, which currently allows golf courses to count toward open space, could be deleted.

Johnston summarized the board members seemed in agreement about the bullet point items on Page 14 of the agenda packet, excepting how to calculate densities. Chandler recalled the point that densities should be calculated the same way for all zoning districts. Schultz agreed and noted densities are calculated using the number of dwelling units per acre in every existing zoning district.

The board members summarized several changes they would like to see to the proposed text amendment, including that golf courses not count toward open space; that density be calculated using dwelling units per acre instead of persons per acre; and that the town's preference is for affordable housing to be dispersed throughout developments. Johnston recalled Salvi's request that the town Communications Division highlight upcoming public hearings on the town's website.

Motion: Schultz moved to recommend the town board approve the text amendment with the discussed changes. Salvi seconded.

Vote: 7-0.

July Joint Public Hearing Minutes:

Creating a Conditional Zoning Process — Planned Development District

King summarized the staff report. He said the state legislature no longer allows towns to use special use zoning, and the proposed conditional zoning process for a new "Planned Development" (PD) district would give the town a way to approve large, mixed-use projects. He said the process would be like special use zoning in that the Planning Board and town board would receive information such as master plans and development agreements, but the process would not involve quasi-judicial procedures. He said the proposed process also would allow the boards to grant applicants some flexibility to some land use regulations.

King said the Planning Board members had reviewed the draft language and suggested several key points to discuss tonight, outlined on Page 12 of the agenda packet. King emphasized the proposed language is a working draft. He outlined the steps an applicant would take in the proposed process and said after approval town staff would oversee site plans to ensure compliance. King said staff recommends one Planned Development district rather than multiple districts, as previously discussed, to provide flexibility for several types of planned development based on the acreage involved. He described the different levels of detail that would accompany different sized development applications, noting more detail would be required for smaller developments and less detail required for larger developments.

When asked, King outlined the board members' options moving forward with the proposed language. Weaver summarized that staff would clean up the proposed language based on tonight's discussion, the Planning

Board would discuss the language again and make a recommendation and the town board then would make a decision.

When asked, King described town staff's sources in drafting the proposed language, including professional planning sources and town staff from Apex, N.C., which has a similar conditional zoning process.

Ferguson said in her research she had seen planned developments fall into two broad categories, one aimed toward higher-wealth communities focusing on reducing density and another aimed toward lower-wealth communities focusing on increasing density. She noted she does not want Hillsborough to be an exclusive gated community without affordability and asked King which approach staff took regarding best practices when drafting the proposed language. King said he had learned about ways to deal with affordability but needed more guidance from the board members before drafting such language.

Weaver agreed the board members would have to decide how to approach density and affordability in the Planned Development district. She noted Hillsborough has expensive land and lowering or raising density allowances would have a powerful impact on affordability.

When asked, Ferguson agreed to discuss affordability best practices later with King and Campbell.

The board members agreed to discuss the Planning Board members' questions from Page 12 of the agenda packet.

Salvi summarized the Planning Board members' discussion regarding neighborhood meetings and whether neighbors should be notified within 500 feet or 1000 feet of proposed development. She said some members advocated the entire town be notified of the neighborhood meeting, and she described the points in favor of and against such an arrangement. King confirmed neighbors currently are notified within 500 feet of rezoning requests and special use permit applications.

Town attorney Bob Hornik explained the purpose of a neighborhood meeting is to give those most likely to be affected early notice of any development. He said later in the process the entire town would be notified about a project's public hearing via legal ad and property posting. Hornik said the two meetings are different and there are different reasons for each. He confirmed anyone in town could speak at a public hearing. King added the neighborhood meeting also would give neighbors a chance to negotiate with a developer before the public hearing stage of a project.

King, Hornik and the board members discussed ways the town currently notifies the public about meetings and public hearings.

The board members discussed the proposed high-, medium- and low-density designations and what maximum densities might be appropriate for Hillsborough. Johnston described the Planning Board members' previous conversation. He noted there were concerns about increasing the Planned Development district's density beyond the maximum density allowed in the Multi-Family zoning district. He noted Campbell had changed the proposed density numbers since the Planning Board's last meeting to be more in line with the Planning Board members' discussion. Salvi noted the proposed numbers still did not match the numbers for the Multi-Family zoning district.

Hornik noted the Multi-Family zoning district is different from the proposed Planned Development district. He said the allowed densities for each zoning district do not necessarily have to match, noting the two districts address different types of development.

The board members discussed the proposed open space requirements and whether golf courses should be counted as open space. Ferguson noted there is nowhere in town limits to put a golf course and said the issue is self-resolving. Lloyd recalled only one development that had proposed a golf course in her memory, which she said was turned down due to lack of water capacity. The board members discussed whether to allow golf courses to count toward open space in the Planned Development District. Hornik said any developer wanting to include a golf course in a Planned Development district first would need the town board's approval, noting the matter already is under their control.

Johnston asked for any public comment regarding this item.

Resident Bob Hall recalled the development Lloyd had mentioned. Hall said he had been on a citizen committee related to the project and said the project had been very controversial. Hall noted golf courses have runoff, and he said having a golf course as open space is only good for golfers, not the community.

There was no further discussion about this item.

Financial impacts:

N/A

Staff recommendation and comments:

Staff recommends approval of the conditional zoning district.

Action requested:

Approve or deny the request.