

Minutes

PLANNING BOARD AND BOARD OF COMMISSIONERS

Joint public hearing

7 p.m. March 20, 2025

Town Hall Annex Board Meeting Room, 105 E. Corbin St.



Present

Town Board: Mayor Mark Bell and Commissioners Robb English, Kathleen Ferguson, and Evelyn Lloyd

Planning Board: Chair Frank Casadonte, Vice-Chair Hooper Schultz, and members Jeanette Benjey, Tiffney Marley, John Giglia, Robert Iglesias, and Sherra Lawrence

Absent: Commissioners Matt Hughes and Meaghun Darab; Planning Board member Christian Schmidt

Staff: Planner II Molly Boyle, Senior Planner Tom King, and Town Attorney Bob Hornik

1. Call to order, public charge, and confirmation of quorum

Mayor Mark Bell called the meeting to order at 7 p.m. and passed the gavel to Planning Board Chair Frank Casadonte.

2. Agenda changes and approval

Casadonte noted an agenda change was being proposed. Planner II Molly Boyle said the applicant for Item 4B, the general use rezoning request for 311 W Orange Street, had withdrawn their application. The suggested change was to remove that item from the hearing agenda.

Motion: Commissioner Kathleen Ferguson moved to remove Item 4B from the agenda. Commissioner Evelyn Lloyd seconded.

Vote: 10-0 Motion passed.

Motion: Ferguson moved to approve the meeting agenda as amended. Planning Board Vice-Chair Hooper Schultz seconded.

Vote: 10-0. Motion passed

3. Open the public hearing

Motion: Ferguson moved to open the public hearing. Planning Board Member Sherra Lawrence seconded.

Vote: 10-0. Motion passed.

4. Public hearings

Boyle addressed the audience and explained the public hearing process.

A. Annexation request for 500 Valley Forge Road (Piedmont Food Processing Center)

Boyle stated the Piedmont Food Processing Center (PFPC) was located on this property. She said the property was owned by Orange County and zoned General Industrial (GI) in the town's extraterritorial jurisdiction (ETJ). She explained that the Piedmont Food Processing Center was a nonprofit providing commercial kitchen space

and support to local food entrepreneurs. She said it was an existing water and sewer customer with the Town of Hillsborough.

Eric Hallman, the executive director of PFPC, addressed the board. He said the PFPC pays out-of-town sewer rates, which was hard for the non-profit. Annexing to the town and paying in-town rates would help the organization. He said the PFPC was excited to officially join the Town of Hillsborough.

Planning Board Member John Giglia asked if Orange County supported the annexation. Boyle confirmed, explaining that since Orange County owned the property, they had to sign the annexation petition.

B. General use rezoning request for 119 W Orange Street (applicant-initiated)

Boyle said the applicant and property owner, Ms. Dianne Cates, submitted a request to rezone her 0.92-acre parcel at 119 W Orange Street from R20 to R10. Boyle said both R20 and R10 were residential zoning districts, but they had different minimum lot sizes (R20 = 20,000 square feet and R10 = 10,000 square feet).

Boyle noted the property was also in the Historic Overlay District, but Ms. Cates was not proposing to change that. She said any development on the property would still be subject to Historic District Design Guidelines.

Boyle stated that the proposed rezoning was consistent with the Unified Development Ordinance and Future Land Use Map. She also noted that the property fronted on existing water and sewer lines, so Engineering and Utilities staff did not object to the rezoning.

Casadonte asked for questions, comments, or public speakers. Hearing none, the boards moved on to the next item.

C. UDO text amendment: Section 9.1.5.2., *Permissible Encroachment into Required Setbacks* (applicant-initiated)

Senior Planner Tom King stated a resident initiated the text amendment, but staff wrote the language. He said under current UDO regulations and interpretations, pools had to meet primary building setbacks. The text amendment proposed to allow pools, hot tubs, and spas, along with their patios, decks, and/or equipment, to encroach up to five (5) feet from a side or rear property line. King told of two existing setback violations regarding pools, the applicant being one and another in the extra-territorial jurisdiction. The proposed text amendment would resolve those two cases and similar cases in the future.

Giglia inquired about the violations King mentioned. He asked if those pools were already built. King stated the pools went permitting, but that the pools had been built inconsistently with the approved permits.

Planning Board member Robert Iglesias asked if the amendment affected the entire UDO, the applicant, or both. King said both.

Lawrence inquired if any safety issues influenced the current UDO language. King stated he did not find information regarding the intent of the existing UDO language. Boyle added that State Building Code requires safety fences for pools. King concurred, noting that the fence requirement is enforced by Building Inspections.

Ferguson inquired about the timing of the amendment since the town is embarking on a UDO rewrite. King explained the amendment is applicant-initiated and their Certificate of Occupancy (CO) depends on the amendment. Thus, waiting for the UDO rewrite could mean the applicant would wait over a year for their CO.

Boyle noted the lengthy duration of a UDO rewrite, and the Town Attorney concurred. Ferguson reiterated amendments should not be made based on the individual. King agreed with Ferguson. Boyle noted that if a resident/applicant submits a text amendment application, staff cannot reject it. It must go through the review process.

Next, the boards accepted public comments on the item. Elizabeth Guthrie of 605 Orchard Place addressed the boards. She said her newly built pool was in violation of the current setback requirements. She noted that the pool was fifteen (15) inches away from being compliant. She noted that she did not have much to say but was happy to answer any questions. Ferguson inquired if her contractor mismeasured. Guthrie stated the contractor could better answer. The contractor, Josh Gadbois of Rising Sun Pools, came to the podium. He explained the violation was a mistake made by his team. His team inaccurately identified the property line. He also stated that in his experience, the typical setback for a pool is five (5) to ten (10) feet.

David Cates of 210 S. Wake Street, who was representing the applicant for the text amendment, addressed the boards. He stated that he had worked as an engineer on many design projects in Hillsborough, mostly in the Historic Overlay District. He noted how an accessory structure can be within five feet of a property line, but a pool cannot. He thought the text amendment would address this contradiction.

Charlie Dougherty of 701 Benton Street addressed the boards last. He said he had recently built his home. During construction, he requested that his contractor add an elevated concrete patio. He wanted to use it for a hot tub in the future. The contractor added the patio, but it violated setback requirements. So, it had to be converted to a planter instead. Dougherty said he would like the setbacks for pools and hot tubs to be the same as accessory buildings.

Boyle confirmed no other speakers had signed up to speak on this item.

D. UDO text amendment: Sections 6.3.1-6.3.3, various dimensional and setback tables (staff-initiated)

King stated the amendment was staff-initiated. He stated the proposed text amendment to the dimensional tables was intended to set the same standard for the Economic Development district (EDD) as the General Commercial (GC) zoning district. King displayed the UDO tables with the proposed changes on the board room monitors and reviewed the proposed changes.

Ferguson wondered if the proposed changes would affect any undeveloped EDD lots abutting residentially zoned lots. She was concerned that the changes might further restrict the commercial viability of remaining undeveloped lots in town.

Planning Board Vice-Chair Hooper Schultz asked Boyle to display the town's zoning map. Boyle displayed the zoning map on the screen. King reviewed the EDD-zoned properties with the boards, discussing the adjacent properties and how the proposed changes would not affect residential properties. He noted the proposed changes would apply when an EDD lot abutted commercially zoned property.

The boards then accepted public comments on the item. Jamie Loyack, a landscape architect, addressed the boards. He explained he had a client on Millstone Drive, and the current EDD dimensional requirements would hinder the development of the lot. Loyack stated the current options for the owner would be either a very narrow building or recombining the lot with adjacent property, which would be a financial burden for a small business owner. He stated he supported the proposed text amendment for small businesses like the one owned by his client.

Boyle confirmed there were no more speakers.

E. UDO text amendment: Section 2.3, *Planning Board* (staff-initiated)

Boyle explained the proposed text amendment involved the extraterritorial jurisdiction (ETJ), an area outside of town limits where the town still has zoning authority. Boyle said State law requires proportional representation of the ETJ on the town's Planning Board.

The UDO states the town shall have ten (10) Planning Board members, seven (7) residing in town and three (3) in the ETJ. The proposed amendment would remove one vacant ETJ seat based on population estimates and extended vacancy. Boyle reviewed the population estimate data from the agenda packet. She said based on the population estimates, the ETJ is currently overrepresented on the Planning Board. Removing the vacant ETJ seat would make board representation more proportional. Boyle also provided examples of Planning Boards from other jurisdictions, showing their ratios of in-town seats to ETJ seats.

Ferguson asked the Town Attorney if voter rolls could be used instead of US Census data when estimating population. She noted that voter participation was often better than participation in Census surveys. The Town Attorney stated Census data is used because the data collection is led by the government.

F. UDO text amendments: Section 3.7.8, *Public Hearing* (staff-initiated)

Boyle said the text amendment proposed to eliminate a misleading sentence regarding posted public hearing signs. The text amendment proposed to strike the sentence, "The posted notice shall remain in place until after a final decision is rendered on an application." Boyle stated that the Town Board vote usually occurs several weeks after the hearing date. Other changes proposed in the text amendment were related to grammar, syntax, and general conformity with State statutes.

Ferguson asked if the public hearing signs could be enlarged. Boyle said that should be doable, and she would speak to the Planning Manager about it. Ferguson also inquired about including QR codes on the signs to better inform the public of town processes. Ferguson suggested the QR codes could provide general information on public hearings. Boyle said she would share that idea as well.

5. Close the Public Hearing

Motion: Schultz motioned to close the public hearing. Ferguson seconded.

Vote: 10-0. Motion passed.

Casadonte announced the public hearing was closed and that the Planning Board would take a five-minute break.

The Commissioners left at 7:52 p.m. The Planning Board reconvened at 7:57 p.m.

6. Planning Board Recommendations

Boyle told the Planning Board they could make recommendations on any of the items heard at the Joint Public Hearing. Items needing further discussion could be added to the April Planning Board meeting agenda.

Casadonte began with Item 4A, the annexation request for 500 Valley Forge Road (Piedmont Food Processing Center).

Motion: Giglia motioned to approve the annexation request for 500 Valley Forge Road (Piedmont Food Processing Center). Schultz seconded.
 Vote: 7-0. Motion passed.

Casadonte then opened discussion for Item 4B, the rezoning request for 119 W Orange Street.

Iglesias asked if an additional residence would affect the town's water and sewer capacity. Boyle said that although capacity is a concern, Engineering and Utilities staff were not concerned about adding an additional dwelling at this location.

Schultz noted that town staff was supportive of rezoning this property to R10. He asked if there was a plan to rezone other lots in the area to R10 as well. Boyle said the intent was to look at the zoning map in conjunction with the UDO rewrite. Town staff would look for Planning Board and Town Board direction to undertake any large-scale rezoning efforts.

Motion: Schultz motioned to approve Item 4B, the general use rezoning request for 119 W Orange Street. Iglesias seconded.
 Vote: 7-0. Motion passed.

Casadonte then opened discussion for Item 4C, the UDO text amendment to Section 9.1.5.2.

Giglia expressed conflicting opinions since the change would be based on the error of an individual, not the need of the town. Lawrence noted the amendment would allow pools to encroach within five (5) feet of a property line but that the board could discuss other options. She suggested looking at the regulations from other jurisdictions that staff had provided. Iglesias agreed that further discussion was warranted.

Boyle asked if the board wanted to table the item to its April meeting. Casadonte said since the board was together and had the time, he would prefer to discuss the item instead of waiting until April.

King suggested discussing the remaining items first and then revisiting Item 4C afterwards. Casadonte agreed.

Casadonte then opened discussion for Item 4D, the UDO text amendment to Sections 6.3.1 – 6.3.3, various dimensional and setback tables.

Motion: Giglia motioned to approve Item 4D, UDO text amendment: Sections 6.3.1-6.3.3, various dimensional and setback tables. Schultz seconded.
 Vote: 7-0. Motion passed.

Casadonte opened discussion for Item 4E, the UDO text amendment to Section 2.3, Planning Board. Lawrence inquired if the amendment could wait for the UDO rewrite. Boyle said staff felt the amendment was important to address before the rewrite.

Motion: Iglesias motioned to approve Item 4E, UDO text amendment: Section 2.3, Planning Board. Giglia seconded.
 Vote: 7-0. Motion passed.

Next, Casadonte opened discussion for Item 4F, the UDO text amendment to Section 3.7.8, Public Hearing.

Motion: Marley motioned to approve Item 4F, UDO text amendment to Section 3.7.8., Public Hearing.
Benjey seconded.
Vote: 7-0. Motion passed.

The board re-opened discussion of Item 4C, the UDO text amendment to Section 9.1.5.2.

Schultz inquired if the pool setback would be measured from the pool water or the edge of the patio/deck.
Boyle and King confirmed that it would be measured from the patio/deck, not the water.

The Town Attorney asked how the proposed text amendment would fit with UDO Section 9.1.5.2.b, which covered patio encroachments. King said there was some contradiction there.

Iglesias wondered if the proposed change would benefit an individual but adversely affect the town at large. King noted that policies often have unintended consequences. However, the proposed amendment would be consistent with other jurisdictions and other encroachments allowed in the town. Casadonte noted the need for consistency between setbacks/encroachments for accessory structures and uses, such as accessory dwelling units, garages, and pools.

Benjey asked if the proposed encroachment would apply to all residentially zoned lots. King confirmed it would. Schultz noted there was no current language in the UDO about pools, and the amendment provided standards until the topic was addressed more comprehensively during the UDO rewrite.

Motion: Schultz motioned to recommend Item 4C for approval. Iglesias seconded.
Vote: 7-0. Motion passed.

8. Adjournment

Motion: Giglia motioned to adjourn. Casadonte seconded.
Vote: 7-0. Motion passed.

Casadonte adjourned at 8:20 p.m.

Respectfully submitted,



Molly Boyle, Planner II
Staff support to the Planning Board

Approved: April 17, 2025