

HILLIARD PLANNING AND ZONING BOARD MEETING

Hilliard Town Hall / Council Chambers
15859 West County Road 108
Post Office Box 249
Hilliard, FL 32046

BOARD MEMBERS

Wendy Prather, Chair
Charles Reed, Vice Chair
Josetta Lawson
Harold "Skip" Frey
Dallis Hunter

ADMINISTRATIVE STAFF

Janis Fleet, AICP
Land Use Administrator

TOWN ATTORNEY

Christian Waugh

AGENDA

TUESDAY, AUGUST 10, 2021, 7:00 PM

NOTICE TO PUBLIC

Anyone wishing to address the Planning & Zoning Board regarding any item on this agenda is requested to complete an agenda item sheet in advance and give it to the Land Use Administrator. The sheets are located next to the printed agendas in the back of the Council Chambers. Speakers are respectfully requested to limit their comments to three (3) minutes. A speaker's time may not be allocated to others.

PLEDGE OF CIVILITY

WE WILL BE RESPECTFUL OF ONE ANOTHER
EVEN WHEN WE DISAGREE.
WE WILL DIRECT ALL COMMENTS TO THE ISSUES.
WE WILL AVOID PERSONAL ATTACKS.
"Politeness costs so little." – ABRAHAM LINCOLN

CALL TO ORDER

PRAYER & PLEDGE OF ALLEGIANCE

ROLL CALL

CHAIR

To call on members of the audience wishing to address the Council on matters not on the Agenda.

REGULAR MEETING

ITEM-1

Additions/Deletions to Agenda.

ITEM-2

Planning & Zoning Board approval of the Minutes from the July 6, 2021, Public Hearings & Regular Meeting.

ITEM-3

Planning & Zoning Board review and discussion of Land Development Regulations.

ADDITIONAL COMMENTS

PUBLIC

BOARD MEMBERS

LAND USE ADMINISTRATOR

TOWN ATTORNEY

ADJOURNMENT

The Town may take action on any matter during this meeting, including items that are not set forth within this agenda.

TOWN COUNCIL MEETINGS

The Town Council meets the first and third Thursday of each month beginning at 7:00 p.m., unless otherwise scheduled. Meetings are held in the Town Hall Council Chambers located at 15859 West County Road 108. Video and audio recordings of the meetings are available in the Town Clerk's Office upon request.

PLANNING & ZONING BOARD MEETINGS

The Planning & Zoning Board meets the second Tuesday of each month beginning at 7:00 p.m., unless otherwise scheduled. Meetings are held in the Town Hall Council Chambers located at 15859 West County Road 108. Video and audio recordings of the meetings are available in the Town Clerk's Office upon request.

MINUTES & TRANSCRIPTS

Minutes of the Town Council meetings can be obtained from the Town Clerk's Office. The Meetings are usually recorded but are not transcribed verbatim for the minutes. Persons requiring a verbatim transcript may make arrangements with the Town Clerk to duplicate the recordings, if available, or arrange to have a court reporter present at the meeting. The cost of duplication and/or court reporter will be at the expense of the requesting party.

TOWN WEBSITE & YOUTUBE MEETING VIDEO

The Town's Website can be access at www.townofhilliard.com.
Live & recorded videos can be access at www.youtube.com search - Town of Hilliard, FL.

ADA NOTICE

In accordance with Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this meeting should contact the Town Clerk's Office at (904) 845-3555 at least seventy-two hours in advance to request such accommodations.

APPEALS

Pursuant to the requirements of Section 286.0105, Florida Statues, the following notification is given: If a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting, he or she may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

PUBLIC PARTICIPATION

Pursuant to Section 286.0114, Florida Statutes, effective October 1, 2013, the public is invited to speak on any "proposition" before a board, commission, council, or appointed committee takes official action regardless of whether the issue is on the Agenda. Certain exemptions for emergencies, ministerial acts, etc. apply. This public participation does not affect the right of a person to be heard as otherwise provided by law.

EXPARTE COMMUNICATIONS

Oral or written exchanges (sometimes referred to as lobbying or information gathering) between a Council Member and others, including staff, where there is a substantive discussion regarding a quasi-judicial decision by the Town Council. The exchanges must be disclosed by the Town Council so the public may respond to such exchanges before a vote is taken.

2021 HOLIDAYS

TOWN HALL OFFICES CLOSED

1. Martin Luther King, Jr. Day	Monday, January 18, 2021
2. Memorial Day	Monday, May 31, 2021
3. Independence Day Monday	Monday, July 5, 2021
4. Labor Day	Monday, September 6, 2021
5. Veterans Day	Thursday, November 11, 2021
6. Thanksgiving Day	Thursday, November 25, 2021
7. Friday after Thanksgiving Day	Friday, November 26, 2021
8. Christmas Eve	Thursday, December 23, 2021
9. Christmas Day	Friday, December 24, 2021
10. New Year's Eve	Thursday, December 30, 2021
11. New Year's Day	Friday, December 31, 2021

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TOWN ATTORNEY

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MINUTES

TUESDAY, JULY 6, 2021, 7:00 PM

CALL TO ORDER

PRAYER & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT

Chair Wendy Prather
Vice Chair Charles Reed
Board Member Josetta Lawson
Board Member Skip Frey

ABSENT

Board Member Dallis Hunter

CHAIR

Chair Wendy Prather asks if there are any members in the audience wishing to address the Board on matters not on the Agenda.

No public wish to address the Board.

PUBLIC HEARINGS

ITEM-1

PUD Rezoning No. 20210204 – Parcel ID #08-3N-24-0000-0001-0000
Project Name: Bayside PUD
Application filed by: Francie Grieb, Authorized Agent on behalf of Jason C. Lathrop, Property Owner.
Application requesting: Approval of Rezoning A-1, Agricultural and R-3, Multiple-family to PUD, Planned Unit Development to create the Bayside PUD.

VOTE TO DEFER PUBLIC HEARING ON ITEM-1 AS PER SEC. 62-37

Land Use Administrator Fleet explains that Ms. Grieb was made aware that the site plan and written description did not match, therefore, the item would be deferred.

Land Use Administrator Fleet state, until which time the application has been submitted correctly and complete, she will not be moving the item forward and at that time the Public Hearing will be re-advertised so that the public can be present to be informed and heard if desired.

Chair Prather reads the Public Hearing information allowed.

Motion to defer Public Hearing on Bayside PUD Rezoning No. 20210204 at 7:09 p.m.

Motion made by Board Member Frey, Seconded by Board Vice Chair Reed.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

ITEM-2 Future Land Use Amendment (FLUM) No. 20210503 – Parcel ID #16-3N-24-0000-0024-0000
Application filed by: Brenton Franklin on behalf of Axis Management Inc., Property Owner.
Application requesting: FLUM Amendment IND, Industrial to HDR, High Density Residential.

VOTE TO DEFER PUBLIC HEARING ON ITEM-2 AS PER SEC. 62-37

Land Use Administrator Fleet explains that the applicant did not include Conservation in his application and therefore, the property was advertised incorrectly and will need to be re-advertised once the application is corrected.

Chair Prather reads the Public Hearing information allowed.

Motion to defer Public Hearing on Future Land Use Amendment (FLUM) No. 20210503 at 7:10 p.m.

Motion made by Board Member Frey, Seconded by Board Member Lawson.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

ITEM-3 Rezoning No. 20210610 – Parcel ID #16-3N-24-0000-0024-0000
Application filed by: Brenton Franklin on behalf of Axis Management Inc., Property Owner.
Application requesting: Rezoning M-1, Manufacturing and Industrial Warehousing to R-3, Multiple-family.

VOTE TO DEFER PUBLIC HEARING ON ITEM-3 AS PER SEC. 62-37

Land Use Administrator Fleet explains that the Planning and Zoning Board can not act on the rezoning application until the Future Land Use Map amendment has been acted on and therefore, the item needs to also be deferred.

Chair Prather reads the Public Hearing information allowed.

Motion to defer Public Hearing on Rezoning No. 20210610 at 7:12 p.m.

Motion made by Board Member Frey, Seconded by Board Member Lawson.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

ITEM-4 Amending Chapter 62 Zoning and Land Development Regulations Code Amending Section 62-359 – Accessory Uses and Structures (Clarifying Contiguous Lot).

ORDINANCE NO. 2021-06

AN ORDINANCE AMENDING CHAPTER 62 ZONING AND LAND DEVELOPMENT REGULATIONS OF THE HILLIARD TOWN CODE; AMENDING SECTION 62-359. ACCESSORY USES AND STRUCTURES; ADDING LANGUAGE TO SUBSECTION (a) TO INCLUDE A LOT SPLIT BY A RIGHT OF WAY OF NO MORE THAN 25 FEET AS A CONTIGUOUS LOT; AND PROVIDING FOR AN EFFECTIVE DATE.

Disclosure of Ex Parte Communication.

Open Public Hearing on Ordinance No. 2021-06.

Call for Public Comments.

Chair Prather reads the Public Hearing item allowed.

Chair Prather asks for Disclosure of Ex Parte Communication. No Board Member had any Ex Parte Communication to disclose.

Land Use Administrator Fleet explains to the Planning & Zoning Board that Ordinance No. 2021-06, was a result of the joint workshop between the Town Council and the Planning and Zoning Board about vacating right of ways and lots split by alleys within the Town of Hilliard.

Chair Prather opens the Public Hearing on Ordinance 2021-06.

No public comments.

Motion to close the Public Hearing on Ordinance No. 2021-06 at 7:13 p.m.

Motion made by Board Member Frey, Seconded by Board Member Lawson.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

Planning & Zoning Board recommendation regarding Ordinance No. 2021-06 to the Town Council.

Motion to recommend to the Town Council the adoption of Ordinance 2021-06.

Motion made by Board Member Frey, Seconded by Board Vice Chair Reed.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

REGULAR MEETING**ITEM-5** Additions/Deletions to Agenda

No items added or deleted from the agenda.

ITEM-6 Planning & Zoning Board approval of the Minutes from the June 1, 2021 Public Hearing & Regular Meeting.

Motion to approve the Minutes for the June 1, 2021, Public Hearing & Regular Meeting.

Motion made by Board Vice Chair Reed, Seconded by Board Member Lawson.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

ITEM-7 Site Clearing/Site Work Permit No. 20210528 – Parcel ID #16-3N-24-0000-0006-0180 & #16-3N-24-0000-0006-0190

Application filed by: James Hilliard, Property Owner.

Application Requesting: Clearing and Removing trees on the property.

Land Use Administrator Fleet reads her staff report with the following conditions:

1. All fill and clearing activities be completed within 90 days of the approval
2. The property shall be seeded, and hay placed on the lots to prevent erosion.
3. No dirt can impede onto surrounding landowners.
4. The fill cannot exceed 2 feet over current grade.

Mr. Hilliard speaks about his request. He states that the work has already been done. He said he will comply with any conditions and will order a survey for the property if requested.

Board Member Frey asked how much the property has been filled and is concerned about runoff of water onto the adjoining neighbors.

LeeAnn Wollitz, 37420 South Oak, that the low areas existed, and the solution should not be all Mr. Hilliard's problem.

Motion to approve the Site Clearing/Site Work Permit No. 20210528 with the conditions the following conditions:

1. All fill and clearing activities be completed within 90 days of the approval
2. The property shall be seeded, and hay placed on the lots to prevent erosion.
3. No dirt can impede onto surrounding landowners.
4. The fill cannot exceed 2 feet over current grade.
5. The applicant will prepare a topographic survey of the property and submit a copy of the survey to the Town.
6. No stormwater runoff can impede on neighboring property.

Motion made by Board Member Frey, Seconded by Board Vice Chair Reed.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

ITEM-8 Planning & Zoning Board review and discussion of Land Development Regulations.

Land Use Administrator stated she is continuing to review and update the LDRs.

ADDITIONAL COMMENTS

PUBLIC

No public comment.

BOARD MEMBERS

Board Member Frey said for everyone to please be safe.

LAND USE ADMINISTRATOR

Land Use Administrator Fleet advised the Planning and Zoning Board of two upcoming joint workshops on Monday July 12, 2021, at 6:00 p.m. to discuss the proposed Daysprings Commons PUD with Mr. Doug Adkins and at 7:00 p.m. to discuss the Town of Hilliard becoming a golf cart friendly community.

Land Use Administrator Fleet states that in the future, she will not be advertising Public Hearings until she reviews the applications to assure, they are correct and complete and discussed the industrial property in Hilliard.

TOWN ATTORNEY

Via Zoom

No further comments.

ADJOURNMENT

There being no additional business.

Motion to adjourn the meeting at 7:40 p.m.

Motion made by Board Member Frey, Seconded by Board Member Lawson.

Voting Yea: Board Member Lawson, Board Member Frey, Vice Chair Reed and Chair Prather.

Absent: Board Member Hunter.

Approved this _____ day of _____, _____ by the Hilliard Planning & Zoning Board, Hilliard, Florida.

Wendy Prather, Chair
Hilliard Planning & Zoning Board

TOWN OF HILLIARD

A Florida Municipality

Memo

TO: Planning & Zoning Board

FROM: Janis K. Fleet, AICP

DATE: August 3, 2021

SUBJECT: Land Development Regulations (LDR) Revisions

Attached for discussion is Article II – Administration and Enforcement for discussion and review.

P. O. Box 249

Hilliard, Florida 32046

(904) 845-3555

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

~~Sec. 62-31. - Time periods procedural.~~

~~All time periods provided for in this chapter are procedural and not substantive and noncompliance with any time period shall neither confer nor deny any substantive right to any applicant for a zoning exception, variance, appeal or a rezoning of property.~~

Sec. 62-32. - Appointed officials and employees.

It shall be within the powers of the town council to contract a land use administrator and appoint such other town employees as the council may deem necessary in order to enforce and administer the provisions of this chapter and any order or resolution made under authority thereof.

Sec. 62-33. - Powers and duties of the land use administrator's office.

The land use administrator shall administer and enforce the provisions of this chapter. The duties of the land use administrator are to:

- (1) Provide for the processing of all applications for rezoning, comprehensive plan amendments, variances, and conditional uses Special Exceptions.
- (2) Keep ~~comprehensive records of applications, permits and certificates issued, complaints filed, inspections made and notices or orders issued related to this chapter. The land use administrator shall retain on file copies of required drawings and all related legal documents.~~
- (3) Record changes in zoning district and Future Land Use Map boundaries of the zoning atlas. If ~~in accordance with the provisions of this chapter when changes are made in district boundaries or other matters portrayed on the official zoning atlas, such changes shall be made on the official zoning map promptly after the amending ordinance has been legally approved by the town council, together with an entry on the official zoning map as follows: "On (date) by official action of the town council the following change(s) were made on the official zoning atlas (brief description of nature of change)," which entry shall be signed by the president, attested by the town clerk, and approved by the mayor.~~
- (4) Mail notices of zoning requests to be considered at the next scheduled meeting of the planning and zoning board to its respective members seven days prior to the meeting date. This will allow the planning and zoning board members sufficient time to make the necessary site inspections.
- (5) Assist applicants in understanding the provisions of this chapter.
- (6) ~~Enter any building, structure, or premises to perform any duty imposed by this chapter.~~
- (7) Suggest to the planning and zoning board and the town council modifications to this chapter and map, with written statement outlining the need for such changes to the Land Development Regulations and the Comprehensive Plan.
- (8) ~~Conduct the necessary inspections required to make rational zoning decisions and to properly advise the town council and the planning and zoning board on zoning matters.~~
- (9) Review all applications for building permits including plot plans to determine whether the proposed construction, alteration, repair, enlargement, and the proposed use are is in for compliance with the provisions of this chapter Comprehensive Plan and Land Development Regulations. The land use administrator's signature, stating approval or disapproval, is required on all building permit applications before a building permit is issued.

- (10) Review all applications for permits proposing to construct, alter, or allow an airport obstruction in an airport hazard area. The land use administrator's signature, stating approval or disapproval, is required on all building permit applications before a building permit is issued.
- (11) Periodically canvass the town for zoning violations.
- (12) Initiate the appropriate proceedings against violators of this chapter in accordance with the provisions of this chapter.
- (13) In the event the land use administrator is unable to perform these duties the mayor shall appoint a planning and zoning board member to serve in that capacity or a designee as directed by the planning and zoning board.

Sec. 62-34. - Schedule of fees.

- (a) Fees as set by resolution of the town council shall apply to action under this chapter. A receipt showing payment of the applicable fee shall accompany an application prior to consideration thereof.
- (b) If the applicant does not appear at the advertised public hearing and the planning and zoning board votes to postpone the public hearing as provided for in section 62-37, the applicant shall bear the additional costs of readvertising and renotifying adjacent property owners. Such costs shall be paid prior to the rescheduled hearing.

Sec. 62-35. - Limitation on exceptions and variances.

~~Exceptions and variances shall be nontransferable and granted to the applicant only and the exception or variance shall be commenced within a period of 90 days from the effective date of the final order granting same; provided, however, that the~~ The planning and zoning board may adopt the following conditions to any exception or variance:

- (1) The exception or variance shall be nontransferable and granted to the applicant only~~run with the land when the facts involved warrant same or where construction or land development is included as part of the exception or variance~~ and restrict transfer of land to maintain the exception or variance.
- (2) ~~The time within which the exception or variance shall be~~ Place a time period on the exception or variance shall ~~commenced may be extended for an additional period of time no longer than 90 days. Failure to exercise the exception or variance by commencement of the use or action approved thereby within six months~~ within the time period approved shall render the exception or variance invalid and all rights granted thereunder shall terminate. Transfer of the property by the applicant unless the exception or variance runs with the land shall terminate the exception or variance.
- (3) Whenever the planning and zoning board has denied an application for an exception or variance, no further application shall be filed for the same exception or variance on any part or all of the same property for a period of one year from the date of such action.
- (4) ~~The time limits of subsections (2) and (3) of this section may be waived by the affirmative votes of a majority of the planning and zoning board when such action is deemed necessary to prevent injustice or to facilitate the proper development of the town.~~

Sec. 62-36. - Notice of public hearings.

- (a) Notice of a time and place of any required public hearings with respect to the rezoning of land, zoning exceptions, zoning variances or appeals shall be given by the land use administrator's office at least 30 days in advance of any such hearings by the town council and at least 15 days in advance of such hearings by the planning and zoning board, via first class mail or hand delivery to all owners of real property within 300 feet of the boundaries of the land upon which rezoning, exception, variance or appeal is requested, together with identical notice to the owner of the land for which rezoning or other action is proposed as provided by F.S. § 166.041. A list of names and addresses of

adjoining property owners shall be furnished to the land use administrator's office by the petitioner when his application is submitted and fee paid to the town clerk. The notification costs shall be paid by the petitioner. Failure of owners of lands adjoining the parcel upon which such rezoning or other action is proposed to receive notice of hearings shall in no way affect the validity of the action taken.

- (b) Notice of any public hearing shall be published once in a newspaper of local general circulation with publication at least 15 days prior to the date of hearing by the planning and zoning board, and at least 30 days prior to the date of hearing by the town council pursuant to F.S. § 166.041. The advertisement costs shall be paid by the petitioner.
- (c) The land use administrator shall cause signs to be posted on any land upon which an application for rezoning is made not less than 15 days in advance of the public hearing by the planning and zoning board and 30 days in advance of the public hearing by the town council at which such application is to be considered. Such signs shall be posted on the property by the land use administration department, which shall possess the right to entrance upon such property. Such signs shall be in such form as required by the planning and zoning board and shall be erected in full view of the public on each street side of such land. Where such land does not have frontage on a public street, such signs shall be erected on the nearest street right-of-way with an attached notation indicating generally the direction and distance to the land for which rezoning is sought.
- (d) The land use administration department shall post a sign in such form as required by the planning and zoning board on the property upon which a request is made for a zoning exception or variance, such sign shall be posted not less than 15 days in advance of the public hearing by the planning and zoning board and 30 days prior to the date of the public hearing by the town council before the public on a street side of the land involved and shall be maintained by the land use administration department until final determination has been made by the planning and zoning board on the zoning exception or variance.

Sec. 62-37. - Postponement of public hearings.

Whenever a public hearing date has been scheduled in accordance with the provisions of this chapter by the planning and zoning board, or town council, it will take the majority vote of the appropriate planning and zoning board or town council to alter such a date.

Sec. 62-38. - Amendment of application prohibited.

An application for the rezoning of land, a zoning exception, or a zoning variance shall not be allowed to be amended by the applicant at any time after the required fees have been paid to the town clerk.

Sec. 62-39. - Concurrent applications.

An application for the rezoning of land and for an exception and/or variance on all or part of the same land may be made concurrently. In such cases, the application for a zoning exception and/or variance shall be held in abeyance by the planning and zoning board until action has been taken by the town council on the application for the rezoning of such land.

Sec. 62-40. - Site plan review.

- (a) Site plans, as a condition to the issuance of building permits, are required for special exceptions and for all multifamily, commercial, industrial, mobile home parks, and mobile home subdivisions, planned unit developments, and flood hazard or wetland development. A building permit for a project requiring a site plan shall not be issued until such site plan is approved.

(b) Rezonings

An application for rezoning shall be accompanied by the following, in sufficient copies as deemed necessary by the planning and zoning board for referrals and recommendations:

- (1) Plans, maps, studies and reports, as may reasonably be required by the planning and zoning board in order to make the findings and determinations called for in the particular case.

- (2) Written description of the intended plan of development including present and future ownership, clearly indicating where approval will benefit the future occupants of the proposed development and the town in general.
 - (3) General location map with a north arrow, site boundaries and adjacent land uses.
 - (4) A site plan at an appropriate scale supporting the above statement illustrating:
 - a. The location, grouping and height of all uses and facilities.
 - b. In the case of residential development, the number of residential units proposed their general location and number of stories, indicating those areas to be owner occupied and those to be renter occupied.
 - c. A vehicular and pedestrian circulation system including driveways, walkways, parking areas, and streets to be dedicated.
 - d. A system of planting screens and buffers, open space and recreational uses, with estimates of acreage to be dedicated and that to be retained in common ownership.
 - e. A topographic map at a minimum five-foot interval scale showing contour lines, including all existing buildings, wooded areas, and wetlands.
 - (5) Statements indicating how the problems of maintenance and ownership of common facilities will be resolved.
 - (6) Plans and schedules of development, including the staging and phasing of:
 - a. Areas to be developed, in order of priority;
 - b. The construction of streets, utilities, stormwater management and drainage and other improvements necessary to serve the proposed development; and
 - c. The dedication of land to public use.
 - (7) Each of the above elements shall be listed as to their relative order of improvement with an estimated time schedule for their accomplishment.
- (c) In reaching a decision as to whether or not the site and development plan as submitted should be approved or approved with changes, the planning and zoning board shall be guided in its decision and the exercise of its discretion to approve, to approve with conditions, or to deny by the following criteria. The planning and zoning board shall record its findings in regard to the following criteria, where applicable:
- (1) Sufficiency of statements on ownership and control of the development and permanent maintenance of common open spaces.
 - (2) Density and/or use of the proposed development with particular attention to its relationship to adjacent and nearby properties and the effect thereon and in accordance with the town's comprehensive plan.
 - (3) Ingress and egress to the site and proposed structures thereon, with particular reference to automotive and pedestrian safety, separation of automotive traffic and pedestrian traffic, traffic flow and control, provision of services and servicing of utilities and refuse collection, and access in case of fire, catastrophe, or emergency.
 - (4) Location and relationship of off-street parking and loading facilities to thoroughfares and internal traffic patterns within the proposed development, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, screening and landscaping.
 - (5) Sufficiency of proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the proposed development.

- (6) A stormwater management and drainage plan for the property in accordance with all town, county and state requirements.
- (7) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (8) Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the proposed development, and relationship to communitywide open spaces and recreation facilities.
- (9) General site arrangement, amenities and convenience, with particular reference to ensuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be so at variance with other development in the area as to cause a substantial depreciation of property values.
- (10) Such other standards as may be imposed by this chapter for the particular use or activity involved.

DIVISION 2. - NONCONFORMING LOTS, USES AND STRUCTURES

Sec. 62-61. - Intent.

- (a) ~~Within the districts established by this chapter, there exist lots, structures, uses of land or water and characteristics of use which were lawful prior to December 29, 1987 before the adoption of the ordinance from which this chapter is derived, but which would be prohibited, regulated or restricted under the terms of this the current code chapter or future amendments.~~
- (b) ~~It is the intent of this chapter to permit these nonconformities to continue until they are removed or otherwise discontinued. It is further the intent of this chapter that nonconformities shall not be used as grounds for adding other structures or other uses prohibited elsewhere in the same district. It is further the intent of this chapter that lots, structures, uses of land or water and characteristics of use which were lawful prior to December 29, 1987, before the adoption of the ordinance from which this chapter is derived, may be enlarged upon, or expanded as long as they meet all other requirements of the district established by this chapter.~~

Sec. 62-62. - Right of survivorship and conveyance.

~~Nonconformities in existence prior to the adoption of this section (December 29, 1987) may be permitted to continue, may be sold, conveyed, or transferred until it becomes a conforming use. It is further the intent that these existing nonconformities will be treated the same as other conforming uses in the district, however the protection of the citizens in the affected district will be governed by the district in which the nonconformity exists and not the nonconformity.~~

Sec. 62-63. ~~Work in process.~~

~~To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which a building permit has been issued prior to the adoption of the ordinance from which this chapter is derived. If actual construction has not begun under a permit issued prior to the adoption of the ordinance from which this chapter is derived within six months of the date of issuance of the permit, such permit shall become invalid and shall not be renewed except in conformity with this chapter.~~

Sec. 62-64. ~~Nonconforming use of open land (R.F.1).~~

~~Where open land (i.e., land not enclosed by buildings) is being used for nonconforming use, such use shall not be enlarged on the same or adjoining property.~~

Sec. 62-65. - Nonconforming use of buildings.

~~Except as otherwise provided in this chapter, the lawful use of a building existing prior to December 29, 1987, at the effective date of the ordinance from which this chapter is derived may be continued although such use does not conform to the provisions hereof. The removal of nonconforming use, either due to deterioration or voluntary removal, shall result in the nonconforming use being permanently removed and shall not be replaced except in full compliance with the provisions of the code district in which the prior nonconforming use existed. See section 62-360 relating to acts of God.~~

Sec. 62-66. - Discontinuance of nonconforming uses.

- (a) Whenever a nonconforming use of a building, or a portion thereof, has been changed to a conforming use, such nonconforming use shall not thereafter be reestablished and the future use shall be in conformity with the provisions of the district in which it is located code.
- (b) Whenever a nonconforming use of a building has been changed to a conforming use, the new conforming use must meet all provisions of the code, including the off-street parking requirements of this chapter, as established in section 62-381 et seq.
- (c) Whenever a nonconforming use is being changed to a conforming use, the continuation of an existing nonconforming use may be continued as temporary shelter during construction ~~upon which the nonconforming use is located without a special exception~~, providing a permit for construction has been issued and such permit authorizes a temporary use. ~~Such use~~ The temporary shelter shall not be permitted more than 90 days after completion of construction. ~~All other requirements of the district shall remain.~~
- (d) ~~Whenever a nonconforming lot of record is nonconforming because of a nonconforming building or use exists~~, the nonconformity shall cease and no longer be lawful upon the first of the following circumstances to occur:
 - (1) The nonconforming building is vacant for 180 days;
 - (2) ~~The nonconforming building was a residence but is no longer used as a residence for at least 180 days; or~~
 - (3) The nonconforming building ceases having water service or electric power for 180 days. ~~The 180 days shall begin to run on the date that notice in substantially the following form, which may be contained in a letter from a town official, is mailed by certified mail, return receipt requested, to:~~
 - a. ~~The owner of record as can be reasonably determined by reviewing the records of the county property appraiser on the date that such notice is given; and~~
 - b. ~~The last person to receive a statement for water service or electric service, as can be reasonably determined by the records available to the town, at such person's last known address;~~

~~Important Notice: In accordance with Section 62-66 of the Hilliard Town Code and as a courtesy to you, you are hereby notified that [insert address for the nonconforming building or lot] is a nonconforming lot or building which may no longer be lawful as a nonconforming lot or building if, among other reasons: 1) the nonconforming building is vacant for 180 days; 2) the nonconforming building was a residence but is no longer used as a residence for at least 180 days; or 3) the nonconforming building ceases having water service or electric power for 180 days. In other words, previous nonconforming uses that may have been "grandfathered in" will no longer be allowed in most instances. This may cause you or the owner, if you are not the owner, significant hardship or expense. For example, it may require the removal of a mobile home, demolition of certain structures, or significant repairs and maintenance. You are placed on notice to become familiar with the Hilliard Town Code and Section 62-66 in particular. Please govern yourself accordingly. You will most likely not be given further notice. If you have any questions, please contact the Land Use Administrator for the Town of Hilliard.~~

Sec. 62-67. - Destruction of a nonconforming use building.

No building which has been damaged by any means to an extent of more than 60 percent of the replacement cost of the building immediately prior to damage shall be restored except in conformity with the regulations of this chapter code, and all rights as a nonconforming use are terminated except as permitted in section 62-360 the code. If a building is damaged by less than 60 percent of the replacement cost, it may be repaired or reconstructed and used as before the time of change, provided that such repair or reconstruction is substantially completed within 12 months of the date of such damage.

Sec. 62-68. - Nonconforming lots of record.

- (a) Where a lot or parcel of land has an area or frontage which does not conform with the requirements of the district in which it is located, but was a lot of record in single and separate ownership prior to December 29, 1987, such lot or parcel of land may be developed, provided the minimum yard requirements for the zoning districts in which it is located are met.
- (b) ~~In any district, a A conforming use or structure on a nonconforming lot of record which was so recorded on or before the effective date of adoption of the ordinance from which this chapter December 29, 1987 is derived may be expanded or altered, provided other requirements of this chapter code are met.~~
- (c) ~~After the effective date of adoption of the ordinance from which this chapter is derived, n~~No lot or parcel in any district shall be so divided as to create a lot with an area or width below the requirements of this chapter code
- and ~~(d) n~~No lot or parcel or portion of a lot or parcel shall be altered in a manner which causes the lot to be less compliant with the Code.

Sec. 62-69. - Nonconforming characteristics of use.

If characteristics of use such as off-street parking or loading or other matters pertaining to the use of land, structures, or premises are made nonconforming by this chapter code, as amended, no change shall thereafter be made in such characteristics of use which increase nonconformity with the regulations set out in this chapter code; provided, however, that changes may be made which do not increase, or which decrease, such nonconformities.

Sec. 62-70. - Repairs and maintenance.

On any nonconforming structure or portion of a structure and on any structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of 75 percent of the current market value of the structure, or of the nonconforming portion of the structure if a nonconforming portion of the structure is involved.

Sec. 62-71. - Nonconforming structures unsafe because of maintenance.

If a nonconforming structure or portion of a structure or any structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official of the town to be an unsafe building, it shall not thereafter be restored, repaired or rebuilt except in conformance with the regulations of the district code in which it is located, adopted and the Florida Building Codes and standards except in accordance with section 62-70.

Sec. 62-72. - Use, change.

Whenever nonconforming use has been changed to a conforming use or to a use ~~permitted in a district of greater restrictions~~, it shall not thereafter be changed back to a nonconforming use.

Secs. 62-73—62-90. - Reserved.

DIVISION 3. - PLANNING AND ZONING BOARD

Sec. 62-91. - Established; membership.

- (a) There is established a planning and zoning board consisting of five members, each of whom shall reside in and be qualified voters of the town and shall hold no office of profit under the town government. Members shall be appointed by the town council. ~~Members, where practical, may include a representative from the various geographic areas of the town.~~
- (b) Members of the planning and zoning board shall serve three-year terms so staggered that the terms expire in accordance with the provisions of the Charter. Any vacancy in the membership shall be filled for the unexpired term within 60 days, in the same manner as the initial appointment. A member of the planning and zoning board may be removed from office ~~for cause~~ by the affirmative vote of 80 percent of the entire town council; ~~provided that upon his request, the member so affected shall have the right to written charges and a public hearing before the council prior to such removal.~~

Sec. 62-92. - Rules of procedure.

The planning and zoning board shall adopt rules of procedure for the governance of its proceedings and the conduct of its business and may adopt such other rules relating to its internal administration as may be necessary. Such rules shall include the following:

- (1) *Officers and voting.* ~~Within 30 days of full appointment,~~ Annually at the January meeting, the planning and zoning board shall select a new chairperson and a new vice-chairperson from among its members ~~and may create such other officers as it may determine,~~ with all such officers serving a term of one year ~~unless removed from the office or planning and zoning board for due cause.~~ All members of the planning and zoning board shall vote in all matters before the planning and zoning board, except where absent or disqualified. Votes shall be recorded by a roll call vote.
- (2) *Minutes, public records.* The land use administrator, or a person designated by the land use administrator, shall serve as the planning and zoning board secretary, keep minutes of all its meetings and record its actions and decisions; state if a member is absent ~~or disqualified from voting;~~ and make a timely report of all planning and zoning board actions to the town council. ~~All minutes shall be considered public records and shall be filed in the town hall.~~
- (3) *Meetings.* Meetings shall be held at the call of the chairperson and at such other times as a majority of the planning and zoning board may determine; provided, however, that the planning and zoning board shall hold at least one regular meeting every month, on a day to be determined by the planning and zoning board. All meetings shall be open to the public and shall be held in governmentally-owned or -leased premises.
- (4) *Quorum.* A majority of the planning and zoning board shall constitute a quorum for the purpose of meetings and transacting business.
- (5) *Disqualification of members.* ~~If any member of the planning and zoning board shall find that his private or personal interests are involved in any particular matter coming before the planning and zoning board, the member shall disqualify himself from all participation in that case; or he may be disqualified by the votes of three members of the planning and zoning board, including the members about whom the question of disqualification in the particular matter is raised.~~
- (6) *Removal of members.* The planning and zoning board may recommend removal of any member who has three or more consecutive unexcused absences.

Sec. 62-93. - Powers and duties.

The functions, powers and duties of the planning and zoning board shall be, in general, to serve in an advisory capacity to the town council on all planning and zoning matters. In this capacity, the planning and zoning board shall have the following duties and responsibilities:

- (1) Review and recommend changes in the town's comprehensive plan.
- (2) ~~Coordinate planned development with adjacent municipalities and the county.~~

- (3) Review and make recommendations on ~~petitions~~ applications for changes in rezonings classifications, amendments and district boundary and amendments to the Land Development Regulations ~~changes~~.
- (4) Review and approve requests for special exceptions.
- (5) Review and approve site plans for all ~~proposed zoning changes~~ for multifamily, mobile home parks, mobile home subdivisions, commercial and industrial development and redevelopment and planned unit developments, variances, and all special exceptions.
- (6) Review, consider, and approve or deny applications for permits to construct, alter, or allow an airport obstruction in an airport hazard area, ~~in accordance with section 62-523~~.
- (7) Hear and decide appeals ~~where it is alleged that there is an error in any order, requirement, decision or determination made by the land use administrator in the enforcement of this chapter~~.
- (8) ~~Authorize upon appeal such variances from the terms of this chapter which will not be contrary to the public interest when, due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship upon the owner of the subject property or structure or the applicant for the variance.~~
- (9) ~~Recommend to the town council the removal of the land use administrator for noncompliance with or nonenforcement of the land development regulations.~~

Sec. 62-94. - Procedure for hearings for comprehensive plan amendments, special exception, zoning variance and appeals.

- (a) The planning and zoning board shall make rules for the conduct of hearings related to the granting of comprehensive plan amendments, special exceptions, zoning variances and appeals which shall include at least the right of any party to:
 - (1) ~~Present his case or defense by oral and documentary evidence.~~
 - (2) ~~Submit rebuttal evidence, and conduct such cross examination as may be required for a full and true disclosure of the facts.~~
 - (3) ~~Submit proposed findings and conclusions and supporting reasons therefor.~~
 - (4) ~~Make offers of compromise or proposals of adjustment.~~
 - (5) ~~Be accompanied, represented and advised by counsel or represent himself.~~
 - (6) ~~Be promptly notified of any action taken on any request for a zoning exception, request for a zoning variance, or appeal of any action of the planning and zoning board affecting substantive rights taken in connection with any proceedings.~~
- (b) ~~The planning and zoning board shall receive that which could be admissible in civil proceedings in the courts of this state, but in receiving evidence due regard shall be given to the technical and highly complicated subject matter which must be handled and the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect. Otherwise, however, effect shall be given to rules of evidence recognized by the law of the state.~~
- (c) ~~The planning and zoning board shall promulgate appropriate rules and regulations provided for the establishment and maintenance of a record of all requests for zoning exceptions, zoning variances, and appeals considered by it. A verbatim transcript of the record is not required but each planning and zoning board shall establish such record in a sufficient degree to disclose the factual basis for its final determination with respect to such requests and appeals. The planning and zoning board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of all its official actions.~~
- (d) ~~A final order on each request for a zoning exception or zoning variance and each appeal shall be made within 30 calendar days of the last hearing at which such request or appeal was considered. Each final order shall contain findings upon which the planning and zoning board's order is based~~

~~and may include such conditions and safeguards as prescribed by the appropriate planning and zoning board as are appropriate in the matter including reasonable time limits within which action pursuant to such order shall be begun or completed or both. The originals of the application and all orders of the planning and zoning board and one copy of the final order shall be furnished to the land use administrator and to the applicant.~~

Sec. 62-95. - Appeals.

- (a) An appeal may be taken to the planning and zoning board by any person aggrieved by any decision of the land use administrator ~~or any other administrative official or official body in the administration or enforcement of this chapter~~, provided such appeal is filed with the town clerk within 30 days of the date of the action which is the subject of such appeal.
- (b) In exercising its powers, the planning and zoning board may, upon appeal and in conformity with provisions of this chapter, reverse or affirm, wholly or partly, or may modify ~~the order requirement, decision or determination being appealed, and to that end, shall have the powers of the land use administrator and may issue the necessary permit.~~ An 80 percent vote of the zoning board (minimum of 4 votes) is required to override a decision of the land use administrator ~~or any other administrative official or official body in the administration or enforcement of this chapter.~~
- (c) A notice of appeal shall be filed on the forms established and provided by the planning and zoning board and shall include all pertinent information required thereon.
- (d) The planning and zoning board shall within 15 days after receipt of such notice of appeal set a reasonable time for hearing thereon and shall give notice of the time and place of the hearing to the applicant and the land use administrator.
- (e) An appeal shall stay all administrative proceedings in furtherance of the action appealed until such time as a final determination has been made by the planning and zoning board on such appeal; ~~provided that no action shall be taken by the applicant or the land use administrator during such time which would change the status of the matter being appealed.~~

Sec. 62-96. - Review of decisions by town.

Decisions of the planning and zoning board in the granting of appeals, exceptions or variances shall be subject to review by the town council on appeal.

- (1) An appeal may be taken by any person who appeared before the planning and zoning board and is adversely affected by the decision of the planning and zoning board provided such appeal is filed with the town clerk within 30 days of the date of the action which is the subject of such appeal.
- (2) A notice of appeal shall be filed on the forms established and provided by the town clerk and shall include all pertinent information required thereon. All appeals are limited to matters raised by appellant before the planning and zoning board and procedural matters which have arisen since the planning and zoning board heard the matter.
- (3) An appeal shall stay all administrative proceedings in furtherance of the action appealed until such time as a final determination has been made by the town council on such appeal; ~~provided that no action shall be taken by the applicant or the land use administrator during such time which would change the status of the matter being appealed.~~
- (4) The town council shall within 15 days after receipt of such notice of appeal set a reasonable time limit for public hearing shall give notice of the time and place of the hearing to the appellate, applicant, and the planning and zoning board members in the manner prescribed in subsection 62-95(d).
- (5) The town council shall find whether in its opinion error was made, and, within the terms of this section, affirm, reverse or modify the action appealed as it deems just and equitable. An 80 percent vote of the town council (minimum of four votes) is required to override a planning and zoning board decision ~~(see section 62-129).~~

- (6) Appeals from the decision of the town council may be appealed to the circuit court within 30 days of the date of the action which is subject to appeal.

Secs. 62-97—62-120. - Reserved.

DIVISION 4. - AMENDMENTS

~~Sec. 62-121. - General authority.~~

~~This chapter may from time to time be amended, supplemented, changed or repealed and the zoning atlas may from time to time be revised by the rezoning of land as provided in this chapter.~~

Sec. 62-122. - Initiation of ~~proposals~~Rezoning or Comprehensive Plan Amendment.

- (a) An ordinance for the rezoning of land or comprehensive plan amendment may be proposed only by the town council or any member thereof, the planning and zoning board, or the owner of the subject property, his attorney, or duly authorized agent, ~~or by petition of the owners of 51 percent or more of the area involved in the proposed zoning change.~~
- (b) ~~An amendment to this chapter may be proposed for adoption only by the town council or any member thereof. All such proposals shall be submitted in writing accompanied by all pertinent information which may be required by the town council for proper consideration of the matter.~~

Sec. 62-123. - Public hearing.

~~A public hearing shall be held by the planning and zoning board to consider a proposal for an amendment to this chapterland development regulations, comprehensive plan amendment or for the rezoning of land and make recommendation to the Town on the action taken. Notice of such public hearing shall be made as provided in section 62-36 and any party shall be heard in person or by agent or attorney.~~

~~Sec. 62-124. - Nature and requirements of planning and zoning board.~~

~~The report and recommendations to the town council as required by section 62-125 shall show that the planning and zoning board has studied and considered:~~

- ~~(1) The need and justification for the change; and~~
- ~~(2) The consistency of the proposed amendment or rezoning to the town's general planning program and to the comprehensive plan with consideration as to whether the proposed changes will further the purposes of these zoning regulations and other town codes and actions designed to implement the comprehensive plan.~~

~~Sec. 62-125. - Planning and zoning board report to town council.~~

- ~~(a) Unless a longer time shall be mutually agreed upon by the town council and the planning and zoning board, in that particular case, the planning and zoning board shall submit its report and recommendation to the town council no later than 60 days from:~~
 - ~~(1) The date the planning and zoning board received a proposed amendment to this chapter; or~~
 - ~~(2) The date a completed application for the rezoning of land was filed.~~
- ~~(b) Failure of the planning and zoning board to submit a report within the prescribed time shall be deemed to be a recommendation for approval of the amendment or application for rezoning. The report and recommendation of the planning and zoning board shall be advisory only and shall not be construed to be binding upon the town council.~~

Sec. 62-126. - Limitation of rezoning of land.

- (a) No ordinance to amend the Future Land Use Map (FLUM) of the Comprehensive Plan or to rezone land shall contain conditions, limitations or requirements not applicable to all other land in the zoning district to which the particular land is rezoned, except as ~~provided in article V of this chapter~~rezoning to a PUD, Planned Unit Development.
- (b) ~~Whenever the town council has, by ordinance, changed the zoning classification of land, the planning and zoning board shall not then consider any application for rezoning of any part or all of the same land for a period of one year from the effective date of such ordinance.~~
- (c) Whenever the town council has denied an application for a FLUM amendment or the rezoning of land, no further application shall be filed for the same rezoning of any part or all of the same land for a period of one year from the date of such action. ~~If two or more applications for the same rezoning for any part or all of the same land have been denied, no further application shall be filed for the same rezoning of any part or all the same land for a period of two years from the date of such act last denying the last application filed.~~
- (d) ~~Whenever an application for rezoning, exception or variance shall have been withdrawn by or at the direction of the applicant at any time prior to denial or approval or prior to final disposition of any appeal taken therefrom, no further application shall be filed for the same rezoning, exception or variance of any part or all of the same land for a period of 12 months from the date of such withdrawal.~~

~~Sec. 62-127. Town council action and appeals.~~

~~Except in cases where an application for rezoning has been withdrawn by the owner or the owner's agent, upon receipt of the report of the planning and zoning board required by section 62-125, the town council shall set the matter for public hearing in the manner prescribed in section 62-36.~~

~~Sec. 62-128. Action after denial.~~

~~If a petition for a zoning amendment is denied, the planning and zoning board and the town council shall not take any further action on an application for basically the same amendment within 12 months after the last application was denied, unless there has been a substantial change of facts or unless waived by the town council.~~

~~Sec. 62-129. - Denial or adoption of amendment; appeal to circuit court.~~

- (a) At the conclusion of the public hearing, the town council shall either deny the proposed amendment or rezoning, or by ordinance adopt such amendment or rezoning by majority vote of the town council. In order to override a recommendation of the planning and zoning board, an 80 percent vote of the town council is required, minimum of four votes.
- (b) Any amendment to ~~this chapter~~the Comprehensive Planm the Land Development Regulations or rezoning of land established by ordinance by the town council shall be subject to appeal to the circuit court within 30 days of the date of the council action which is subject to appeal by any persons aggrieved by such action.

~~Sec. 62-130. Amendment to comprehensive plan.~~

~~The adopted comprehensive plan shall be amended when necessitated by proposed zoning amendments as stipulated in F.S. §§ 163.3184 and 163.3187.~~

~~Secs. 62-131—62-150. - Reserved.~~

DIVISION 5. - SPECIAL EXCEPTIONS

Sec. 62-151. - Conditions and safeguards.

In the granting of zoning exceptions, the planning and zoning board may provide such conditions and safeguards as may be appropriate and in harmony with the purpose and intent of ~~this chapter~~ the Land Development Regulations.

Sec. 62-152. - Written application.

All applications for a special exception ~~under this chapter~~ shall be in writing in such form as may be prescribed by ~~the planning and zoning board~~ the Town.

Sec. 62-153. - Public hearing.

~~Unless a longer time shall be agreed upon by the applicant and t~~ The planning and zoning board in the particular case, shall conduct a public hearing shall be held by the planning and zoning board to consider any application for a special exception at a scheduled meeting subsequent to the date of filing of the completed application of the planning and zoning board. Notice of public hearing shall be made as provided in ~~section 62-36 and any party shall be heard in person or by agent or attorney.~~

Sec. 62-154. - Power to deny, approve or disapprove with conditions.

The planning and zoning board has the power to deny, approve, or disapprove with conditions any special exception requested. ~~When a special exception has been approved with conditions, the planning and zoning board may, as it deems necessary for the protection of public health, safety and general welfare, impose certain conditions, limitations, or restrictions on the use requested and its premises.~~

Sec. 62-155. - Limits of uses.

Any special exception permit granted by the planning and zoning board shall allow only that use specifically described in the application and is subject to the terms or conditions expressed in ~~this chapter~~ the Land Development Regulations. ~~The expansion or extension of the conditional use beyond the scope or terms of the conditional use permit shall be unlawful and is in violation of this chapter. The planning and zoning board may suspend or revoke a special exception permit the terms or conditions of which have been violated.~~

Sec. 62-156. - Resubmittal.

If the planning and zoning board denies an application ~~petition~~ for a special exception permit, ~~the denied permit~~ another application for special exception cannot be resubmitted ~~nor can any action be taken on a new petition for basically the same special exception on the same premises for a period within of 12 months after the date the last petition application was denied.~~

Sec. 62-157. - Review criteria.

The planning and zoning board, when considering special exception requests, shall use the following criteria as a basis for its findings:

- (1) The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare and is not contrary to established standards, regulations, or ordinances of other governmental agencies.
- (2) Each structure or improvement is so designed and constructed that it is not unsightly, undesirable, or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the town and the zoning district in which it is proposed.
- (3) The special exception will not adversely impact the permitted uses in the zoning district nor unduly restrict the enjoyment of other property in the immediate vicinity nor substantially diminish or impair property values within the area.
- (4) The establishment of special exception will not impede the orderly development and improvement of the surrounding property for uses permitted in the zoning district.

- (5) Adequate water supply and sewage disposal facilities will be provided in accordance with state, county and town health requirements. The most stringent of these requirements will apply.
- (6) Adequate access roads, on-site parking, on-site loading and unloading berths, and drainage have been or will be provided where required.
- (7) Adequate measures have been taken to provide ingress and egress to the property which is designed in a manner to minimize traffic congestion on local streets.
- (8) Adequate screening and buffering of the special exception will be provided, where needed.
- (9) The special exception will not require signs or exterior lighting which will cause glare, adversely impact area traffic safety or have a negative economic effect on the area. Any signs or exterior lighting required by the special exception shall be compatible with development in the zoning district.

~~Sec. 62-158. – Withdrawal of application.~~

~~When application for a special exception has been withdrawn by the applicant for such special exception prior to denial, approval or final disposition of any appeal taken for the denial of such special exception, no further application shall be filed for the same special exception on the same land, or any part thereof, for a period of 12 months from the date of withdrawal.~~

~~Sec. 62-159. – Screening and buffering.~~

~~Adequate screening and buffering of the special exception will be provided, where needed.~~

~~Sec. 62-160. – Revocation of special exception permit.~~

~~The planning and zoning board may suspend or revoke a special exception permit if it is determined that the special exception use has become a public or private nuisance resulting from an improper or unauthorized use of the premises.~~

DIVISION 6. - VARIANCES

Sec. 62-181. - Written application.

All applications for a variance ~~under this chapter~~ shall be in writing in such form as may be prescribed by the planning and zoning board Town and shall be accompanied by the required fee.

Sec. 62-182. - Public hearing.

~~Unless a longer time shall be agreed upon by the applicant and the planning and zoning board in the particular case, a~~ public hearing shall be held by the planning and zoning board to consider any application for a zoning variance ~~at the next regularly scheduled meeting subsequent to the date of filing of the completed application.~~ Notice of public hearing shall be made as provided in section 62-36, and any party shall be heard in person or by agent or attorney. Land Development Regulations.

Sec. 62-183. - Requirements for grant of variance.

- (a) The planning and zoning board may grant a variance only under circumstances where practical difficulty or unnecessary hardship is so substantial, serious and compelling that realization of the general restrictions ought to be granted. No variance shall be granted unless the applicant shall show and the planning and zoning board shall find that:
 - (1) The particular property, because of size, shape, topography or other physical conditions, suffers singular disadvantage through the operation of ~~this section~~ the code, which disadvantage does not apply to other properties in the vicinity;

- (2) Because of this disadvantage, the owner is unable to make reasonable use of the affected property;
- (3) This disadvantage does not exist because of conditions created by the owner or applicant;
- (4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- (5) The grant of the variance will:
 - a. Not be contrary to the public interest;
 - b. Not adversely affect other property in the vicinity;
 - c. Be in harmony with the spirit, intent and purpose of ~~this section~~ the code; and
 - d. Not confer on the applicant any special privilege that is denied ~~by this chapter~~ to other lands, buildings or structures in the same zoning district.
- (b) In the passing upon a request for variance, the planning and zoning board shall not consider prospective financial loss or gain to the owner or applicant, nor shall the planning and zoning board, by variance, permit ~~to be established or carried on in any use district~~ an activity, business, or operation which is not otherwise allowed in such zoning district by a specific provision of this chapter. ~~No nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the approval of a variance application.~~

Sec. 62-184. - ~~Withdrawal~~ Denial of variance application.

When application for a variance has ~~been withdrawn~~ denied by the planning and zoning board applicant for such variance prior to denial, approval or final disposition of any appeal taken from the ~~denial of such variance~~, no further application shall be filed for the same variance on the same land, or any part thereof, for a period of 12 months from the date of ~~withdrawal~~ denial.

~~Sec. 62-185. - Violations of variances.~~

~~The violations of the terms of a variance, including any conditions and safeguards which may be made a part thereof, shall be deemed a violation of this chapter and punishable as provided in this chapter.~~

Secs. 62-186—62-210. - Reserved.