



Agenda

Planning Board Regular Meeting

6:30 PM September 19, 2024

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

1. **Call to order and confirmation of quorum**
2. **Agenda changes and approval**
3. **Minutes review and approval**
 - A. August 15, 2024
4. **Discussion Items**
 - A. Paliouras Tract Master Plan amendment (applicant-initiated)
 - B. UDO text amendment to Section 5.2.8, *Dwelling, Accessory* (applicant-initiated)
 - C. UDO text amendment to Section 5.1.8 *Use Table for Non-residential Districts* (applicant-initiated)
 - D. UDO text amendment to Section 3.13, *Administrative Procedures - Site Plan Review* (staff-initiated)
5. **Updates**
 - A. Board of Adjustment
 - B. Parks and Recreation Board
 - C. Staff and Board Members
6. **Adjournment**

Interpreter services or special sound equipment for compliance with the Americans with Disabilities Act are available on request. If you are disabled and need assistance with reasonable accommodations, call the Town Clerk's Office at 919-296-9443 a minimum of one business day in advance of the meeting.

Public Comment Instructions

For agenda items and items not on the agenda

Public Comment — Written

Members of the public may provide written public comment by submitting it via the Planning Board contact form online (<https://www.hillsboroughnc.gov/about-us/contact-us/contact-planning-and-economic-development>) by noon the day of the meeting. When submitting the comment, include the following:

- Date of the meeting
- Agenda item you wish to speak on (Example: 5C)
- Your name, address, email, and phone number

Public Comment — Verbal

Members of the public can indicate they wish to speak during the meeting by contacting the Planning Board’s staff support at 919-296-9470 or through the board contact form online (<https://www.hillsboroughnc.gov/about-us/contact-us/contact-planning-and-economic-development>) by noon the day of the meeting. When submitting the request to speak, include the following:

- Date of the meeting
- Agenda item you wish to speak on (Example: 5C)
- Your name, address, email, and phone number

Members of the public can also attend the meeting and sign up to speak prior to the meeting starting. For concerns prior to the meeting related to speaking, contact staff support at 919-296-9470.

Minutes

PLANNING BOARD AND BOARD OF COMMISSIONERS

Joint public hearing

7 p.m. Aug. 15, 2024

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



Present

Town Board: Mayor Mark Bell and commissioners Meaghan Darub, Robb English, Matt Hughes and Evelyn Lloyd

Planning Board: Chair Frank Casadonte, Vice Chair Hooper Schultz, John Giglia, Jeanette Benjey, Robert Iglesias, Tiffney Marley and Christian Schmidt

Absent: Board of Commissioners: Commissioner Kathleen Ferguson; Planning Board: Members Saru Salvi and Sherra Lawrence

Staff: Planning and Economic Development Manager Shannan Campbell, Senior Planner Tom King, Planner II Molly Boyle, Environmental Engineering Supervisor Bryant Green, Stormwater and Environmental Services Manager Terry Hackett and Town Attorney Bob Hornik

1. Call to order and confirmation of quorum

Mayor Mark Bell called the meeting to order at 7 p.m. and confirmed a quorum. Bell noted the length of the agenda and suggested a time check after two hours. Also, Bell disclosed that he and Commissioner Meaghan Darub are board members for Porch Hillsborough, which has a relationship with the Hillsborough Community Gardens. Hillsborough Community Gardens was related to items 5E and 5F on the agenda. No other board members or commissioners are involved with Porch Hillsborough or the Hillsborough Community Gardens. Bell then passed the gavel to Planning Board Chair Frank Casadonte.

2. Agenda changes and approval

There were no changes. The agenda stood as presented.

Motion: Planning Board Vice Chair Hooper Schultz moved to approve the agenda as presented. Member Christian Schmidt seconded.

Vote: 7-0. Motion passed.

3. Minutes review and approval

Minutes from Joint Public Hearing on May 16, 2024

Only Planning Board members voted on this item.

Motion: Planning Board member John Giglia moved to approve the May 16, 2024, minutes as presented. Schultz seconded.

Vote: 7-0. Motion passed.

4. Open the public hearing

Motion: Bell motioned to open the public hearing. Commissioner Matt Hughes seconded.

Vote: 12-0

5. Public hearing items

First, Planner II Molly Boyle reviewed the meeting logistics with the audience.

A. Annexation and rezoning request for “Waterstone South”

Boyle explained the original “Waterstone South” request did not list the PIN for a narrow strip of land along Interstate 40 (1.823 acres), and the PIN was not included in the legal ad for the original public hearing. So, the town was holding another hearing. She noted that residents who spoke at the previous hearings did not have to speak again unless they so wished. Their previous comments were summarized in the minutes for those hearing dates.

Eric Chupp, who represents Capkov Ventures, Inc., provided a summary of the proposal. He added that Capkov Ventures agreed to invest \$250,000 in town repairs and upgrades to the Elizabeth Grady Pumping Station. Chupp also noted that the University of North Carolina Hospital was not amenable to extending the proposed greenway to its property via the land strip along Interstate 40. Similarly, the current property owner of the land strip, who would grant a utilities easement for the proposed site, would not allow a greenway easement. Instead, Capkov is pursuing other greenway options on the east side of the proposed site.

Giglia posited where residents of the proposed development would grocery shop. The Aldi, Chupp suggested, and perhaps the increase in population could spur new the development of new grocery stores in town.

Darab asked Chupp to clarify a sidewalk shown on the master plan near A.L. Stanback Middle School and asked if Capkov had contacted Orange County Schools (OCS). Chupp said he would look into that sidewalk shown on the map and replied that he has not been in contact with OCS.

Public comment began with Jean Brooks, an Orange County resident. She shared photos with the boards depicting traffic typical along NC 86 at 2:30 p.m. near the proposed site. She is concerned the development is too large, would negatively impact wildlife and cause traffic congestion, and that there is a conflict of interest between an Orange County Board of Adjustment member and Capkov. She stated she would prefer to see single-family homes in the development instead of townhomes/apartments. Hughes asked her why single-family homes are preferred over townhomes. Brooks replied that townhomes provide too much population density. Brooks also expressed trespassing concerns by residents of the proposed development through Scarlett Mountain Road instead of using designated sidewalks and crosswalks along Hwy 86.

Next, Orange County resident Robert Sparrow shared his concern about the additional traffic the proposed site would create and the safety of the proposed sidewalk along NC 86. He also shared concerns with potential residents trespassing on his property on Scarlett Mountain Road and that the proposed development would decrease the value of the adjacent properties.

Schmidt asked Chupp to provide a concise traffic assessment for the request.

Boyle announced the end of public comment for this item.

Chupp referenced an extensive traffic impact study ranging south on New Hope Church Road, NC 86, the intersection of Old NC 86 and Interstate 40 and the intersection of Waterstone Drive and NC 86. The study proved a minor traffic increase for vehicles from the proposed development. The study and NCDOT recommend another traffic impact study upon completion of Phase I of the proposed project. Capkov will be responsible for signalization at Waterstone Drive and NC 86 if signalization levels are triggered.

Planning Board Member Robert Iglesias asked if the parameters for signalization were known. Chupp suggested a Uniform Traffic Code Level D or F Level of Service (LOS) would necessitate signalization, but the information can be found in the impact study. Schmidt added the impact study showed Phase I completion would result in Level D or F LOS at Waterstone Drive and NC 86. Thus, signalization is anticipated.

Following, Hughes applauded Capkov for proactively addressing the traffic impact and noted the delay in action from NCDOT. Chupp explained Capkov will be responsible for the infrastructure improvements after Phase I, not NCDOT. Clarifying, Casadonte remarked the signalization improvements would be made after Phase I, and Chupp responded lane improvements would be made before Phase I began.

However, Giglia expressed strong concern for the traffic impact on Old NC 86 by the proposed project. Chupp explained that the impact study showed little impact on Old NC 86. Giglia shared his view that residents of the proposed project would use Old NC 86 when driving to the grocery store or town.

Finally, Casadonte sought the opinions from Mrs. Brooks and Mr. Sparrow on the need for signalization at Scarlett Mountain Road and Highway 86, and Mr. Sparrow expressed the need for some sort of change to increase safety.

No action was taken.

B. Unified Development Ordinance (UDO) text amendments to Section 6 *Development Standards*, Subsections 6.1 *Purpose and Intent* and 6.20.16 *Stormwater Management – Riparian Buffers*

Stormwater and Environmental Services Manager for the Town of Hillsborough Terry Hackett provided background regarding the text amendments brought before the boards. The amendments were previously reviewed by the town board, but unanticipated changes were needed by the state based on legal challenges in other municipalities. Hackett explained the UDO text edits clarify riparian buffer rules application regardless of development or not. Next, Boyle displayed the text amendment edits. At Casadonte's request, Hackett summarized the edits, which were needed for clarifying items in the table for future possibilities.

No action was taken, and no speakers were present.

The boards took a five minute break at 7:57 p.m.

C. Paliouras Tract Master Plan amendment

First, Boyle provided background of the Paliouras Tract, which is a 25-acre tract at the NC 86 South and Interstate 85 interchange. In 2019, the property was annexed and rezoned Entranceway Special Use Permit (ESU) with a master plan. It allowed for a car dealership, retail, and hotel/retail uses. The applicant is seeking to amend the master plan so lots 1, 2 and 8 would allow multifamily residential for development as apartments. Also, it proposes 260 apartments with 30% of the units being affordable for those earning 70% of the average mean income (AMI) and a maximum building height of 60 ft for the apartments.

Next, Boyle provided comments from the planning staff, including the applicant met application requirements in the UDO. Also, the proposal is consistent with the Planned Growth Pattern for the town but inconsistent with the Future Land Use Map and Plan. She also informed the commissioners of their ability to approve the amendment despite the inconsistency. Boyle reminded the boards there are 877 approved residential units that have not yet been built, most of which are apartments. According to the utilities department staff

regarding the proposed changes, multifamily development will use more water and discharge more sewer than a hotel at this location, and the town's hydraulic sewer modeling does not account for a higher density use such as this. Boyle also highlighted that the town is currently updated its water system master plan, and the town is unable to estimate the impact of the proposed amendment on the utilities until the plan is finished. Utilities staff says the project will necessitate offsite utilities improvements.

If the commissioners approve the amendment, the town staff would recommend the following conditions:

- Add the affordable housing commitment as a condition to the master plan.
- Require the affordable units to be reserved for 99 years.
- Require a crosswalk at NC 86 South and Paliouras Court/Hampton Point Boulevard.
- Require offsite utility improvements to offset the impact of the development.

Bell asked if the 60 ft building height was an increase from the approved master plan. Boyle will confirm.

Next, Seth Coker presented representing Comet Development. He explained the 60 ft height detailed in the amendment would allow for the four-story buildings Comet constructs, which are 57 ft. He provided a conceptual design of the proposed change. Comet is looking for change of use and addressed three aspects of the change as follows.

- Water/sewer- Coker said that state standards are higher for hotels than multifamily units.
- Affordable housing- Residential space can assist in creating affordable housing better than a hotel.
- Since both a hotel and residential will require a development agreement, Comet would like the town's political consent before investing money in engineering plans and modeling of the proposed amendment.

Hughes asked about the figure of 70% AMI and the loss of commercial space for the town. Coker stated the lower AMI was an enticement for the town to approve, with 70% AMI units being more affordable than 80% AMI units.

Giglia clarified that the units would be apartment units.

Bell asked how the affordable housing aspect would be managed. Coker pointed to his currently managed apartments in Pittsboro, NC. The apartments would be self-reliant with a management company. Also, Coker described the location of the lots as unfavorable to retail. He stated that the site is suitable for a hotel, but current funding for hoteliers is challenging.

Bell asked Boyle about the county land use for adjacent lots. Campbell stated it was favorable to residential, but a telecommunication tower is in the middle of the adjacent lot.

Next, public comments began.

Dajer Fernandez, resident of Hillsborough, identified the similarities of the development with the Streets of South Point. He stated the values of retail space in lots 1 and 2 and the recommended crosswalk. He also encouraged an increase in walkability to build community.

No action was taken.

D. UDO text amendment to Section 5.2.8, *Dwelling, Accessory*

First, Boyle gave a summary of the application, which proposes allowing detached Attached Dwelling Units (ADU) on private streets. Currently, attached ADUs are allowed on private streets, but language in the UDO does not support detached units on private streets. Staff noted that street access standards should be held the same for attached and detached ADUs. However, private streets should meet a minimum standard in the interest of public health, safety and welfare.

Staff comments included:

- UDO Sec. 6.21.4 and the town streets manual provide private street standards.
- A number of older streets in town pre-date the standards.
- The private portion of Daphne Drive, where the applicant lives, meets the town's private street standards.

Utility comments:

- Many of the existing private streets have undersized, outdated utilities without deeded easements, and the Utilities Department does not support development on streets such as these.

Staff recommended the following conditions/additional language to the text amendment:

- An ADU shall be allowed on a private street under the following conditions:
 - A deeded public utility easement shall be required, and existing utility lines shall be upsized if deemed necessary by the utilities department, and
 - the private street providing access to the ADU must comply to UDO Sec. 6.21.4 standards.

For context, Boyle provided images of Daphne Drive and other private streets of varying conditions in town.

Next, the applicant, Natalie Dolgireff, addressed the board. She provided a background to her property. She stated that no ADUs have been built on private roads since the UDO language around ADUs built on private roads changed. She also highlighted the inequality in health and public safety standards for attached ADUs, detached ADUs, and existing home renovations.

Addressing the staff, Schmidt asked why detached ADUs were not allowed. Boyle stated that the UDO ordinance for attached ADUs changed in 2021 because an applicant had requested it, but detached units were not addressed. Town Planning Manager Shannan Campbell continued, stating that town staff do not recommend ADUs on private streets. Green explained that attached ADUs are serviced through the existing structures crawl space. Also, many private streets that are legacy streets are challenging to access because the utility easements are unclear.

Hughes pondered how to reconcile staff's private street ADU recommendations for ADUs with the town's goals for affordable housing. Green acknowledged the dilemma and reiterated the benefits of public streets. Hughes then asked, how many private streets are in the town. Campbell pointed to a map in the agenda packet and acknowledged the considerable cost for property owners to comply with staff recommendations for ADUs. But Campbell reiterated the public safety aspect of the town staff recommendations. Only four units are allowed on private streets by the towns UDO, but the proposed change would double that.

Darub asked if detached ADUs could be allowed if the private streets were found sufficient. Boyle agreed and pointed to the staff recommendations for the application.

Bell asked about the statistics for all ADUs built since the text amendment in 2021. Campbell told of a number of inquiries regarding detached ADUs on private streets, but the town has denied them since the UDO currently does not allow them. Campbell will research how many total ADUs have been built.

Casadonte asked if there were continuing issues with utilities on public streets. Green stated that the addition of ADUs when feasible need to be up to town standards and the financial responsibility is up to the builder.

Hughes noted that many of the private streets are out of the town limits but in the Extraterritorial Judicial Authority (ETJ). Thus, the property owners cannot vote but still must follow town ordinances.

Public comment began.

Brynn Shreiner, a property owner in Hillsborough on a private street, stated he did not understand why the UDO allows a detached garage on a private street but not a detached ADU. He would like a change to 5.2.8.1.b so he could build a detached ADU and would accept the financial burden to lay utilities to a public street.

Phil Marsosudiro, an Orange County resident in the Hillsborough ETJ, supports the change for detached ADUs on private streets. He addressed UDO 5.2.8.1.b and 5.2.8.1.f. He noted that town utilities do not exist in the ETJ so his property should be exempt from 5.2.8.1.f.

Public comment ended and no action was taken.

E. Flood Damage Prevention Ordinance text amendment to Section 3C General Provisions - Establishment of Floodplain Development Permit

Senior Planner Tom King described the requested text amendments and provided background. First is an amendment to the flood damage prevention ordinance. The staff simplified 3.c.2.1 and added construction of private roads across the floodplain, as well as accessory utility service lines. King relayed that additions to the ordinance include agricultural resources. The intention was to keep major development out of the floodplain. NC Emergency Management has agreed to the statutes. Permits will still be needed to develop the amended uses in floodplain.

Casadonte determined that the boards understood the changes.

F. UDO text amendment to Section 3.13 Administrative Procedures - Site Plan Review

King stated that single-family homes and smaller commercial structures were exempt from full site plan review under UDO Section 3.13. Based on recent applications, the staff felt the review process did not align with the town's affordable housing goals. As currently written, the UDO requires full site plan review for all multi-family dwellings, including duplexes, triplexes, and quadplexes. The proposed text amendment would exempt those dwellings from full site plan review. However, five dwelling units or greater would still have to go through site plan approval. King described the essence of the changes is to clean up the language.

Schmidt inquired if the town has zoning inspectors, and King replied that town Planning staff fills that role.

No action was taken.

G. UDO text amendment to Section 5.1.8 Use Table for Non-residential Districts

Boyle introduced the application, giving a brief history. It involves two parcels, 16.43 acres in total, on US 70 East. The House at Gatewood, a restaurant, is located on one and the other is undeveloped. The parcels are zoned General Commercial (GC), and the application proposes to allow multifamily homes in the general commercial district subject to a Special Use Permit (SUP).

Planning staff's comments were as follows:

- The changes would require amending Section 4.2.5 covering the purpose and intent of General Commercial (GC) district.
- The future land use map and plan may also need to be updated.
- The text amendment would apply to all GC parcels in town.
- The town planning manager would prefer to evaluate the locations for mixed use and multifamily after the town updates the UDO, future land use map and plan, and zoning map.
- The town planning manager suggested the applicant apply to rezone the parcels instead of the text amendment. However, the applicant preferred the text amendment.
- Utility capacity is not guaranteed if the parcels are rezoned.
- The Utilities Department is dubious that the needed capacity exists for multifamily residential development at this location.

Finally, Campbell reiterated that the application is for a text amendment to GC districts. It is not a rezoning application.

Casadonte asked if Utilities had done any modeling. Green explained initial modeling disclosed that the parcels drain to a small pumping station in a cemetery without expansion space. Also, the developers would be financially responsible for any upgrades to the town systems.

Schultz asked if the Planning Board decisions should be based on current utility capacity or future improvements to the capacity. Town Attorney Bob Hornik said decisions can be delayed.

Next, Hughes asked the staff to clarify allowing rezoning GC and multifamily on the parcel. Campbell explained the proposed text amendment would allow all GC parcels in town to submit Special Use Permit applications for multi-family development. Hughes recognized that the GC parcels would still need to apply for SUPs.

Following, the applicant, Jenn Spada, described the need for a text amendment. She said adding residential to commercial would allow for mixed land uses, increasing density aligning with town ideals. It would also increase housing options and expand bus routes. By requiring a SUP, Spada noted, the town would be involved in projects developed on GC sites and encourage commercial developments by guaranteeing populations nearby.

Evelyn Lloyd stated that Commissioner Kathleen Ferguson is absent. However, Ferguson has strong feelings regarding the commercial zoning along US 70, and that she did not think Ferguson would support more residential zoning on US 70.

Schmidt suggested allowing vertical mixed-use (first floor commercial, second floor residential). Spada replied that would be acceptable to her. Maintaining GC commercial sites, expressed Schmidt, is important. Bell

acknowledged the similarities between the application site and the Daniel Boone site with regards to the town's desire for a mix of residential and commercial space.

Finally, Darub asked if the staff recommendations would apply to all GC parcels. Boyle confirmed that if the text amendment was approved, the standards would apply to all GC parcels.

No action was taken.

6. Close the public hearing

Motion: Schultz moved to close the public hearing for this item. Hughes seconded.
Vote: 12-0

The Board of Commissioners were excused at 9:26 p.m.

7. Planning Board recommendations

Motion: Schultz moved to recommend approval of items 5b and 5e. Schmidt seconded.
Vote: 7-0

Boyle told the Planning Board that the recommendation for Waterstone South should not be delayed to the next Planning Board meeting. Since it had been more than 30 days since the Planning Board first heard the item, the applicant could request to go forward to the Board of Commissioners without the Planning Board recommendation. The board discussed the Waterstone South project. Boyle introduced the new Planning Board member, Tiffney Marley, who acknowledged her concerns around congestions and traffic. Casadonte said the board will discuss items 5c, 5d, 5f, and 5g at the next Planning Board meeting.

Motion: Schmidt motioned to recommend item 5A to town council. Schultz seconded.
Vote: 5-1. (Ayes: 5, Nays: 1, Abstained: 1)

8. Updates

Boyle provided town updates as follows:

- An offer was extended for a new town Planning Technician.
- Campbell sent out a Request for Proposals for zoning code enforcement.

9. Adjournment

Motion: Schultz motioned to adjourn the meeting. Schmidt seconded.
Vote: 7-0

Casadonte adjourned the joint public hearing at 9:33 p.m.

Respectfully submitted,



Molly Boyle, Planner II

Staff support to the Planning Board

Approved: Month X, 202X



Agenda Abstract PLANNING BOARD

Meeting Date: September 19, 2024
 Department: Planning and Economic Development Division
 Agenda Section: 4A
 Public hearing: Yes
 Date of public hearings: August 15, 2024

PRESENTER/INFORMATION CONTACT

Molly Boyle, Planner II
 Shannan Campbell, Planning and Economic Development Manager

ITEM TO BE CONSIDERED

Subject: Paliouras Tract Master Plan amendment

Attachments:

1. Submitted Application Package
2. Vicinity, Zoning, and Future Land Use Maps
3. Original Paliouras Tract Master Plan & Approval
4. Staff Analysis
5. Draft Consistency Statement

Background & Proposal:

In 2019, James Paliouras submitted annexation, rezoning, and master plan applications for several parcels totaling 25 acres east of NC Highway 86 S and south of the I-85 interchange. The 25 acres is known as the “Paliouras Tract.” The Board of Commissioners approved the requests on June 10, 2019. This annexed the Paliouras Tract to the town, rezoned it to Entranceway Special Use (ESU), and enacted the master plan.

Vicinity, zoning, and future land use maps for the Paliouras Tract are enclosed, as are the master plan and the Resolution of Approval. Note that the Sheetz site (1990 NC 86 S; PIN 9873-69-3547) is not part of the Paliouras Tract. It was annexed and rezoned separately and is zoned High Intensity Commercial (HIC).

The applicant is proposing the following amendments to the Paliouras Tract Master Plan:

- Change the allowable land uses for lots 1, 2, and 8 from retail and hotel/retail to multi-family residential to allow for the development of apartments (see original master plan map to the right);
- Allow a maximum of 260 apartment units, 30% of which would be affordable to those making 70% of the average median income (AMI); and
- Set a maximum building height of 60’ for the apartment units.



Original Paliouras Tract Master Plan 2019

The applicant is proposing to amend the master plan for the Paliouras Tract but not the zoning designation. If this amendment request is approved, the zoning will remain

Entranceway Special Use (ESU). Under the terms of the master plan, the applicant will need to submit a Special Use Permit application, including a site plan, to the Board of Adjustment for approval to develop the property.

Note the applicant has submitted a sketch plan showing a conceptual layout for the apartment units. This is for illustrative purposes only. If the proposed master plan amendments are approved, the applicant will be submitting a site plan to the Board of Adjustment as stated above.

The joint public hearing for this proposal was held on August 15, 2024. The draft minutes for the hearing are enclosed in this agenda packet for Planning Board review and approval.

Comprehensive Sustainability Plan goals:

- Land Use and Development Goal 1:
Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.
- Strategy:
Develop and adopt plans that contribute to meeting preferred future land use and growth patterns.

Financial impacts: To be determined

Staff comments and recommendations:

See the enclosed Staff Analysis for detailed comments from Planning and Utilities staff.

If the boards wish to approve the Master Plan amendment, staff recommends the following conditions. The applicant has not yet agreed to these conditions and may propose changes to them. Ultimately, the Board of Commissioners and the applicant will have to agree to the conditions if the request is to be approved.

1. Thirty percent (30%) of the apartment units shall be affordable to those making 70% of the average median income (AMI).
2. A deed restriction shall be recorded reserving the affordable units for a period of ninety-nine (99) years and requiring annual certification with the town of the number of affordable units before a Zoning Compliance Permit will be issued for the first apartment building.
3. The developer shall modify the intersection if needed and install a painted crosswalk with high-visibility striping, pedestrian signal heads, and a flashing beacon at the intersection of NC 86 S and Paliouras Court/Hampton Point Boulevard as allowed and approved by the North Carolina Department of Transportation.
4. The developer agrees to accelerate payment of System Development Fees (SDFs) sooner than otherwise provided by state statute for the apartment development upon its Special Use Permit approval to provide better cash flow for downstream capital improvement projects that are needed and will benefit the project. SDFs shall be paid within sixty (60) days of Special Use Permit approval. The SDFs shall be calculated based on the unit bedroom counts, and construction drawing approval will not be issued until the appropriate SDFs are paid. SDFs shall be those in effect at the time of payment.
5. The developer shall contribute to the cost of upgrading the Town of Hillsborough sewer system to handle the additional flow generated by the proposed project. This contribution shall be made before the approval of the site plan for the apartments and will be used by the town to install upgraded facilities, monitoring equipment, and controls. The developer will update the Town's sewer model to include the proposed development. The updated model will generate modeling results that show a

hydraulic grade line of the existing system and the existing system with all approved projects plus the proposed projects.

6. If the results indicate that sewer is flowing deeper than half full on an average day, or above the top of the pipe on a full day, the developer will upgrade the sewer outfall to ensure the pipe flows at half full and does not surcharge during peak events. The model will be updated to show the required improvements keep the hydraulic grade line at half full on an average day and within the pipe on a peak day. There will be no Town participation in the cost of hydraulic modeling, design, or construction of the improvements required by the modeling.

Action requested:

Make a recommendation on the proposed Master Plan amendment



TOWN OF HILLSBOROUGH

APPLICATION FOR Master Plan Amendment

Planning Department
101 E. Orange Street / P.O. Box 429
Hillsborough, NC 27278
Phone: (919) 296-9471 Fax: (919) 644-2390
Website: www.townofhillsborough.gov

Project Title: Comet Hills brough Apartments

Address: intersection of Hwy 86 and Old Hwy 10 ... approximately 10.74 acres

PIN #: a portion of 9873-79-0052

Applicant Name: Comet Development, LLC

Mailing Address: PO Box 116
City, State, Zip: Colfax, NC 27235

Phone: 336-362-3070
Email: scoker@cometdev.com

Property Owner Name: Paliouras Enterprises, LLC

Mailing Address: 303 Wesley Dr
City, State, Zip: Chapel Hill, NC 27516

Phone: 919-942-5356
E-mail: globaltravel@yahoo.com

Amendment Requested: In the space provided below, or on a separate sheet of paper, explain the details of the proposed change(s) requested. Be as specific as possible. Also, attach a site plan indicating all proposed changes.

See attached plan ... request is to change lots 1, 2, and 8 from uses of retail/hotel to multi-family.
- Maximum density of 260-units.
- 30% of multi-family units would be restricted to rental levels that would not exceed the affordability of 70% of AMI.
- Height of buildings will not exceed 60'

Note: master plan for 25 acres was originally approved at SE Quadrant of I-85/NC Hwy 86 was originally approved on 6/10/19.

I, the applicant, hereby certify that the forgoing application is complete and accurate. I understand that I am bound to comply at all times with the rules and regulations of the issued Special or Conditional Use Permits for the property, as well as all applicable requirements of the Town of Hillsborough Unified Development Ordinance. APPLICATIONS WILL NOT BE ACCEPTED WITHOUT SIGNATURE OF LEGAL OWNER OR OFFICIAL AGENT.

[Signature] 3/20/24
Applicant Signature Date

[Signature] 3/20/24
Property Owner Signature Date

DEPARTMENT USE ONLY
Date Received:
Fee: \$.00 Receipt #: Staff: Misc:

April 8, 2024

Shannan Campbell
Planning Director, Town of Hillsborough
101 E. Orange St
Hillsborough, NC 27278

Re: Paliouras Master Plan Amendment

Dear Ms. Campbell:

This letter is relating the proposed master plan amendment to the four evaluation categories of the original master plan approved June 10, 2019 and the conditions placed on that approval.

FOUR EVALUATION CATEGORIES

1. High Quality Development

- **2019 Narrative:** the proposed development for this property has the potential to include a variety of retail and commercial tenants. The owner has interviewed several of these already, including national restaurant chains and retail stores and pharmacies, hotel developers, and major grocery store brands. A car dealership is also interested in occupying part of the property. The intent of the Master Plan development of the property is to integrate these businesses together with complimentary architectural designs that meet the UDO requirements and highlighted with the proper screening and landscaping as required.
- **2024 Update:** development as originally intended has integrated a variety of quality businesses including Hillsborough Chrysler Jeep Ram, Sheetz Convenience Store, and ALDI grocery store. One outparcel, which is under contract to a restaurant developer, remains undeveloped along Hwy 86. The remainder of the master plan either facing Old Hwy 10 or behind the access road are being requested to amend use from Hotel/Retail to Multifamily.

2. Environmental and Traffic Impacts

- **2019 Narrative:** the development of this area has already started with the construction of the Sheetz Convenience Store and is served by an access road at the intersection of Hampton Pointe Dr and NC Hwy 86. This signalized intersection was improved with full access turn-lanes on NC Hwy 86 and a two-way entrance/exit drive with median island on the south side of the Sheetz store. This will remain the only access from NC Hwy 86 into the property, which will prevent adverse traffic impacts that would occur if there were multiple access points. The proposed Master Plan will have an internal road that extends southward through the property and will connect with Old NC 10. This access point will be approximately 500' from the intersection of Old NC 10 and NC Hwy

86. The NCDOT district engineer has reviewed this propose connection and has given preliminary approval. Additionally, the stormwater runoff from the proposed development will meet or exceed the stormwater management requirements for water quality and runoff rate/volume. One Stormwater Control Measure (SCM) has already been constructed for stormwater management of the Sheetz parcel and additional measures will be designed and installed for the proposed developed area. Since the property has extensive road frontage on NC Hwy 86 and I-85, there will be very minimal impact to any neighboring residential properties.

- **2024 Update:** if approved, the development of the multifamily community will complete the envisioned connection of Hampton Pointe Dr and Old NC Hwy 10 relieving pressure on the Hampton Pointe Dr and Hwy 86 intersections and the Old NC Hwy 10 and Hwy 86 intersection. In general, a multifamily community generates fewer daily traffic trips than comparable density hotel or retail uses.

3. District Objectives

- **2019 Narrative:** the property is located along a main entryway corridor to the Town of Hillsborough and the proposed requested zoning is Entryway Special Use (ESU). The west side of the entryway is occupied by Home Depot, Eagles Gas station/Convenience Mart and other diverse uses including restaurants and retail/commercial development. This proposed Master Plan will continue the diversity of the development along this primary entrance to Hillsborough and will offer a variety of employment opportunities. The proposed mixture of tenants previously noted, will help to build a solid business community to serve the local and transient population and build economic strength for the Town.
- **2024 Update:** the proposed amendment to the Master Plan will continue to meet the district's objectives offering employment opportunities, building the Town's economic strength, and additionally offering workforce housing.

4. Regulatory Compliance

- **2019 Narrative:** as required, the project has frontage along an arterial street leading into the Hillsborough area; has adequate capacity and infrastructure to accommodate future traffic volumes and will not endanger the safety or welfare of the public; and can be served by the water and sewer utilities of the Town of Hillsborough.
- **2024 Update:** the proposed amendment to the Master Plan will, for comparable density of use, have a reduction in daily traffic volume than the current hotel/retail designated use. The water lines have been upgraded on the Master Plan property and can serve the remaining property. The sewer utilities will need an upgrade regardless of the use of which the proposed multi-family community is prepared to participate in paying for the upgrade beyond normal connection fees.

CONDITIONS OF APPROVAL

- **Condition 1:**
 - a. **2019:** the Master Plan Narrative included a condition for the outparcels to not have individual driveway access to NC 86 or Old NC 10. This is made a condition of the Master Plan
 - b. **2024:** amendment will still abide by approved Master Plan condition
- **Condition 2:**
 - a. **2019:** the Master Plan shows some aspects that would require the approval of waivers on a Special Use Permit. This town does not commit to issuing those waivers for future Special Use Permits, but the applicant may request the waiver at the time of each application for a Special Use Permit
 - b. **2024:** the amendment is designating a part of the master plan to Multifamily. Under the Master Plan's zoning, Multifamily requires a Special Use Permit. Any proposed Multifamily project must be able to demonstrate it meets the finding of facts requirements of the Special Use Permit.

Thank you for your consideration and please let me know what questions, desired clarifications, or concerns you have with this request.

Sincerely,

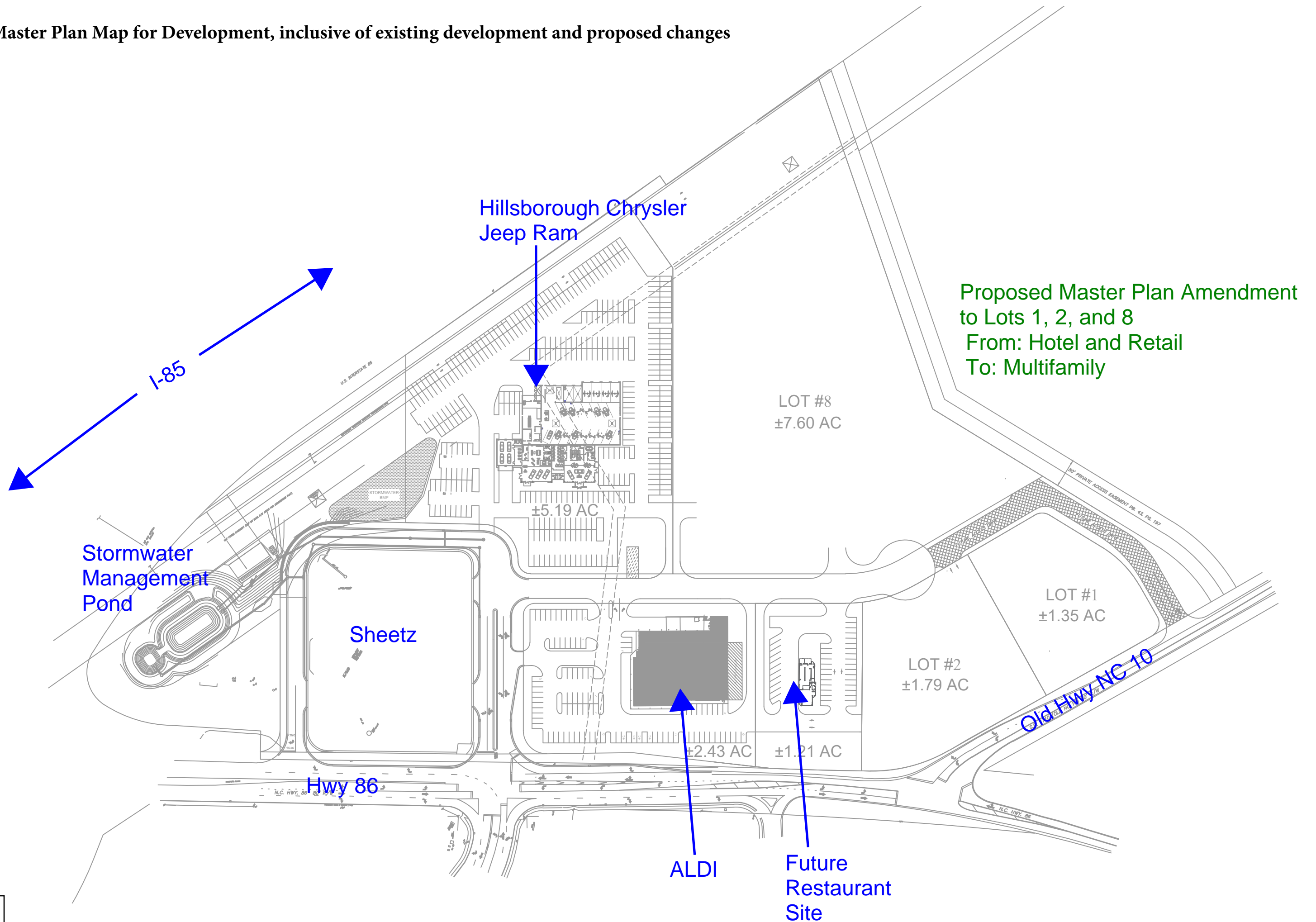


Seth Coker
scoker@cometdev.com
PO Box 116
Colfax, NC 27235
www.cometdev.com
336-362-3070

Attachments:

- 2019 Master Plan Narrative
- 2019 Master Plan Map
- 2019 Master Plan Approval
- 2024 Master Plan Updated for Development Since 2019 and Proposed Amendment Map
- 2024 Sketch of Potential Multifamily Site Plan
- Comet Community Websites Listing

2024 Master Plan Map for Development, inclusive of existing development and proposed changes



ENGINEERING AND SURVEYING, INC.
LAND DEVELOPMENT CONSULTING
CORPORATE LICENSE NUMBER C-1375
4400 TYNING STREET
HIGH POINT, NORTH CAROLINA 27265
PHONE: (336) 812-8800 ~ FAX: (336) 812-8780

PRELIMINARY

PRELIMINARY SKETCH PLAN
COMET HILLSBOROUGH APARTMENTS
HILLSBOROUGH TOWNSHIP ~ ORANGE COUNTY ~ HILLSBOROUGH, NORTH CAROLINA

PRELIMINARY SKETCH PLAN

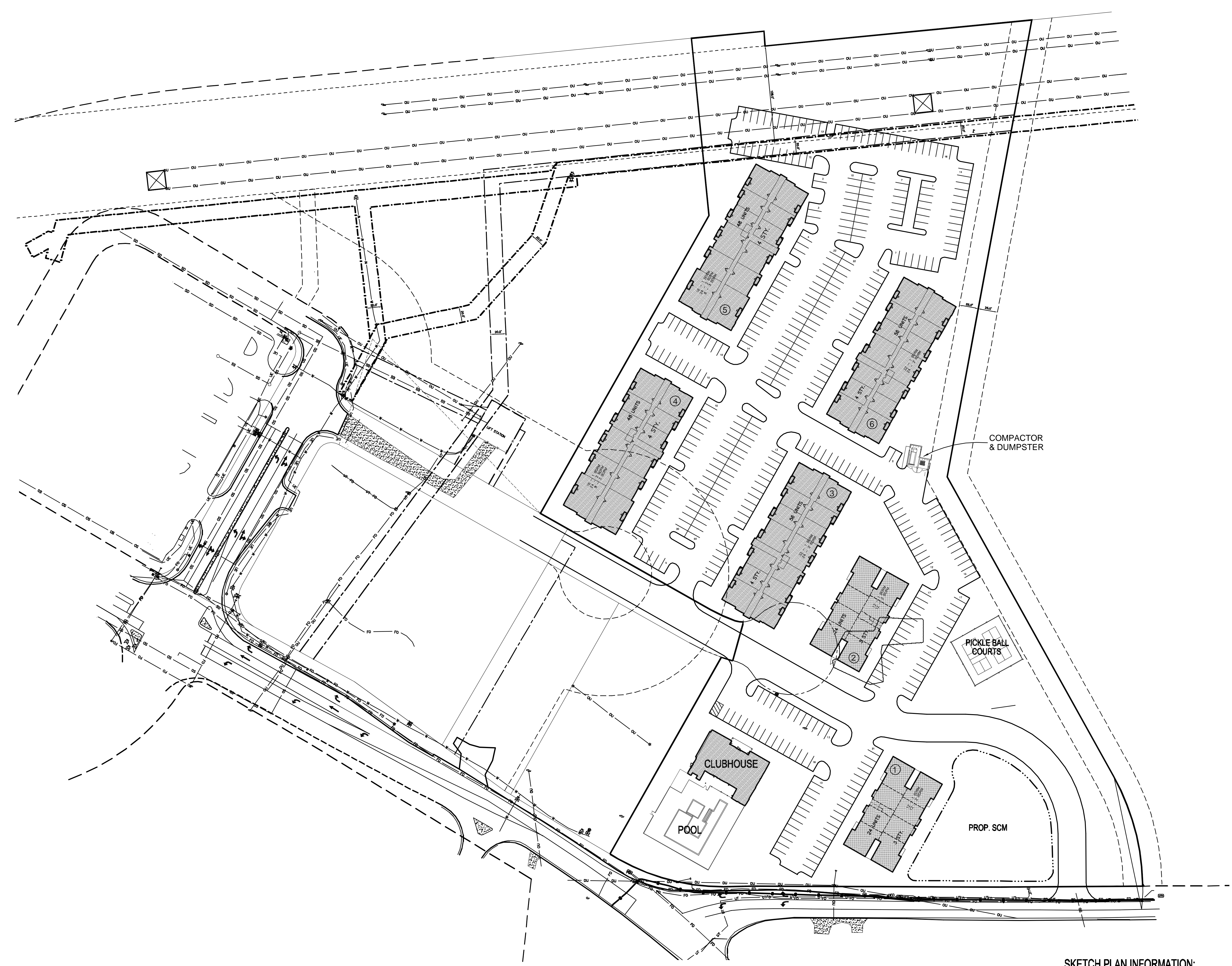
SCALE: 1" = 60'

DATE: 10-16-23

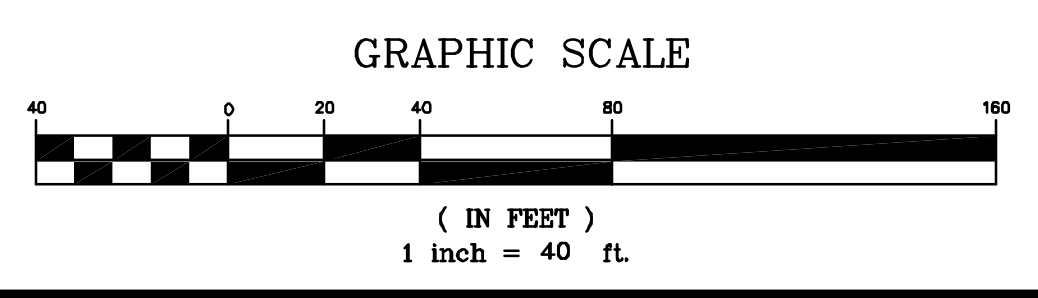
PROJECT: 1820-23

DRAWN BY: MV

SHEET **SK-1**



SKETCH PLAN INFORMATION:
- APPROX. SITE AREA: 12.0 ACRES±
- NO. OF APARTMENT BUILDINGS: 6
- NO. OF APARTMENT BUILDING UNITS: 256
- PARKING SPACES PROVIDED: 431



Current Comet Communities

www.cometwestgate.com

www.cometbermudarun.com

www.cometgreensboro.com

www.cometwnb.com

www.cometgarner.com

www.cometspartanburg.com

www.cometscottshill.com

Comet Sneads Ferry - need website live May 2024

Comet North Raleigh – need website live Dec 2024

Comet Richland - need website live Mar 2025

Built and Sold Comet Communities

www.beckston-aps.com ... formerly Comet Creek Apartments (sold 2018)

www.seapathon67.com (sold 2022)

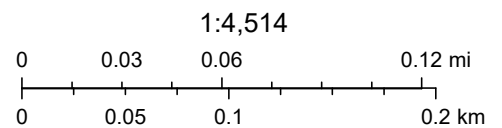
www.magnoliasouthaps.com (sold 2023)

Vicinity Map



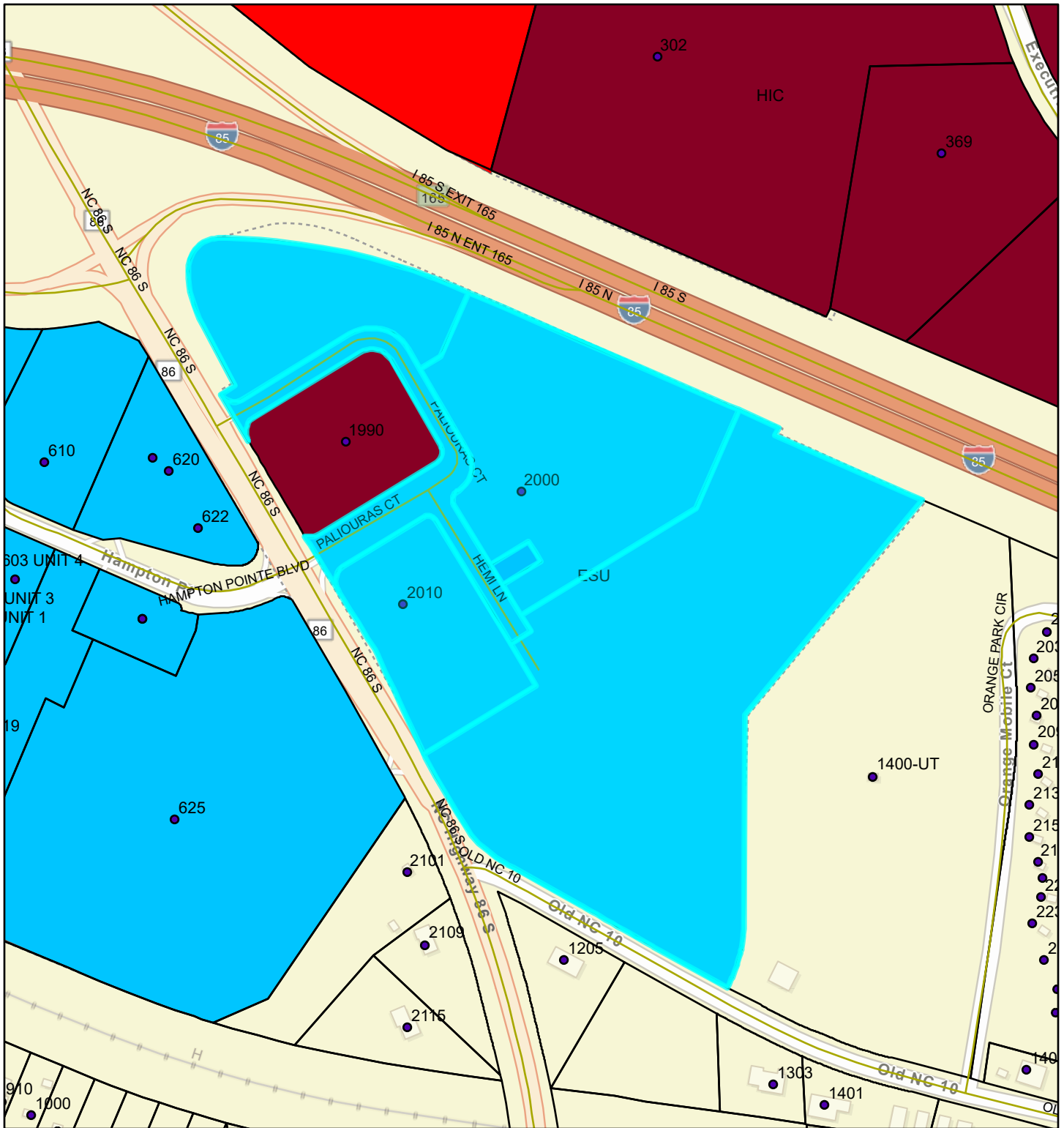
7/31/2024, 10:23:24 AM

-  Streets
-  Addresses
-  Parcels









NC CGIA, Maxar

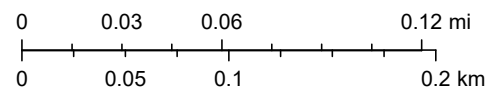
Zoning Map



7/31/2024, 10:24:51 AM

1:4,514

- | | |
|---|---|
|  Streets | ZoningLayers |
|  Addresses |  ESU Entranceway Special Use |
|  Parcels |  GC General Commercial |
| |  HIC High Intensity Commercial |



Esri Community Maps Contributors, Town of Cary, Land Records/GIS/Addressing, State of North Carolina DOT, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS



January 22, 2019

Town of Hillsborough Planning Department
Margaret Hauth, Planning Director
101 East Orange Street
Hillsborough, NC 27278

Re: NC Highway 86 Commercial Parcel – Master Plan Application Narrative

Dear Margaret:

As you are aware our client, James Paliouras, has requested annexation of the remaining 25 acres on the east side of NC Hwy 86 across from Walmart and the Hampton Pointe Shopping Center. Along with our Annexation, Zoning Map Amendment and Master Plan applications, we offer the following information as required per Appendix K.

- **High Quality Development:**

The proposed development for this property has the potential to include a variety of retail and commercial tenants. The owner has interviewed several of these already, including national restaurant chains and retail stores and pharmacies, hotel developers and major grocery store brands. A car dealership is also interested in occupying part of the property. The intent of the Master Plan development of the property is to integrate these businesses together with complimentary architectural designs that meet the UDO requirements and highlighted with the proper screening and landscaping as required.

- **Environmental and Traffic Impacts:**

The development of this area has already started with the construction of the Sheetz Convenience Store and is served by an access road at the intersection of Hampton Pointe Drive and NC Hwy 86. This signalized intersection was improved with full access turn-lanes on NC Hwy 86 and a two-way entrance/exit drive with median island on the south side of the Sheetz store. This will remain the only access from NC Hwy 86 in to the property, which will prevent adverse traffic impacts that would occur if there were multiple access points. The proposed Master Plan will have an internal road that extends southward through the property and will connect with Old NC 10. This access point will be approximately 500-ft. from the intersection of Old NC 10 and NC Hwy 86. The NCDOT district engineer has reviewed this proposed connection and has given preliminary approval. Additionally, the stormwater runoff from the proposed development will meet or exceed the stormwater management requirements for water quality and runoff rate/volume. One Stormwater Control Measure (SCM) has already been constructed for stormwater management of the Sheetz parcel and additional measures will be designed and installed for the proposed developed area. Since the property has extensive road frontage on NC Hwy 86 and I-40/85, there will be very

minimal impact to any neighboring residential properties.

- **District Objectives:**

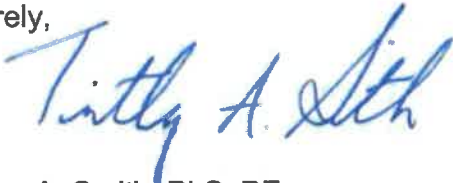
The property is located along a main entryway corridor to the Town of Hillsborough and the proposed requested zoning is Entryway Special Use (ESU). The west side of this entryway is occupied by Home Depot, Eagles Gas Station/Convenience Mart and other diverse uses including restaurants and retail/commercial development. This proposed Master Plan will continue the diversity of the development along this primary entrance to Hillsborough and will offer a variety of employment opportunities. The proposed mixture of tenants previously noted, will help to build a solid business community to serve the local and transient population and build economic strength for the Town.

- **Regulatory Conformance:**

As required, the project has frontage along an arterial street leading in to the Hillsborough area; has adequate capacity and infrastructure to accommodate future traffic volumes and will not endanger the safety or welfare of the public; and can be served by the water and sewer utilities of the Town of Hillsborough.

Please let me know if you have any questions regarding this supporting documentation for our application or if you need any additional information for acceptance.

Sincerely,

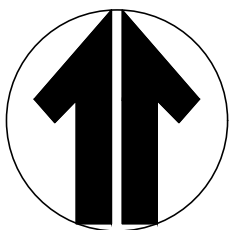


Timothy A. Smith, PLS, PE
Senior Land Development Project Manager

Attachment – Master Plan Exhibit



Section 4, Item A.



NORTH

0 300' 600'

PROPOSED MASTER PLAN FOR:
N.C. HWY 86 COMMERCIAL

HILLSBOROUGH, NORTH CAROLINA
 (PALIOURAS ENTERPRISES, INC.)

SUMMIT
 DESIGN AND ENGINEERING SERVICES

Creatively Inspired - Technically Executed

License #: P-0339
 504 Meadowland Drive
 Hillsborough, NC 27278-8551
 Voice: (919) 732-3883 Fax: (919) 732-6676
 www.summit-engineer.com

THIS GRAPHIC REPRESENTATION IS MEANT FOR ILLUSTRATION PURPOSES ONLY.
 ELEMENTS SHOWN ARE APPROXIMATE IN LOCATION AND ARE SUBJECT TO CHANGE AT THE TIME OF SPECIAL USE PERMIT.

TOWN OF HILLSBOROUGH BOARD OF COMMISSIONERS

**RESOLUTION APPROVING THE MASTER PLAN
FOR 25 ACRES IN THE SOUTHEAST QUADRANT OF THE I-85/NC 86
INTERCHANGE**

WHEREAS, the Town of Hillsborough Board of Commissioners has received an application from Paliouras Enterprises, LLC, as owner, for the approval of a Master Plan pursuant to Sections 3 of the Unified Development Ordinance for the Town of Hillsborough to guide development of the 25 acres on the southeast quadrant of the I-85/NC 86 interchange and known as OC PINs 9873-69-8276 & 9873-69-4294.

WHEREAS, the Town of Hillsborough Board of Commissioners has referred the application to the Town of Hillsborough Planning Board in accordance with the applicable provisions and procedures of the Town of Hillsborough Unified Development Ordinance; and

WHEREAS, the Town of Hillsborough Planning Board and the Board of Commissioners conducted a joint public hearing to consider the application for the Master Plan on April 18, 2019 after giving notice as required by law of such hearing; and

WHEREAS, at the aforesaid public hearing, the applicant and all others wishing to be heard in connection with the application for the Master Plan were given an opportunity to speak; and

WHEREAS, the Town of Hillsborough Planning Board made its recommendation of approval on May 16, 2019 to the Town of Hillsborough Board of Commissioners regarding the application for the Master Plan approval; and

WHEREAS, the Town of Hillsborough Board of Commissioners has considered the recommendation of the Planning Board and all the information and testimony presented to it at the public hearing; and

WHEREAS, the Master Plan application and associated exhibits, including but not limited to a Master Plan prepared by Summit Design and Engineering Services and submitted with the application, are incorporated herein by reference; and

NOW, THEREFORE, BE IT RESOLVED by the Town of Hillsborough Board of Commissioners, on motion of Commissioner Kathleen Ferguson, seconded by Commissioner Jenn Weaver, this 10th day of June, 2019, as follows:

1. The Board of Commissioners has considered all the information presented to it both in support of and in opposition to the application a Master Plan at the April public hearing;
2. The Board of Commissioners finds that the application a Master Plan is complete, and, subject to additional condition of approval detailed below, complies with all applicable provisions of the Town of Hillsborough Zoning Ordinance;

3. The Board of Commissioners finds that the Conditions of Approval, are intended to preserve and/or promote the health, safety and welfare of the surrounding areas and the Town of Hillsborough in general; and
4. The Board of Commissioners attaches these specific conditions to this master plan:
 - a. The Master Plan narrative included a commitment for the outparcels to not have individual driveway access to NC 86 or Old NC 10. This is made a condition of the Master Plan.
 - b. The Master Plan shows some aspects that would require the approval of waivers on a Special Use Permit. This town does not commit to issuing those waivers for future Special Use Permits, but the applicant may request waivers at the time of each application for a Special Use Permit.


WHEREFORE, the foregoing Resolution was put to a vote of the Town of Hillsborough Board of Commissioners this 10th day of June, 2019 the result of which vote was as follows:

Ayes: 5

Noes: 0

Absent or Excused: 0

Dated: June 10, 2019



Katherine M. Cathey, Town Clerk

Memorandum

To: Planning Board
From: Molly Boyle, Planner II
Cc: Shannan Campbell, Planning & Economic Development Manager
Date: September 19, 2024
Subject: Staff analysis – Paliouras Tract Master Plan amendment



Property and Proposal Summary

| Property/Proposal Summary – Paliouras Tract Master Plan Amendment | |
|---|--|
| Property Owner | Paliouras Enterprises, LLC |
| Applicant | Comet Development, LLC |
| Property Location | East of NC 86 S and south of I-85 interchange |
| Parcel ID Number | PIN 9873-79-0052 (portion of the Paliouras Tract, which is subject to a master plan approved in 2019) |
| Zoning Designation | Entranceway Special Use (ESU) |
| Future Land Use Designation | Retail Services |
| Applicant Request | Amend the Paliouras Tract Master Plan to allow multi-family residential on lots 1, 2, and 8 of the Paliouras Tract with a maximum of 260 apartment units, 30% of which would be affordable to those making 70% of the average median income (AMI). |

Consistency with the Unified Development Ordinance (UDO) and Zoning Map

Staff reviewed the submittal at its Technical Review Committee (TRC) meeting in May 2024. Staff found that the application conformed with the application requirements in UDO. The UDO is available on the town’s website at <https://www.hillsboroughnc.gov/about-us/departments/community-services/planning/unified-development-ordinance>.

The applicant is proposing to amend the master plan associated with the property, but no changes to the Official Zoning Map are proposed. If the master plan amendment is approved, only the conditions of the master plan will change. The property will still be zoned Entranceway Special Use (ESU).

The Board of Commissioners can negotiate conditions for the master plan with the applicant pursuant to [NC GS § 160D-703 \(b\) Zoning districts – Conditional Districts](#). Both the Board of Commissioners and the applicant must agree to the conditions.

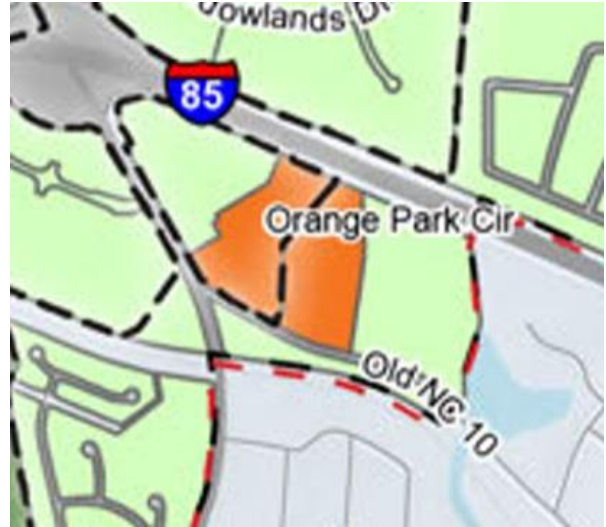
Consistency with Comprehensive Sustainability Plan/Future Land Use Plan

The North Carolina General Statutes and the UDO require that the Planning Board and Commissioners consider if this proposed amendment is consistent with the comprehensive plan/future land use plan.

Staff finds the proposal consistent in some ways but inconsistent in others. Figure 4.4 *Potential Growth Areas* (Comprehensive Sustainability Plan, page 4-23) identifies the project area as a “potential growth area,” as shown in the image below. The proposed amendment is consistent with this.

However, the Future Land Use Map/Plan designates this area as Retail Services. The Future Land Use Plan defines “Retail Services” as follows:

“Retail Services. These areas focus on retail and commercial uses. They should be located near residential and employment areas to provide good access to commerce and personal services. Retail areas can have a range of characteristics depending on their primary markets. The larger scale regional draws are more automobile-oriented and draw people from throughout the region. These areas should be located near interstate access, and they may include larger scale stores like “big boxes”, warehouse clubs, and large specialty retailers. Smaller, accessory uses can also locate in these areas to provide convenience shopping and include restaurants and smaller specialty retailers; often located on outparcels or in smaller shopping centers.



Excerpt from Figure 4.4 - Potential Growth Areas (potential growth areas shown in orange)

Zoning Districts: Adaptive Re-Use; Neighborhood Business; Neighborhood Business Special Use; Central Commercial; Central Commercial Special Use; General Commercial; High Intensity Commercial; Entranceway Special Use; Special Design Special Use”

The Retail Services designation focuses on retail and commercial uses, not residential. Staff finds the proposed master plan amendment to be inconsistent with the Future Land Use Map/Plan in this regard.

Note that the Board of Commissioners can determine that a zoning amendment is inconsistent (in full or in part) with its comprehensive plan/future land use plan and still approve the amendment. [NC GS § 160D-605 \(a\), Governing board statement – Plan Consistency](#) states, “if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required.” The Comprehensive Sustainability Plan is available online at <https://www.hillsboroughnc.gov/home/showpublisheddocument/572/638556087250230532>.

Residential Units – Approved but Not Constructed

The boards may also wish to consider the number of residential units “in the pipeline” (i.e., approved but not yet constructed). As of August 2024, Hillsborough has 877 residential units pending construction:

| Residential Units Approved but Not Yet Built | | |
|--|------------------------|---------------------|
| Project Name | Type of Units Approved | # of Units Approved |
| Collins Ridge Pod D | Apartments | 326 |
| Collins Ridge Phase 2 | Townhomes | 51 |
| Collins Ridge Phase 2 | Single-family | 79 |
| East Village at Meadowlands | Townhomes (Habitat) | 75 |
| Persimmon Phase 1 | Townhomes (Rental) | 30 |
| Persimmon Phase 1 | Apartments | 316 |
| Total | | 877 |

Utilities

The Utilities Department has indicated that, based on its calculations, a multifamily development at this site would use significantly more water and discharge significantly more sewer than a hotel. The town's current hydraulic sewer modeling does not account for a higher density use such as this. Also, the town is still working on a water system master plan. Utilities staff cannot identify deficiencies with and needed improvements to the water system until that plan is completed.

As such, the Utilities Department maintains that additional conditions to the master plan are necessary. Specifically, Utilities recommends requiring off-site improvements to address the additional sewer flow and multiple water connections. Failure to conduct off-site improvements to facilitate the proposed development could have direct impacts on the environment and the town's ability to serve the development as proposed.

Staff-Proposed Conditions of Approval

If the boards wish to grant the Master Plan amendment request, Planning and Utilities staff recommend the following conditions. The applicant may propose changes. The Board of Commissioners and the applicant would have to agree to any conditions imposed.

1. Thirty percent (30%) of the apartment units shall be affordable to those making 70% of the average median income (AMI).
2. A deed restriction shall be recorded reserving the affordable units for a period of ninety-nine (99) years and requiring annual certification with the town of the number of affordable units before a Zoning Compliance Permit will be issued for the first apartment building.
3. The developer shall modify the intersection if needed and install a painted crosswalk with high-visibility striping, pedestrian signal heads, and a flashing beacon at the intersection of NC 86 S and Paliouras Court/Hampton Point Boulevard as allowed and approved by the North Carolina Department of Transportation.
4. The developer agrees to accelerate payment of System Development Fees (SDFs) sooner than otherwise provided by state statute for the apartment development upon its Special Use Permit approval to provide better cash flow for downstream capital improvement projects that are needed and will benefit the project. SDFs shall be paid within sixty (60) days of Special Use Permit approval. The SDFs shall be calculated based on the unit bedroom counts, and construction drawing approval will not be issued until the appropriate SDFs are paid. SDFs shall be those in effect at the time of payment.
5. The developer shall contribute to the cost of upgrading the Town of Hillsborough sewer system to handle the additional flow generated by the proposed project. This contribution shall be made before the approval of the site plan for the apartments and will be used by the town to install upgraded facilities, monitoring equipment, and controls. The developer will update the Town's sewer model to include the proposed development. The updated model will generate modeling results that show a hydraulic grade line of the existing system and the existing system with all approved projects plus the proposed projects.
6. If the results indicate that sewer is flowing deeper than half full on an average day, or above the top of the pipe on a full day, the developer will upgrade the sewer outfall to ensure the pipe flows at half full and does not surcharge during peak events. The model will be updated to show the required improvements keep the hydraulic grade line at half full on an average day and within the pipe on a peak day. There will be no Town participation in the cost of hydraulic modeling, design, or construction of the improvements required by the modeling.



PLANNING BOARD STATEMENT OF PLAN CONSISTENCY AND RECOMMENDATION

September 19, 2024

Request from Comet Development, LLC to amend the Paliouras Tract Master Plan

WHEREAS, the Town of Hillsborough Planning Board has received and reviewed an application from Comet Development, LLC to amend the Paliouras Tract Master Plan to change the allowable land uses for Lots 1, 2, and 8 of the tract to multi-family residential instead of hotel/retail as previously approved.

WHEREAS, North Carolina General Statute 160D-604 *Planning Board review and comment*, paragraphs (b) *Zoning Amendments* and (d) *Plan Consistency*, require that, when considering a proposed zoning map amendment, the Planning Board must advise and comment on whether the amendment is consistent with any adopted comprehensive or land-use plan, and any other applicable, officially adopted plan. The Planning Board must then provide a written recommendation to the Town Board of Commissioners addressing plan consistency and other matters deemed appropriate; and

WHEREAS, UDO §3.7.10 *Planning Board Recommendation* requires the written report be delivered to the Town Board of Commissioners within 30 days after the legislative hearing is closed; and

WHEREAS, UDO §3.7.12 *Town Board Action* states the Town Board shall not take action on a proposed zoning map amendment until 30 days after the date of the legislative hearing or until the Planning Board makes its recommendation, whichever comes first; and

WHEREAS, after discussion and deliberation on the requested amendment, the Planning Board finds:

1. The proposed amendment **IS/IS NOT CONSISTENT** with the Town of Hillsborough Comprehensive Sustainability Plan; specifically, the following goal and strategy in the *Land Use and Development* chapter:
 - Land Use and Development Goal 1: Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.

- Strategy: Develop and adopt plans that contribute to meeting preferred future land use and growth patterns.

2. The proposed regulations **ADVANCE/DO NOT ADVANCE** identified goals and strategies found in the CSP, and **PROMOTE/DO NOT PROMOTE** public health, safety, and welfare by allowing for in-fill development and affordable housing in the community.

WHEREFORE, upon a motion by _____, seconded by _____, the foregoing was put to a vote of the Board, the results of which vote are as follows:

Ayes:

Noes:

Absent:

NOW, THEREFORE, the Planning Board hereby **RECOMMENDS** that the Town Board of Commissioners **APPROVE/DENY** the requested zoning map amendment.

Frank Casadonte, Chair
Town of Hillsborough Planning Board

Date of signature by Chair: _____



Agenda Abstract PLANNING BOARD

| | |
|-------------------------|--|
| Meeting Date: | September 19, 2024 |
| Department: | Planning and Economic Development Division |
| Agenda Section: | 4B |
| Public hearing: | Yes |
| Date of public hearing: | August 15, 2024 |

PRESENTER/INFORMATION CONTACT

Molly Boyle, Planner II
Shannan Campbell, Planning & Economic Development Manager

ITEM TO BE CONSIDERED

Subject: Unified Development Ordinance (UDO) text amendment to Section 5.2.8, *Dwelling, Accessory* (applicant-initiated)

Attachments:

1. Submitted application materials, including applicant's proposed amendment and justification
2. Staff analysis
3. Staff draft of text amendment
4. Minutes from previous meetings discussing attached ADUs on private streets
5. Map of single-family parcels on private streets in town's planning jurisdiction
6. Examples of private streets in town's planning jurisdiction
7. Draft consistency statement

Background:

On April 18, 2024, a joint public hearing was held for a staff-initiated UDO text amendment on accessory dwelling units (ADUs). The main goal of the text amendment was to increase the maximum size of ADUs.

A resident, Natalie Dolgireff, spoke at the hearing. She and her husband live on the private portion of Daphine Drive (originally platted as Daphine Court). She asked that the amendment be revised to allow freestanding (*i.e.*, detached) ADUs on private streets so they could build a freestanding ADU; currently, the UDO allows freestanding ADUs only on lots with direct access to a public street.

On June 10, 2024, the Board of Commissioners adopted the text amendment as originally proposed by staff (*i.e.*, Ms. Dolgireff's request was not included). When making its recommendation in May 2024, the Planning Board asked staff to investigate the feasibility of allowing freestanding ADUs on private streets and to report back to the board. Before the Planning Board met again, the applicant submitted their own request to amend the UDO.

The joint public hearing for this proposal was held on August 15, 2024. Draft minutes from the hearing are enclosed in this agenda packet for Planning Board review and approval.

Proposal:

The applicant is proposing to amend UDO Section 5.2.8, *Dwelling, Accessory* to allow freestanding ADUs on private streets. The applicant's proposed amendment and justification are enclosed with the application materials.

Comprehensive Sustainability Plan goals:

- Land Use & Development Goal 1: Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.
- Strategy: Ensure that land use and development regulations are aligned with preferred future land use and growth patterns.

Financial impacts: None.

Staff comments and recommendation:

See the enclosed Staff Analysis for comments from Planning and Utilities.

Staff does not support the proposed text amendment as written. Staff has many concerns about increasing residential density on private streets as outlined in the Staff Analysis. If the boards wish to allow freestanding ADUs on private streets, staff recommends including the following limitations:

- A platted, deeded public utility easement shall be required and existing utility lines shall be upsized, if deemed necessary by the Utilities Department; and
- The private street providing access to the ADU must conform to UDO Section 6.21.4, *Design Standards – Private Streets*.

Note this would necessitate additional amendments to Section 6.21.4. For example, subsection 6.21.4.5.b prohibits “any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences” on private streets. This language would need to be revised.

Staff has enclosed a draft version of the text amendment inclusive of staff’s suggested edits.

Action requested:

Make a recommendation on the proposed text amendment.



TOWN OF
HILLSBOROUGH

GENERAL APPLICATION
Amendment to Future Land Use Map, Unified
Development Ordinance or Official Zoning
Map

Planning and Economic Development Division
101 E. Orange St., PO Box 429, Hillsborough, NC 27278
919-296-9477 | Fax: 919-644-2390
www.hillsboroughnc.gov

This application is for amendments to the Comprehensive Sustainability Plan, Unified Development Ordinance, and/or Official Zoning Map. Incomplete applications will not be accepted or processed.

| OFFICIAL USE ONLY | | |
|-------------------|------------------|---------------|
| Case Number: | Fee: \$ | Receipt No.: |
| FLUM Designation: | Zoning District: | Overlay Zone: |

Amendment Type: Future Land Use Map Unified Development Ordinance Text
 Zoning Map – General Use or Overlay District Zoning Map – Planned Development District

| PROPERTY LOCATION AND DESCRIPTION | | N/A |
|------------------------------------|-----------------------------------|-----|
| Property Address or Location: | | |
| PIN(s): | Size of Property (Acres/Sq. Ft.): | |
| Current Use of Property: | | |
| Current Zoning Classification(s): | | |
| Proposed Zoning Classification(s): | | |

| CERTIFICATION AND SIGNATURES | |
|---|----------------------------|
| Applications will not be accepted without signature of legal property owner or official agent. | |
| I certify that the information presented by me in this application and all accompanying documents are true and accurate to the best of my knowledge, information, and belief; and I acknowledge that the processing of this application may require additional town, county and/or state permits, approvals, and associated fees. | |
| Applicant Name: <i>Natalie Dolgireff and Armand Bath</i> | Legal Property Owner Name: |
| Mailing Address: <i>170 Daphine Drive</i> | Mailing Address: |
| City, State, ZIP Code: <i>Hillsborough, NC 27278</i> | City, State, ZIP Code: |
| Telephone: [REDACTED] | Telephone: |
| Email: [REDACTED] | Email: |
| Signature: <i>Natalie Dolgireff & Armand Bath</i> | Signature: |
| Date: <i>6/19/24</i> | Date: |

**Reasons Supporting Change to
Town of Hillsborough Ordinance 5.2.8 Dwelling, Accessory
to Allow Freestanding Accessory Dwelling Units (ADUs) on Private Streets**

**Proposed Amendment to Unified Development Ordinance Text
Town of Hillsborough**

Section 5.2.8 of the Unified Development Ordinance (last amended Oct. 9, 2023) is hereby amended as follows:

Accessory dwelling units (ADUs) built as free-standing outbuildings from a single-family dwelling, shall be allowed on lots accessible by private street/road. The prior requirement that accessory dwelling units on private street/road be connected to the main dwelling, is rescinded. Accessory dwelling units built on lots accessible by private street shall be subject to the same requirements and restrictions as for accessory dwelling units on lots accessed by public street.

**Reasons Supporting Change to
Town of Hillsborough Ordinance 5.2.8 Dwelling, Accessory
to Allow Freestanding Accessory Dwelling Units (ADUs) on Private Streets**

We, Natalie Dolgireff and Armand Roth, Town of Hillsborough residents and property owners, respectfully request that the Town of Hillsborough amend its Ordinance 5.2.8 to allow freestanding ADUs on lots accessed by private streets/roads. The Town's stricter requirements that ADUs developed on lots accessed via private street, be attached to the primary dwelling, remain unsupported by the Town's own data during the past 5 years, which shows no ADUs have been built on private streets/roads.

The following six (6) reasons support this amendment:

- (1) **No ADUs built on lots accessible by private roads in the past 5 years since the Ordinance was amended to allow them**, per research provided by Planning and Economic Development Manager Shannan Campbell.
- (2) **Hypothetical issues** about the potential burdens of increased numbers of ADUs on private streets (further described below based on information provided by Planning and Economic Development Manager Shannan Campbell) are **unsupported by the Town's own 5-year experience** to date since no such ADUs have been built.
 - 2.1) Hypothetical issue that ADUs pose increased burdens for **maintenance of private gravel roads** is unrelated to if an ADU is detached. Any such cost would be the responsibility of private owners and Homeowners' Associations (HOAs) to bear, not the Town from public funds.
 - 2.2) Hypothetical issue about **potential delayed emergency access response time** on private gravel roads is unrelated to whether ADUs are freestanding or attached.
 - 2.3) Hypothetical issue that an **increased number of trash and recycling cans associated with ADUs could cause crowding on an adjacent public street** if that is where such trash is collected, is unrelated to whether ADUs are freestanding or not [in our own case, all cans in our HOA are picked up in front of our houses on the HOA's private gravel street].
 - 2.4) Hypothetical issues that detached ADUs cause **significantly decreased water pressure and increased sewage flows** necessitating increased numbers of meters and sewer lines are unrelated to whether ADUs are freestanding. Instead, the Town's own intermittent, anecdotal experience most likely correlates to overall increased building of single-family dwellings since no ADUs have been built on lots accessible via private street. (Any hypothetical costs for ADUs on private roads would also be borne by their owners.)
3. The Town's unique higher requirement that ADUs built on private roads can only be attached to the primary dwelling results in **unequal financial burdens** on homeowners of lots on private roads.

**Reasons Supporting Change to
Town of Hillsborough Ordinance 5.2.8 Dwelling, Accessory
to Allow Freestanding Accessory Dwelling Units (ADUs) on Private Streets**

Conclusion

Applying the same Town requirements for the types of ADUs allowed to be built on lots accessible via private and public streets promotes greater equality amongst all residential property owners and provides a fairer, more level playing field. It's also consistent with the recent study by the American Association of Retired Persons (AARP) recommending that communities further liberalize their restrictions as much as possible to promote greater building of ADUs and minimize ADU-only specific requirements (study available at <https://www.aarp.org/content/dam/aarp/livable-communities/housing/2022/ABCs%20of%20ADUs-web-singles-082222.pdf>).

Memorandum

To: Planning Board
From: Molly Boyle, Planner II
Cc: Shannan Campbell, Planning & Economic Development Manager
Date: September 19, 2024
Subject: Staff analysis for UDO text amendment to Section 5.2.8, *Dwelling, Accessory* (applicant-initiated)



Proposal Summary

The applicant is proposing to amend UDO Section 5.2.8, *Dwelling, Accessory* to allow freestanding (*i.e.*, detached) ADUs on private streets. The applicant lives on the private portion of Daphine Drive (originally platted as Daphine Court) and would like to build a freestanding ADU. Currently, the UDO allows attached ADUs on private streets but not detached ones. The applicant’s proposed amendment and justification are enclosed with the application materials.

Planning Analysis

Daphine Drive

The applicant lives on the private portion of Daphine Drive, which consists of the following:

- a 60’ private right-of-way;
- a new gravel travel-way approximately 20’ wide, which was laid within the past three years; and
- a new gravel cul-de-sac approximately 95’ in diameter, also laid within the past three years.

The lots on the private right-of-way for Daphine Drive were created decades ago. The street serving the lots was historically gravel and deteriorated over time after homes were removed from the lots. Around 2019, a developer bought the lots and, after consultation with town staff and the Fire Marshal, installed new utility lines and improved the street to the standard described above.

Private Street Standards

Not all private streets in town are built to the same standard as Daphine Drive.

UDO Section 6.21.4, *Design Standards – Private Streets* and the town’s Street Manual contain standards for new private streets. Private streets that provide primary access to no more than four lots and/or dwelling units may be constructed with a right-of-way as narrow as 18’ in width. The travel-way in these situations may be gravel and 12’ wide. There are no design standards for private streets that serve only one or two lots. Some existing private streets pre-date these standards and are considered nonconforming, meaning they do not meet, and are not required to meet, current private street design standards.

Allowing freestanding ADUs on all private streets raises concerns about emergency access, such as:

- Can the private street support the width and weight of a fire apparatus and other emergency vehicles?
- Does the private street have a turn-around, such as a cul-de-sac or t-turn, that can accommodate these emergency vehicles?

It raises the same questions for other types of service vehicles, such as school buses and garbage trucks. Bus stops and trash receptacles may have to be brought to the closest public street intersection as well, which may be a significant distance.

ADU Regulations: Attached vs. Detached

On June 14, 2021, pursuant to a citizen-initiated text amendment application, the Board of Commissioners amended the UDO to allow attached ADUs on private streets (vote 3-2). In the UDO, an attached ADU is referred to as “within a principal single-family dwelling.” Minutes from the subject hearing, Planning Board meeting, and Commissioners meeting are attached.

Street access standards should be made the same for both attached and detached ADUs, either through the text amendment process or during the UDO rewrite. However, because of the variability in private streets in town, access standards should be established in the interest of public health, safety, and welfare.

Utilities Analysis

Per the Utilities Department, many of the private streets in town have undersized, outdated utilities without properly platted and recorded public utility easements. The Utilities Department does not support additional development on streets that do not meet the town’s current standards for sizing and access for maintenance.

If freestanding ADUs are to be allowed on a private street, then Utilities staff suggests that the private street be required to have a platted, deeded public utility easement and that the existing utility lines must be upsized, if needed, prior to development.

Staff Recommendation

Staff does not support the proposed text amendment as written because of the issues outlined above. If the boards wish to allow all types of ADUs on private streets, staff recommends including the following limitations:

- A platted, deeded public utility easement shall be required and existing utility lines shall be upsized, if deemed necessary by the Utilities Department; and
- The private street providing access to the ADU must conform to UDO Section 6.21.4, *Design Standards – Private Streets*.

Note this will necessitate additional amendments to Section 6.21.4. For example, subsection 6.21.4.5.b prohibits “any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences” on private streets. This language would need to be revised.

5.2 USE-SPECIFIC STANDARDS

5.2.8 DWELLING, ACCESSORY

The following sections are provided to create opportunities for a diversity of housing stock within town. A dwelling unit must contain sleeping, cooking, and bathroom facilities. Guest quarters or suites that do not contain all three types of facilities are not dwelling units and are not reviewed in this section.

5.2.8.1 Accessory dwelling units in freestanding structures

New or existing accessory buildings may be used as dwelling units in addition to the principal dwelling unit in the R-10, R-15, and R-20 districts, subject to the following conditions:

- 5.2.8.1.a The lot is developed, or proposed to be developed, with a single-family dwelling and customary accessory outbuildings.
- 5.2.8.1.b The lot has direct access to a public street or a private street that conforms with the requirements for private streets in UDO Section 6.21.4, Design Standards – Private Streets and the Town of Hillsborough Street Manual.
- 5.2.8.1.c One (1) accessory dwelling unit is permitted per lot, whether within the principal dwelling or as a freestanding structure.
- 5.2.8.1.d The structure containing the accessory dwelling must meet the applicable primary building setbacks established in Table 6.3.1, *Dimensional Requirements – residential* OR Section 7.5.3, *Non-conforming lot setback requirements*. The existing, primary dwelling may be non-conforming in regard to building setbacks required in the zoning district. The setback provision in Section 9.1.5.2.c of this ordinance is available for an accessory building containing a dwelling unit.
- 5.2.8.1.e An accessory dwelling unit in a freestanding structure shall be located to the side or rear of the primary dwelling and behind the primary dwelling’s front façade.
- 5.2.8.1.f All structures containing dwellings are connected to municipal water and sewer service.
- 5.2.8.1.g The accessory dwelling unit shall not exceed fifty (50) percent of the gross floor area of the principal dwelling unit or 1,000 square feet in gross floor area, whichever is greater. In no case shall the accessory dwelling unit exceed the gross floor area and/or height of the principal dwelling unit.
- 5.2.8.1.h The accessory unit is constructed to the state building code for one- and two-family dwellings (i.e., is not a manufactured home).
- 5.2.8.1.i There is sufficient off-street parking on the parcel to accommodate two spaces for the principal dwelling and one space per bedroom in the accessory unit, which may include garage spaces.
- 5.2.8.1.j The application materials indicate storage locations for solid waste and recycling containers for both dwellings consistent with Town Code requirements.
- 5.2.8.1.k A platted, deeded public utility easement shall be required and existing

utility lines shall be upsized if deemed necessary by the Utilities Department.

5.2.8.1.kj Units that existed on August 12, 1996 that do not meet one or more provisions of this section may continue as legal non-conforming uses.

5.2.8.2 Accessory dwelling units within a principal single-family dwelling

Accessory dwelling units may be located within a principal single-family dwelling in any zoning district, subject to the following conditions:

5.2.8.2.a The lot is developed, or proposed to be developed, with a single-family dwelling and customary accessory outbuildings.

5.2.8.2.b The lot has direct access to a public street or a private street that conforms with the requirements for private streets in UDO Section 6.21.4, *Design Standards – Private Streets* and the *Town of Hillsborough Street Manual*.

5.2.8.2.bc One (1) accessory dwelling unit is permitted per lot, whether within the principal dwelling or as a freestanding structure.

5.2.8.2.ed Both dwellings are connected to municipal water and sewer service.

5.2.8.2.de The accessory dwelling unit shall not exceed fifty (50) percent of the gross floor area of the principal dwelling unit or 1,000 square feet in gross floor area, whichever is greater. In no case shall the accessory dwelling unit exceed the gross floor area of the principal dwelling unit.

5.2.8.2.ef The accessory dwelling unit must have its own exterior access. Any interior access to the principal dwelling must be lockable from both dwellings.

5.2.8.2.fg There is sufficient off-street parking on the parcel to accommodate two spaces for the principal dwelling and one space per bedroom in the accessory unit, which may include garage spaces.

5.2.8.2.gh The application materials indicated storage locations for solid waste and recycling containers for both dwellings consistent with Town Code requirements.

5.2.8.2.i A platted, deeded public utility easement shall be required and existing utility lines shall be upsized if deemed necessary by the Utilities Department.

5.2.8.2.hj Units that existed on August 12, 1996 that do not meet one or more provisions of this section may continue as legal non-conforming uses.

6.21 STREETS

6.21.4 DESIGN STANDARDS - PRIVATE STREETS

- 6.21.4.1** Any private street within a non-residential or multi-family development must meet the design standards for town public streets.
- 6.21.4.2** Any private street within a minor residential subdivision must be designed in compliance with the North Carolina Fire Prevention Code, which generally requires a twenty-foot wide improved travel way. Associated drainage facilities must be located in the right of way. Underground utilities may be located within the street right of way or in a separate utility easement. Factors such as the length and alignment of the street and the use of sprinklers in individual buildings may impact the travel way or right of way required by the North Carolina Fire Prevention Code.
- 6.21.4.3** A private street within a minor residential subdivision may be required to provide a right of way of fifty (50) feet if the land and lots are arranged to allow the potential conversion of the street to a public street. If the lot arrangement, surrounding development pattern, zoning, and existing town plans indicate conversion is unlikely, the permit issuing authority may allow a private street to reduce the right of way width to no less than 18 feet.
- 6.21.4.4** Lots for single-family detached dwellings may be created with access to a private street provided that:
- 6.21.4.4.a** No more than four (4) lots may have their sole access to the private street.
 - 6.21.4.4.b** A new private street shall not be an extension of any existing public or private street.
 - 6.21.4.4.c** A new private street shall not be aligned with an existing public street in such a way as may interfere with any planned extension of the public street.
- 6.21.4.5** The intent of this subsection is primarily to allow the creation of not more than four (4) lots with frontage on a private street for single-family development. Therefore, the Town may not approve any project served by a private street authorized by this subsection in which one (1) or more of the lots thereby created is intended for:
- 6.21.4.5.a** Two-family or multi-family residential use, or
 - 6.21.4.5.b** Any other residential use or nonresidential use that would tend to generate more traffic than that customarily generated by four (4) single-family residences with one accessory dwelling unit each.
- 6.21.4.6** To ensure that the intent of this subsection is not subverted, the Town may, among other possible options, require that the approved plans show the types and locations of buildings on each lot or that the lots in a residential development served by a private street be smaller than the permissible size of lots on which two-family or multi-family developments could be located, or that restrictive covenants limiting the use of the subdivided property in accordance with this section be recorded before final plat approval.
- 6.21.4.7** No final plat that shows lots served by private streets may be recorded unless the final plat contains the following notation:
"Further subdivision of any lot shown on this plat as served by a private street maybe prohibited by the Town of Hillsborough *Unified Development Ordinance*."

6.21.4.8 The recorded plat of any development that includes a private street shall clearly state that such street is a private street and must be accompanied by a private street maintenance agreement that is also recorded.

Minutes

Remote Joint Public Hearing

Planning Board and Board of Commissioners

7 p.m. April 15, 2021

Virtual meeting via YouTubeLive

[Town of Hillsborough YouTube channel](#)

Present

Town board: Mayor Jenn Weaver and commissioners Mark Bell, Kathleen Ferguson, Matt Hughes and Evelyn Lloyd
Planning Board: Chair Chris Johnston, Vice Chair Jenn Sykes, Christopher Austin, Frank Casadonte, Oliver Child-Lanning, Lisa Frazier, Alyse Polly, Jeff Scott, Scott Taylor and Toby Vandemark
Absent: Board of Commissioners: Robb English
Early exit: Kathleen Ferguson (8:02 p.m.)
Staff: Planning Director Margaret Hauth and Town Attorney Brady Herman

1. Call to order and confirmation of quorum

Mayor Jenn Weaver called the meeting to order at 7:09 p.m. Planning Director Margaret Hauth called the roll and confirmed the presence of a quorum, noting that Commissioner Matt Hughes had not yet arrived. Weaver turned the meeting over to Planning Board Chair Chris Johnston.

2. Agenda changes and approval

There were no changes. The agenda stood as presented.

Hughes arrived at 7:11 p.m.

Motion: Commissioner Kathleen Ferguson moved to approve the agenda as presented. Planning Board Vice Chair Jenn Sykes seconded.

Hauth called the roll for voting.

Vote: 13-0. Ayes: Commissioners Mark Bell, Ferguson, Hughes and Evelyn Lloyd; Planning Board members Christopher Austin, Frank Casadonte, Lisa Frazier, Johnston, Alyse Polly, Hooper Schultz, Jeff Scott, Sykes and Scott Taylor. Nays: None.

3. Open the public hearing

Johnston introduced the public hearing. The hearing was opened without a vote.

4. Text amendments to the Unified Development Ordinance

- A. Section 5.2.9.2 to remove requirement for public road access for accessory dwellings within a principal residential structure and Section 6.3.1 to decrease setbacks from 50 feet to 30 feet in the Agricultural Residential district.

Johnston introduced Item 4A, noting that citizen Samantha Johnson has requested the text amendment. Johnson arrived at 7:13 p.m.

Hauth summarized Johnson's application, saying the request comprises two parts.

Hauth summarized the request's first part: The applicant requests that the ordinance allow accessory dwelling units to be developed on parcels that only have access from a private road. Hauth said Johnson has acquired property with access from a private road and wants to construct an accessory dwelling attached to the existing house. Hauth summarized the current text of the ordinance, which states an accessory dwelling unit may be located within a single-family dwelling if the lot has direct access to a public street. Hauth noted that the same limitation exists for accessory dwellings in separate buildings and that the limitation on access has been in place for more than 30 years. She also noted that for the past few years the town has been loosening restrictions on accessory dwellings based on requests.

Hauth summarized the request's second part: The applicant requests a reduction in setbacks in Agricultural-Residential zoning districts to improve flexibility. Hauth said the minimum setbacks in Agricultural-Residential districts are 50 feet on the side, rear and front, which is wider than in other residential districts. She said about 21% of the town's jurisdiction is zoned Agricultural-Residential, but added that most properties in that district are large landholdings unlikely to change their development patterns without rezoning. She said the most likely area to be impacted is about 150 acres zoned Agricultural-Residential inside the town limits. She said a setback reduction would align the Agricultural-Residential setbacks more closely to setbacks in the Residential-40 district, a district that is very similar. Hauth noted these changes would apply across the Agricultural-Residential district, adding there is no way to grant a reduction to just the applicant's property.

Regarding the request's first part, Johnson explained that she had acquired property on a gravel road and wants to build an accessory unit so that her father can live with her and her family. Regarding the request's second part, Johnson said that although most residential areas require a minimum 30-foot setback, her property happens to be zoned Agricultural-Residential although there is no agricultural on the property or surrounding properties. She said requesting the ordinance changes seemed easier than requesting a rezoning, which also would affect her neighbors.

Regarding the request's first part, Ferguson noted that Hauth had suggested amending the ordinance by removing the requirement that the lot be on a public road. Ferguson asked amending the ordinance to require a lot have access via a public road *or* a private road also would be a viable solution. Hauth said she would prefer removing the requirement altogether, because specifying both road types would imply there is some third alternative for access. Hauth asked Town Attorney Brady Herman if he had an opinion. Herman said either alternative would work.

Sykes asked Hauth if there is a way to address the fact that some private roads in town are in poor condition. She noted a previous Board of Adjustment meeting regarding development along a private road that resulted in traffic and safety issues. Hauth said a few of the town's private roads existed before the town developed private road standards. Hauth noted that most of the town's private roads are new and must meet current development standards. Hauth added that private roads are a private issue, with residents on those roads responsible for maintaining ingress and egress; she said it is difficult for the town to insert itself very much into such a situation.

Weaver noted a similar setback request several months ago regarding a different zoning district. She asked if it is possible or makes sense to have a broader conversation about setbacks. Hauth also recalled the conversation to which Weaver referred and said it had been specific to the setbacks for unattached accessory

dwelling units. Hauth said rezoning would not have solved that person's issue, but staff had provided possible next steps to that person – similar to those steps pursued by Johnson tonight – which that person had not chosen to pursue. Hauth said a broader conversation about setbacks is possible, though perhaps not at a public hearing.

Hughes said he is not in favor of eliminating the requirement for public road access for accessory dwelling units. He noted that postal carriers, school busses and emergency vehicles might not be able to fit down private roads. He said he does not think it is in the town's best interest to remove the requirement that accessory dwelling units have guaranteed access to those three basic services. He said he is not opposed to reducing the setbacks from 50 feet to 30 feet in Agricultural-Residential districts.

Johnson acknowledged that her requests would change the requirements across the town's Agricultural-Residential districts, but she noted houses already have been developed along her specific road.

Hughes said he could understand that this solution could be feasible in Johnson's specific situation, but he noted that the boards are enacting town-wide policies.

Regarding the setback reduction request, Polly said she understood the applicant is requesting setbacks be reduced to 30 feet on all sides for Agricultural-Residential districts. She said she understood the boards are considering bringing Agricultural-Residential setbacks in line with Residential-40 setbacks, and she noted that Residential-40 setbacks are 30 feet in the side and rear but 40 feet in the front. Polly asked for clarity around which numbers are correct. Hauth said the applicant is not necessarily trying to align her setbacks with those in Residential-40, but that Hauth had simply noted the two are very similar. Hauth said the applicant's particular interest is in the side and rear setbacks rather than the front, but she said it seemed cleaner and easier to request 30 feet on all sides because the Agricultural-Residential district currently requires the same distance on all sides. Johnson confirmed Hauth is correct.

Casadonte asked if it is possible to grant the applicant a variance rather than change the requirements for the entire Agricultural-Residential district. Hauth explained that the applicant does not qualify for a variance. Hauth briefly outlined the state law's requirements for variances. Hauth said staff would have proposed an easier solution to the applicant's requests if an easier solution existed. When asked, Hauth confirmed that the requested changes would apply to all Agricultural-Residential districts in town. When asked, Hauth confirmed no other tools exist to grant the applicant's requests. Hauth confirmed the two parts of the applicant's request could be considered separately.

Johnston asked if the applicant could apply for rezoning, noting that also is a substantial request. Hauth agreed and added that such a rezoning request would be inconsistent with the town's Future Land Use Plan.

Scott noted that larger emergency vehicles are not always able to access dwellings on private roads. He asked if anything in the town's code would be at odds with the requested amendment. Hauth said if the text amendment is approved it is possible an accessory dwelling could trigger an issue under the fire code regarding turnaround clearance. Hauth said such a technical violation is conceivable, but she is not sure it would be captured in the permitting process, noting that the fire marshal does not look at residential development. She noted the fire code is not user-friendly and is difficult to integrate into traditional planning and zoning situations.

Casadonte asked whether the fire marshal would already have taken the road into account in the applicant's particular case, as the road is developed already. Hauth said that is not necessarily the case, as the applicant's road is one of the town's older private roads. Hauth noted the applicant's road is in excellent condition and

has been maintained very well, but it has more than the four houses that the town currently allows on new private roads, possibly making the road problematic for the fire code. Hauth added the applicant's house is very close to the entrance to the public road, which may be a mitigating factor. Haugh said she could see how a circumstance could develop on an old or new private road where an additional accessory dwelling unit could exceed the fire code's limit on number or spacing of dwellings. When asked, Hauth confirmed that the applicant's road had been grandfathered in and, were it a new private road today, would not be allowed to have as many houses on it as currently exist there.

Hughes asked why sufficient turnaround space on a private road could be overlooked regarding fire code but not trash pickup. Hauth said trash pickup trucks do not go down private roads. When asked, Hauth said that new private roads are required to have road maintenance agreements, which often are accomplished via homeowners' associations. She added private road residents are welcome to bring their trash bins to the public road for pickup. Hughes said he sees the request as a potentially significant policy change regarding accessory dwelling units and private roads, and he is concerned that such a change be equitable. When asked, Hauth said the town does not have a way to ensure all private roads stay well-maintained, adding that in such situations it is the residents' responsibility to self-police and ensure they are safe and well protected, although the town does due diligence by requiring the road maintenance agreement. She said private road construction standards include minimum travel width and gravel depth but are not nearly as elaborate as the standards for public paved roads. Sykes noted that newer townhouse developments are very different from some older private developments. Hughes noted that private roads might meet standards when first constructed but could fall into disrepair; he expressed concern that the town would still be required to provide emergency services to out-of-repair roads, which might damage town equipment. He wondered if private roads could be held to maintenance standards in perpetuity. He noted that some subdivisions have begun requesting more services, even though when built their developers understood the roads would be maintained privately. Hauth said she believes Hughes to be speaking more about townhome neighborhoods, which will always have a homeowners' association and are required to build their private roads to state Department of Transportation standards. Hauth said she does not think the town has any recourse if a neighborhood is not maintaining its private roads. Hughes noted townhome neighborhoods often have private trash services.

Johnston clarified that the discussion at hand deals not with fixing the town's existing issues regarding services and access for dwellings on private roads, but instead with whether to allow more density on those private roads via accessible dwelling units.

Hughes asked whether Town Attorney Bob Hornik had been consulted about the two requested changes. Hauth noted that Herman is substituting for Hornik at tonight's meeting. Herman said the boards are discussing the relevant issues, particularly as the requested changes would impact all properties in the Agricultural-Residential districts. Herman said he did not have any relevant case law on hand but offered to further research specific questions.

Johnson noted that the residents of the private road are not requesting new services, as they already receive certain services. Johnston said he thinks Hughes' concern is that allowing additional dwellings could create additional pressure on town resources. Hughes clarified he also is concerned about equitable school bus and trash pickup access.

Motion: Sykes moved to close the public hearing for Item 4A. Ferguson seconded.

Hauth called the roll for voting.

Vote: 13-0. Ayes: Commissioners Bell, Ferguson, Hughes and Lloyd; Planning Board members Austin, Casadonte, Frazier, Johnston, Polly, Schultz, Scott, Sykes and Taylor. Nays: None.

Hauth noted the text amendments would be discussed at the May 2021 Planning Board meeting.

B. Section 7.5 to no longer require the combination of undeveloped contiguous non-conforming lots

Johnston introduced Item 4B and requested that he be recused from this item.

Motion: Sykes moved to allow Johnston to recuse himself from public hearing Item 4B. Hughes seconded.

Hauth called the roll for voting.

Vote: 12-0. Ayes: Commissioners Bell, Ferguson, Hughes and Lloyd; Planning Board members Austin, Casadonte, Frazier, Polly, Schultz, Scott, Sykes and Taylor. Nays: None.

Hauth summarized Item 4B. She explained Section 7.5 of the Unified Development Ordinance requires adjacent non-conforming lots owned by the same property owner to be recombined into conforming lots before the properties can be developed. She said the town has a policy of reducing non-conformities. She gave a brief history of the requirement and noted the recombination requirement is common in zoning ordinances. Hauth said Hillsborough also has accommodated nonconforming lots in the ordinance for many years but still maintains the recombination requirement. She outlined several of the current accommodations.

Hauth outlined the requested text amendment, noting that it limited the recombination requirement to lots narrower than 40 feet, rather than all nonconforming lots. She said the impact of the change would be limited to roughly two dozen lots throughout town. Hauth said requirements for water and sewer connections would still apply, which would limit the possibility of undevelopable lots being created. She noted that the amendment would consolidate exceptions in the ordinance, streamlining the requirements and exceptions. Hauth added that the reduced setback provisions will be discussed in the next quarterly hearing to address a recent Board of Adjustment interpretation.

Hauth introduced Richard Turlington of Habitat for Humanity of Orange County, which has requested the text amendment. Turlington said Habitat owns five non-conforming lots on Homemont Street that they hope to recombine into four lots of equal size, noting that the resulting four lots would not be large enough to meet that location's zoning requirements.

Hughes asked Hauth what unintended consequences might result from such a change to the ordinance. He expressed concern about enacting town-wide change. He expressed concern that commercial developers could use the amended ordinance as a bypass. Hauth said the areas where there are many lots that the change would apply to all are outside town limits and lack utility connections, thus limiting their developability. Hughes asked whether a legislative change is warranted, as it would affect only two dozen lots. He wondered if there is another mechanism that could solve the applicant's issue. Hauth said she is not aware of another tool that the applicant could use. She added the amendment would further goals she believes the boards support, such as encouraging development in the existing town core on smaller lot sizes and encouraging diversity of lot sizes. Hauth noted many localities do not have a recombination ordinance.

Ferguson left at 8:02 p.m.

Minutes

Planning Board

Remote regular meeting

7 p.m. May 20, 2021

Virtual meeting via YouTubeLive

[Town of Hillsborough YouTube channel](#)

Present: Chair Chris Johnston, Vice Chair Jenn Sykes, Christopher Austin, Frank Casadonte, Lisa Frazier, Alyse Polly, and Scott Taylor

Absent: Hooper Schultz and Jeff Scott

Staff: Planning Director Margaret Hauth and Town Attorney Bob Hornik

1. Call to order and confirmation of quorum

Chair Chris Johnston called the meeting to order at 7:03 p.m. Planning Director Margaret Hauth called the roll and confirmed the presence of a quorum.

2. Agenda changes and approval

The agenda was accepted as presented. Later in the meeting, a conversation with prospective board members was added as Item 6C.

3. Minutes review and approval

Minutes from the regular meeting on March 18, 2021, and from the joint public hearing on April 15, 2021.

Motion: Vice Chair Jenn Sykes moved to approve the minutes as presented. Member Scott Taylor seconded.

Hauth called the roll for voting.

Vote: 6-0. Ayes: Members Chris Austin, Lisa Frazier, Johnston, Alyse Polly, Sykes and Taylor. Nays: None.

4. Recommendations to town board of public hearing items

A. Unified Development Ordinance: Amendments to Section 5.2.9.2 and Section 6.3.1 – Allow accessory dwelling units on private roads and Agricultural Residential setback reduction

Applicant Samantha Johnson and her husband Matthew Johnson arrived.

Johnston introduced Item 4A. Hauth summarized the proposed text amendment, noting the proposed change comprises two parts: first, to allow accessory dwelling units on private roads, and second, to reduce the width of setbacks in the Agricultural Residential zoning district. Hauth noted that both changes would apply town-wide and said no other options exist to meet the applicant's interests. Regarding allowing accessory dwelling units on private roads, Hauth noted the ordinance has long required accessory dwelling units to be on public

roads, but she noted the board consistently has been loosening regulations on accessory dwelling units to encourage more development. Regarding reducing setbacks in Agricultural Residential zoning districts, Hauth noted the applicant's property is located in a small section of town zoned Agricultural Residential where water and sewer service is available, and so the proposed change could result in more intense development in that location. She noted that Agricultural Residential districts currently require 50-foot setbacks on all sides, which she characterized as significant. She added that this request pertains to land within the city limits, noting the town has very limited zoning authority on any parcel in the extraterritorial jurisdiction in active agricultural use.

Regarding reducing the setbacks, Sykes said that instead of reducing the setbacks from 50 feet on each side to the proposed 30 feet on each side, she prefers matching Agricultural Residential setbacks to those in Residential-40 districts, which would require 30-foot side and rear setbacks and 40-foot front setbacks. She said it would seem strange to allow smaller setbacks in Agricultural Residential districts than in Residential-40 districts, as Agricultural Residential districts are designed for larger lots than the more dense Residential-40 districts.

Regarding allowing accessory dwelling units on private roads, Sykes expressed concern that some of the town's private roads are not in good shape and may not be able to support the higher traffic that could come with allowing accessory dwelling units on such roads. Johnston noted that the change would apply across town, not just to the applicant's property.

Hauth noted there is a difference between roads in disrepair and whether or not services are provided to dwellings on a private road. She said it is in the nature of private roads that school buses and mail delivery generally do not go serve them, especially when they are unpaved. She noted that the board's decision would have no impact on whether those services are provided on private roads.

Johnston said the conflict is between board members' desire to encourage increased density and hesitancy about allowing increased density on roads that do not receive public services.

Sykes noted that inadequate private roads naturally could limit the amount of development along those roads, citing a private road in some disrepair off of Nash Street that has limited what the property owner can develop there.

When asked, Hauth confirmed the applicant's property is located on Burnside Drive. Matthew Johnson said the property is within 300 yards of the corner of South Cameron Avenue, a public road.

Samantha Johnson acknowledged the board must consider the proposed amendment's impact on the entire town. She wondered if it is too late to add language allowing the board to consider applications on a case-by-case basis, based on the condition of the private road in question. Matthew Johnson wondered if language could be added to consider a property's distance from a public road.

Austin recalled Town Commissioner Matt Hughes' points from the April 15 public hearing that having mail and school bus services are parts of the cornerstones of democracy. Austin said he would argue it is important to let people live the way they prefer and have the choices to do that. Austin said he agreed with Hughes' point that it is important to create equitable situations across town. Austin noted that this application would allow a Johnson family member to age in place; he said it is important to promote aging in place as part of equity, especially as demographics shift to include more elderly citizens. Austin said he does not agree with disapproving of where people can provide dwellings based on the board's discomfort with the amount of government services they receive.

Matthew Johnson said that the property's mailbox is on South Cameron Avenue, a public road. Samantha Johnson added that they receive trash pickup and school bus services via South Cameron Avenue.

Austin acknowledged that the amendment would affect properties town-wide.

Member Frank Casadonte arrived at 7:15 p.m.

When asked whether case-by-case language is allowed, Hauth said that the board could require that a private road be constructed to certain standards when someone asks to build an accessory dwelling unit on a private road. She noted the town would not be able to inspect that road in an ongoing manner after it is constructed. Regarding the Johnson's particular case, Hauth noted that Burnside Drive is unusual in that it is a private road predating zoning, it is one of the town's best-constructed private roads and the town does provide trash service there due to tradition.

Town Attorney Bob Hornik confirmed that case-by-case language is not possible in this situation. He agreed with Hauth that a text amendment could require a private road to be constructed. He said the amendment also could require a property to be a certain distance from a public road in order to build an accessory dwelling unit. Hauth said a fixed distance requirement would be easier for staff to enforce than a requirement about the road's quality.

Taylor asked what the downsides might be of allowing accessory dwelling units on private roads.

Hauth said allowing accessory dwelling units on private roads could create future private property disputes, which the town could neither intervene in nor solve. She said that if homeowners at the end of a private road were to build accessory dwelling units and create more traffic and wear on the road than their neighbors, the private road agreement might not address which neighbor has to pay to maintain the road. Hauth added that would be the case in any private road situation where one family has more cars and people than their neighbors. Hauth said resolving such private property issues is not the town's job, though the town does try to write ordinances that encourage neighbors to be happy with one another.

When asked, Hauth clarified that Public Space Manager Stephanie Trueblood has proposed reducing front setbacks for commercial developments. Hauth said the town also has seen a shift in the setbacks that new neighborhoods propose under special use permits, noting that the Forest Ridge, Collins Ridge and Fiori Hill subdivisions all have significantly smaller setbacks than the town's traditional zoning districts. Hauth said the special use permit process offers developers more setback flexibility than building on a large tract of residentially zoned land. Hauth said staff has concerns about the long-term maintenance of private roads in townhome neighborhoods, noting that staff is unable to help resolve private disputes that may arise from such roads not being maintained.

Polly said she agreed with Sykes that the setbacks in Agricultural Residential districts should mirror those in Residential-40 districts, with a minimum width of 30 feet in the sides and rear and 40 feet in the front. Polly also noted that the town boards have been discussing ways to encourage smart development, infill development and more dense neighborhoods; she said allowing accessory dwelling units on private roads could help meet those goals. Sykes agreed but noted that some of the town's private roads are very old and increased traffic on them could put cars at risk. Sykes said she would want to include a requirement addressing road quality, such as requiring the lot in question to be within a certain distance of a public road.

Hornik asked Hawth how much Agricultural Residential land within town limits would be suitable for infill projects, as most Agricultural Residential districts are on the outskirts of town and would not see infill development.

Hawth confirmed about 150 acres are zoned Agricultural Residential within town limits and also have water and sewer access, which is required for accessory dwelling units. She said most of that land is on Burnside Drive, where the applicants live. Hawth said overall the town has about 800 acres zoned Agricultural Residential, but she said much of that would never be developed for various logistical reasons.

Hawth said reducing the setbacks in Agricultural Residential districts does not concern her, as she does not think it would not open the town to any risks or pose any challenges to staff.

When asked, Hornik confirmed the board could make separate recommendations regarding reducing the setbacks and allowing accessory dwelling units on private roads.

Motion: Sykes moved to recommend approval of the text amendment changing the minimum setbacks in Agricultural Residential zoning districts to 30 feet on the sides, 30 feet in the rear and 40 feet in the front. Austin seconded.

Hawth called the roll for voting.

Vote: 7-0. Ayes: Austin, Casadonte, Frazier, Johnston, Polly, Sykes and Taylor. Nays: None.

Polly said she is leaning toward allowing accessory dwelling units on private roads. She said she hears Sykes' point about the existence of older private roads in town. Polly wondered how many private roads in town would be affected, aside from Burnside Drive.

Hawth said the proposed change only would allow accessory dwelling units within a principal dwelling on a private road. She said freestanding accessory dwelling units still would not be allowed on a private road, noting that most people want to build freestanding accessory dwelling units. Hawth said accessory dwelling units also must have water and sewer services, which increases the likelihood that they will be built within town limits rather than on some of the older private roads in the extraterritorial jurisdiction.

Hawth said that if the board wants to include a requirement that the lot be a certain distance from a public road, the distance would need to be 300 feet from the lot's driveway in order to capture what the current applicant is requesting. Hawth said most of the town's private roads are not much longer than 300 feet, excluding townhome neighborhoods. She said including that requirement would include more private roads than it excludes and she is not sure including the distance requirement would be worthwhile. Hawth recommended the board decide either to leave the requirement in or take it out, noting that any problems created would be for residents of the private road to resolve, not the government.

When asked, Hawth confirmed there are no code restrictions for private roads. Hawth said new private roads meet a basic standard, but she said that would not be easy to verify or enforce after a road is in place. Regarding emergency services, Hawth said ambulance drivers have the right to choose whether they can drive down a private road or not. She noted that the town's private roads are in better shape than many county private roads, some of which force ambulance drivers to choose between damaging their vehicles and not providing service.

Johnston noted that allowing more accessory dwellings on private roads would create more density in areas where the town has less regulatory control. He noted the board wants people to be able to do what they want on their property, but he said the town still has responsibilities to citizens.

Sykes said the situation currently before the board is one of aging in place, but she noted that residents of other private roads might want to rent out their accessory dwelling units. She said economic pressures could take care of potential problems, noting that no one would want to rent an accessory dwelling unit if the road to it would damage their car. She said she would prefer a more elegant solution to bring private roads up to code, but she acknowledged that most of the town's private roads are in subdivisions and townhome communities and so already are up to code.

When asked, Hawth said the majority of the town's private roads are new and are no longer than 400 feet. She said of the roughly two dozen private roads outside townhome neighborhoods, less than a third are older. Hawth confirmed there are only a small handful of older private roads in town.

Motion: Austin moved to recommend approval of the text amendment removing the requirement for public road access for accessory dwelling units within a principal structure. Sykes seconded.

Hawth called the roll for voting.

Vote: 6-1. Ayes: Austin, Casadonte, Frazier, Polly, Sykes and Taylor. Nays: Johnston.

Hawth said the town board would receive the planning board's recommendations at the June 14 Board of Commissioners meeting, noting that would be the final action on the items.

Samantha and Matthew Johnson left at 7:46 p.m.

~~B. Unified Development Ordinance: Amendments to Section 7.5 – Limit requirement to combine undeveloped contiguous non-conforming lots~~

~~Johnston asked to recuse himself from Item 4A because his wife works for the applicant requesting the amendment, Habitat for Humanity of Orange County.~~

~~Motion: Sykes moved to allow Johnston to recuse himself from Item 4B. Taylor seconded.~~

~~Hawth called the roll for voting.~~

~~Vote: 6-0. Ayes: Austin, Casadonte, Frazier, Polly, Sykes and Taylor. Nays: None.~~

~~Sykes introduced Item 4A. Hawth said the proposed change would limit the circumstances in which adjoining, undeveloped, contiguous non-conforming lots need to be combined into less-non-conforming lots. Hawth said the change would remove the requirement that one of the newly combined lots be developed and that all lots be 50 feet wide; the proposed language would require only that the newly combined lots be 40 feet wide. Hawth said the change would provide more flexibility, noting that Habitat for Humanity of Orange County had requested the change in order to serve one more family. Hawth added there are not many vacant lots left in town that were platted out in small increments, and so the change likely will not have a large impact.~~

~~Applicant Richard Turlington arrived at 7:48 p.m.~~

TOWN OF HILLSBOROUGH

Minutes

Board of Commissioners

Remote regular meeting

7 p.m. June 14, 2021

Virtual meeting via YouTube Live

[Town of Hillsborough YouTube channel](#)

Present: Mayor Jenn Weaver and commissioners Mark Bell, Robb English, Kathleen Ferguson, Matt Hughes, and Evelyn Lloyd

Staff: Interim Human Resources Director Haley Bizzell, Budget Director Emily Bradford, Assistant to the Manager/Deputy Budget Director Jen Della Valle, Interim Town Clerk/Human Resources Technician Sarah Kimrey, Stormwater and Environmental Services Manager Terry Hackett, Police Chief Duane Hampton, Assistant Town Manager/Planning Director Margaret Hauth, Interim Public Works Director Dustin Hill, Town Attorney Bob Hornik, Town Manager Eric Peterson, Utilities Director Marie Strandwitz, Public Space Manager Stephanie Trueblood and Public Information Officer Catherine Wright

Opening of the meeting

Mayor Jenn Weaver called the meeting to order at 7:03 p.m. Interim Town Clerk and Human Resources Technician Sarah Kimrey called the roll and confirmed the presence of a quorum.

1. Public charge

Weaver did not read the public charge.

2. Audience comments not related to the printed agenda

There was none.

3. Agenda changes and approval

The mayor noted a change sent by the budget director by email prior to the meeting regarding the Community Development Block Grant project ordinance and an associated budget amendment. She also noted a change sent by the deputy budget director earlier regarding amending the miscellaneous budget amendments with two additional amendments regarding an aerator blower.

Motion: Commissioner Kathleen Ferguson moved to approve the amended agenda. Commissioner Mark Bell seconded.

Kimrey called the roll for voting.

Vote: 5-0. Ayes: Commissioners Bell, Robb English, Ferguson, Matt Hughes and Evelyn Lloyd. Nays: 0.

4. Public hearings

A. Request to close unopened right of way named Cole Avenue

The mayor opened the public hearing. Assistant Town Manager and Planning Director Margaret Hauth said Cole Avenue is an unopened lane that separates property between two neighbors, serves no purpose, is unimproved and has no utilities. The closure was requested by one of the neighbors. Both neighbors were in

attendance at the meeting. The property owner who made the request, Mark Rhoades, said the closure would allow the two neighbors to have a cleaner property line and would remove questions of maintenance responsibilities along the boundary. Hauth said the other neighbor, Christina Perrella, had noted in an email that she was planning to observe rather than participate in the meeting. The mayor asked for confirmation that both parties are amenable to the request. Hauth said she had not heard otherwise.

Motion: Ferguson moved to close the public hearing. Bell seconded.

Kimrey called the roll for voting.

Vote: 5-0. Ayes: Bell, English, Ferguson, Hughes and Lloyd. Nays: None.

B. FY2022 budget public hearing

Mayor Weaver opened the public hearing. A water and sewer customer, William Johnson, provided a brief presentation against increasing utility rates. His presentation included a comparison of rates with surrounding communities and a look at specific aspects of the town's water and sewer fund. There were no other speakers. The mayor said the board received public comments from three other people via email. She summarized them:

- Will Lane, who attended the town's academy on operations, said he was glad to see funding for future sessions, thanked staff for making the budget document easy to understand, and said he wants to see the property tax rate stay the same.
- Lavone Tucker expressed concerns about out-of-town water and sewer rates. The mayor noted that the town manager had responded to the email.
- Michelle Jenkins was curious about the location for the proposed installation of a bench on Nash Street and had some questions about the installation.

The mayor said the board also received a letter from Fairview Community Watch asking for signage to be changed to rename the community center in the neighborhood after Dorothy Johnson.

Motion: Bell moved to close the public hearing. Ferguson seconded.

Kimrey called the roll for voting.

Vote: 5-0. Ayes: Bell, English, Ferguson, Hughes and Lloyd. Nays: None.

5. Items for decision — consent agenda

A. Minutes

1. Joint Public Hearing April 15, 2021
2. Regular meeting May 10, 2021
3. Work session May 24, 2021

B. Miscellaneous budget amendments and transfers (revised item)

C. Miscellaneous Tourism Board amendments and transfers

D. Hillsborough Tourism Board FY2022 Budget Ordinance

E. Proclamation Commemorating Juneteenth Independence Day

F. Consistency statement and ordinance amending Unified Development Ordinance Sections 7.5 – limiting the requirement to combine nonconforming lots

G. Consistency statement and ordinance amending Unified Development Ordinance Sections 5.1.6 and 5.1.7, Table of permissible uses

H. Reclassification and pay amendment – utilities analyst position to civil engineer

I. Deed restriction for all town parcels surrounding the West Fork Eno Reservoir

- J. Special event permit – road closure and sponsorship request for police service for Juneteenth March
- K. NC 86 Connector Study (Phase II)
- L. Community Development Block Grant (CDBG-CV) project ordinance and associated budget amendment (added item)

Motion: Ferguson moved to approve all items on the amended consent agenda. Bell seconded.

Kimrey called the roll for voting.

Vote: 5-0. Ayes: Bell, English, Ferguson, Hughes and Lloyd. Nays: None.

6. Items for decision — regular agenda

A. Consistency statement and ordinance amending Unified Development Ordinance Sections 5.2.9.2 and 6.3.1 – citizen request related to accessory dwelling units and setbacks

Planning Director Margaret Hauth said she placed this request for text amendments on the regular agenda vs. the consent agenda because the Planning Board had a lot of discussion on it at the public hearing. She said the request is from a private property owner who would like to construct an accessory dwelling on the property. The ordinance does not allow accessory dwellings on private roads. The owner also would like to change the setback requirements of the property, which is zoned agricultural residential and has setbacks of 50 feet on all sides. The structures on this property are built closer to the property line already. The owner is asking to conform with setbacks in a nearby neighborhood, with a 40-foot setback in front and 30-foot setbacks on the other sides. Hauth said staff does its best to find options that don't involve changing the ordinance since it is a solution that impacts the entire town. She said the Planning Board's recommendation to allow accessory dwellings on private roads was not unanimous.

She answered questions from the board. She said the property is on Burnside Drive and is one of a few agricultural residential areas serviced by town water and sewer. Most agricultural residential zoning is outside town limits, and the impact of the request would be very limited, especially for the setback issue.

Hughes suggested separating the vote on setbacks and accessory dwelling units.

There was additional discussion. Hauth noted a change in the setback would affect all land zoned agricultural residential. She said that properties with the designation include the mining area and some places in West Hillsborough and that mining is regulated by the state. She said the only other tool that could be used to grant the request is a variance, but there is no hardship in this case to justify a variance. Hauth said reducing the setback gives property owners more ability to use their lot. She said individual houses that would be impacted likely are a dozen or fewer; a lot of the land in areas without water and sewer service are not developed; and the town has almost no way to oversee property used for agricultural purposes in its extraterritorial jurisdiction.

Motion: Hughes moved to approve ordinance change and consistency statement regarding setbacks. Lloyd seconded.

Kimrey called the roll for voting.

Vote: 3-1. Ayes: Bell, Ferguson, and Lloyd. Nays: Hughes. English lost connection and was unable to vote.

The board discussed the request to allow an accessory dwelling unit on a private road. The planning director said the applicant wants to build a garage with an apartment over it for a family member. She said the town greatly expanded the ability to have accessory dwelling units but the requirement to be on a public road has been in place for more than 30 years. Hauth said the Planning Board discussed whether a fixed distance could be set from a private road to allow accessory dwellings. The distance needed to allow the unit at this particular property is 300 feet, which would allow accessory dwellings on any private road in town. One of the Planning Board members was opposed to allowing the unit on a private road.

Hauth answered questions from the board. She confirmed the private road is a gravel road. She said it is one of the oldest private roads in town and probably one of the more well-constructed ones, noting that garbage trucks do travel it. She said most of the new private roads built are to access deeper lots and most private roads in town are very short. Hauth said the Planning Board discussed looking at the standard of a private road and she was very hesitant to accept the option because town staff are not qualified to look at a road and determine whether it's built to a certain standard and because the maintenance and standard for private roads is determined by the private owners. It was determined that a fair standard could not be implemented and the only option before the Planning Board was to allow accessory dwellings on private roads or don't.

In answering what the downside is to allowing accessory dwellings on private roads, Hauth said that not all private roads have been built in the last five years and some may not be well maintained or have a maintenance agreement among all the owners. She said the more people who live on a private road, the more pressure there will be also for the town to accept a road that would be a challenge. Hauth said staff have had conversations that private roads are a problem in the long run and perhaps they should not be allowed in town.

The mayor noted that the town has already taken steps to make accessory dwelling units more accessible to people and that both parts of this request seem to do that. In this case, the dwelling would make it possible for an aging parent to live on site. For another person, renting out the unit could help produce funds to maintain the road.

There was continued discussion about the assumption people have that private roads are public and subject to the same services as public roads and about the treatment of this private road. Hauth said the long tradition of garbage and recycling service on this road and the possibility of the road becoming public should be discussed separately.

Motion: Bell moved to adopt the ordinance and consistency statement to allow accessory dwelling units on private roads. Lloyd seconded.

Kimrey called the roll for voting.

Vote: 3-2. Ayes: Bell, English and Lloyd. Nays: Ferguson, Hughes.

~~B. Order closing unopened right of way named Cole Avenue~~

~~Motion: Hughes moved to close unopened right of way named Cole Avenue. Ferguson seconded.~~

~~Kimrey called the roll for voting.~~

~~Vote: 5-0. Ayes: Bell, English, Ferguson, Hughes and Lloyd. Nays: None.~~



Section 4, Item B.

- Single Family Parcels on Private Streets with ADU Potential in Town Limits and ETJ
- Town Limits
- Extraterritorial Jurisdiction



Private Street off McAdams Road



Private Street – Birch Run Minor Subdivision off North Nash Street



Private Street – Private Portion of Daphine Drive (Daphine Court)



Private Street - Amanda Lane



Unnamed Private Street off W Orange Street 1



Unnamed Private Street off W Orange Street 2





PLANNING BOARD STATEMENT OF PLAN CONSISTENCY AND RECOMMENDATION

Unified Development Ordinance Text Amendment request from a resident regarding freestanding (detached) accessory dwelling units
September 19, 2024

WHEREAS, the Town of Hillsborough Planning Board has received and reviewed an application from Natalie Dolgireff to amend the Town of Hillsborough UDO (Unified Development Ordinance) as follows:

Amend UDO §5.2.8 (Dwelling, Accessory) to allow freestanding (detached) accessory dwelling units on private streets.

WHEREAS, North Carolina General Statute 160D-604 (Planning Board Review and Comment), paragraphs (b) (Zoning Amendments) and (d) (Plan Consistency), require that, when considering a proposed text amendment, the Planning Board must advise and comment on whether the amendment is consistent with any adopted comprehensive or land-use plan, and any other applicable, officially adopted plan. The Planning Board must then provide a written recommendation to the Town Board of Commissioners addressing plan consistency and other matters deemed appropriate; and

WHEREAS, UDO §3.7.10 (Planning Board Recommendation) requires the written report be delivered to the Town Board of Commissioners within 30 days of the amendment's initial referral to the Planning Board; and

WHEREAS, after discussion and deliberation on the requested amendment, the Planning Board finds:

1. The proposed amendment **IS/IS NOT CONSISTENT** with the Town of Hillsborough CSP (Comprehensive Sustainability Plan); specifically, the *Town Government and Public Services* chapter goal to "Adopt local laws, regulations, and policies that help to achieve sustainable and equitable outcomes."
2. The proposed regulations **ADVANCE/DO NOT ADVANCE** identified goals and strategies found in the CSP and **PROMOTE/DO NOT PROMOTE** the public health, safety, and welfare by making access requirements for freestanding (detached) accessory

dwelling units consistent with access requirements for accessory dwelling units within principal single-family dwellings (attached).

WHEREFORE, upon a motion by _____, seconded by _____, the foregoing was put to a vote of the Board, the results of which vote are as follows:

Ayes:

Noes:

Absent:

NOW, THEREFORE, the Board hereby **RECOMMENDS** that the Town Board of Commissioners **APPROVE/DENY** the requested text amendment.

Frank Casadonte, Chair
Town of Hillsborough Planning Board

Date of signature by Chair: _____, 2024



Agenda Abstract PLANNING BOARD

| | |
|-------------------------|---------------------------------------|
| Meeting Date: | September 19, 2024 |
| Department: | Planning & Economic Services Division |
| Agenda Section: | 4C |
| Public hearing: | Yes |
| Date of public hearing: | August 15, 2024 |

PRESENTER/INFORMATION CONTACT

Molly Boyle, Planner II
Shannan Campbell, Planning & Economic Services Manager

ITEM TO BE CONSIDERED

Subject: Unified Development Ordinance (UDO) text amendment (applicant-initiated): Section 5.1.8 *Use Table for Non-residential Districts*

Attachments:

1. Application materials, including proposed revisions and reasoning
2. Map of GC zoned properties in town's jurisdiction
3. Staff draft of text amendment
4. Draft consistency statement

Background & Proposal:

The applicant owns two parcels on US 70 E totaling approximately 16.43 acres (PINs 9875-10-4533 and 9875-00-9537). The parcels were previously zoned Entranceway Special Use (ESU) with a master plan, which allowed for a variety of non-residential uses. The parcels were then annexed and rezoned to General Commercial (GC) on June 21, 2023, at the applicant's request. The House at Gatewood restaurant is on PIN 9875-10-4533. The other parcel is undeveloped.

The applicant's submittal, including the proposed amendment and justification, is attached. The applicant is proposing to amend Table 5.1.8 *Use Table for Non-residential Districts*. Specifically, they are proposing the following uses be allowed in the General Commercial district subject to a Special Use Permit:

- Dwelling, Attached (5-19 units)
- Dwelling, Attached (20+ units)

The joint public hearing for this proposal was held on August 15, 2024. The draft minutes for the hearing are enclosed in this agenda packet for Planning Board review and approval.

Comprehensive Sustainability Plan goals:

- Land Use & Development Goal 1: Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.
- Strategy: Ensure that land use and development regulations are aligned with preferred future land use and growth patterns.

Financial impacts:

None

Staff comments:

Planning

Note that single-family residences (and associated accessory dwelling units) are allowed by right in the General Commercial district. It appears the district was originally applied in areas with a high concentration of existing single-family residences along a major thoroughfare.

The UDO does not intend for multi-family residential uses in the General Commercial (GC) district. UDO Section 4.2.5, *General Commercial District (GC)* states, “the purpose of the GC District is to accommodate a diverse range of retail, service, and office uses that provide goods and services to the residents and businesses in the community at large...”. If multi-family residential uses are to be allowed in General Commercial, this language in Section 4.2.5 will need to be amended.

Allowing multi-family uses in the General Commercial district may also necessitate amending the Future Land Use Plan. For example, the applicant’s properties are zoned General Commercial and designated as Retail Services on the Future Land Use Map/Plan. The plan envisions Retail Services near residential development, but it does not envision mixed-use development, such as retail and multi-family residential on the same parcel. The plan would need to be amended to include residential uses in any Future Land Use category that corresponds with the General Commercial district. The Future Land Use Map/Plan can be found under “Ordinances and Other Guiding Documents” on the town’s website: <https://www.hillsboroughnc.gov/about-us/departments/community-services/planning>.

Creating more opportunities for mixed-use development is reasonable, even desirable. However, with upcoming updates to the UDO and Future Land Use Map/Plan, the proposed amendment is premature. This amendment would apply to all GC-zoned properties and would necessitate additional amendments to the UDO and Future Land Use Map/Plan. Further research would be necessary to determine the feasibility of allowing multi-family development on all existing parcels zoned General Commercial.

A request to rezone the applicant’s parcels to Planned Development (PD) or Multi-Family (MF) would be more appropriate to achieve mixed use development or multi-family development in this location. However, rezoning the parcels would still not guarantee utility capacity, and there are concerns about the town’s ability to serve multi-family development in this location (see comments from Utilities below).

Utilities

The town’s sewer model is based on flow rates from commercial developments consistent with Subchapter 02T, *Waste Not Discharged to Surface Waters* in the North Carolina Administrative Code. Flow from residential development within commercial areas is consistently higher than commercial flows (even with the state’s recent reductions in residential flows).

Utilities would need to re-model the impacts of allowing multifamily “by right” in commercial areas before confirming that the utilities system could support this change. It is unlikely that modeling the areas impacted by the proposed amendment will indicate that capacity is available to support the proposed UDO change given observed current capacity constraints in the sewer system.

Staff recommendation: Staff recommends denial of the proposed text amendment.

Action requested: Make a recommendation on the proposed text amendment.



TOWN OF
HILLSBOROUGH

GENERAL APPLICATION

Amendment to Future Land Use Map, Unified Development Ordinance or Official Zoning Map

Planning and Economic Development Division
101 E. Orange St., PO Box 429, Hillsborough, NC 27278
919-296-9477 | Fax: 919-644-2390
www.hillsboroughnc.gov

This application is for amendments to the Comprehensive Sustainability Plan, Unified Development Ordinance, and/or Official Zoning Map. Incomplete applications will not be accepted or processed.

| OFFICIAL USE ONLY | | |
|-------------------|------------------|---------------|
| Case Number: | Fee: \$ | Receipt No.: |
| FLUM Designation: | Zoning District: | Overlay Zone: |

Amendment Type: Future Land Use Map Unified Development Ordinance Text
 Zoning Map – General Use or Overlay District Zoning Map – Planned Development District

| PROPERTY LOCATION AND DESCRIPTION | |
|---|---|
| Property Address or Location: <i>300 Route 70, Hillsborough, NC</i> | |
| PIN(s): <i>9875104533</i> | Size of Property (Acres/Sq. Ft.): <i>76 acres</i> |
| Current Use of Property: <i>Commercial / Restaurant</i> | |
| Current Zoning Classification(s): <i>General Commercial Use</i> | |
| Proposed Zoning Classification(s): <i>General Commercial Use</i> | |

| CERTIFICATION AND SIGNATURES | |
|---|---|
| Applications will not be accepted without signature of legal property owner or official agent. | |
| I certify that the information presented by me in this application and all accompanying documents are true and accurate to the best of my knowledge, information, and belief; and I acknowledge that the processing of this application may require additional town, county and/or state permits, approvals, and associated fees. | |
| Applicant Name: <i>Jennifer Spada</i> | Legal Property Owner Name: <i>Gatwood Properties, LLC</i> |
| Mailing Address: <i>4017 McKee School Rd</i> | Mailing Address: <i>Properties, LLC</i> |
| City, State, ZIP Code: <i>Hurdle Mills, NC 27541</i> | City, State, ZIP Code: <i>Same</i> |
| Telephone: [REDACTED] | Telephone: <i>Contact info</i> |
| Email: [REDACTED] | Signature: <i>[Signature]</i> |
| Signature: <i>J Spada</i> | Signature: <i>[Signature]</i> |
| Date: <i>6/24/24</i> | Date: |



TOWN OF
HILLSBOROUGH

SUPPLEMENTAL FORM

Amendment to Official Zoning Map

Planning and Economic Development Division
101 E. Orange St., PO Box 429, Hillsborough, NC 27278
919-296-9477 | Fax: 919-644-2390
www.hillsboroughnc.gov

To the Hillsborough Board of Commissioners:

I, Jennifer Spada, hereby petition the Board of Commissioners to change the zoning designation of the property described in the attached General Application Form

FROM General Commercial Use ~~General Commercial Use~~ General Commercial Use + SUP for attached dwellings

FACTORS RELEVANT TO DECISION TO AMEND THE OFFICIAL ZONING MAP

The Hillsborough Unified Development Ordinance lists the following 10 general standards/findings of fact that the Board of Commissioners must weigh and consider before deciding to amend the official zoning map. Below or on a separate sheet, indicate the facts you intend to show and the arguments you intend to make to convince the Board of Commissioners that it can properly reach these 10 findings.

1. The extent to which the proposed amendment is consistent with all applicable Town adopted plans.

This proposed amendment would keep the desired Commercial zoning on North End of town, but allow for integrated housing to support Commercial businesses.

2. The extent to which there are changed conditions that require an amendment.

Feedback from multiple Commercial Developers & potential tenants, like Breweries & Cideries say more roof tops are needed to support investment.

3. The extent to which the proposed amendment addresses a demonstrated community need.

The North End of town needs more Commercial development, like House at Gatewood and the town needs more housing.

4. The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land. is consistent with the Hillsborough Comprehensive Plan.

Proposed changes are consistent with the Commercial planned use for North End of town / Comprehensive Plan

5. The extent to which the proposed amendment would result in a logical and orderly development pattern or deviate from logical and orderly development patterns.

No deviation from orderly development patterns

6. The extent to which the proposed amendment would encourage premature development.

The overall plan for Commercial Development of our property was started in 2017. There should not be premature development.

7. The extent to which the proposed amendment would result in strip or ribbon commercial development.

This would not cause strip or ribbon commercial development.

8. The extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to or incompatible with adjacent and surrounding zoning districts.

This would tie the North End together more.

9. The extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands.

This would increase property values as the House at Gatewood development already has.

10. The extent to which the proposed amendment would result in significantly adverse environmental impacts, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

There should not be negative environmental impacts and SUPs for attached dwellings will give tower more control.

I certify that all the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

J Spada
Signature of Applicant

6/24/24
Date

Request for Text Change to the Commercial Zoning – Town of Hillsborough, NC

Introduction

We own 16 acres of General Commercial Use land on the north end of Hillsborough, at 300 Route 70 and have a restaurant on the property, House at Gatewood. Our plan for the property is to be a destination for hospitality, adding other commercial businesses to enhance the restaurant and event business we have already established. Based on feedback from several Commercial developers, the limiting factor for Commercial investment and development on the north end is the limited number of roof tops to support new Commercial businesses. Therefore, we are requesting a change to the Hillsborough, NC Unified Development Ordinance to add Special Use Permitting (SUP) for attached dwellings in the permitted use table for the General Commercial (GC) districts. This change will allow residential to be selectively incorporated into commercial development projects, creating increased demand for to allowing residential use in GC districts with an SUP would benefit the town by creating more commercial services, enhancing the quality of life for residents, and creating a more walkable/sustainable environment within the town borders.

Proposed Change to the Permitted Use Table

The current permitted uses for the Commercial Zoning District does not allow any residential use, except for a single family home. We would like to expand on this by allowing SUPs for attached dwellings that can be incorporated into commercial development. This will make commercial development of the north end of town more attractive to developers and potential tenants.

The proposed change to the permitted use table is highlighted in red:

| 5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS | | | | | | | | | | | | | | |
|--|--------|----|----|---------|--|-----|---------|--------|---------|-------------------|----|---------|----------|----------|
| P = Permitted by Right accessory use | | | | | SUP = Permitted with a Special Use Permit * = Refer to 5.2.47 | | | | | PA = Permitted as | | | | |
| | L O | NB | OI | CC | GC | HIC | AR U | B P | ED D | L I | GI | ES U | NBS U | SDS U |
| Adult Day Care | | | P | | | P | | | | | | SU P | SUP | SUP |
| Adult Use | | | | | | SUP | | | | | | | | |
| Artisan Studio | P | P | P | P | P | P | P | P | P | P | P | SU P | SUP | SUP |
| Bank & Financial Institution | P | | P | SU P | P | P | | P | P | | | SU P | | SUP |
| Bar | | | | P | P | P | P | | P | | | SU P | | SUP |

| | | | | | | | | | | | | | | |
|------------------------|--|---|---|---------|---|---|---|---|---|---|---|---------|-----|-----|
| Event Center | | | P | SU P | P | P | P | P | P | | | SU P | SUP | SUP |
| Extended Care Facility | | | P | | | P | | | | | | SU P | | SUP |
| Family Care Home | | | | | | | | | | | | SU P | SUP | SUP |
| Family Child Care Home | | | | | | | | | | | | | SUP | |
| Farm, Bona fide | | | | | | | | | | | | | | |
| Farmer's Market | | P | P | P | P | P | P | | P | P | P | SU P | | SUP |

Rationale for Allowing Residential Use with an SUP in GC Districts

The rationale for allowing residential use with an SUP in GC districts is based on the following considerations:

- The GC district is intended to accommodate a wide range of commercial uses that serve the needs of the town and the region. Allowing residential use with an SUP in GC districts would not change the primary purpose of the district, but rather add a complementary use that would support the existing and future commercial activities, bringing new businesses and new investment to the area.
- The GC district is suitable for mixed-use development that integrates residential and commercial uses in a compact and walkable form. Allowing residential use with an SUP in GC districts would create more opportunities for mixed-use development that would enhance the vitality and diversity of the town, provide more housing options and affordability, and reduce the dependence on automobiles and greenhouse gas emissions.
- The GC district is subject to the SUP process, which requires review and approval by the Board of Adjustments, based on specific criteria and conditions. Allowing residential use with an SUP in GC districts would ensure that each proposal is evaluated on its own merits and impacts, and that the town has the authority and discretion to approve, deny, or modify the proposal to protect the public interest.

Benefit to House at Gatewood and 300 Route 70 Property

We believe this change is important to the development of our property at 300 Route 70, where we established the House at Gatewood. The ability to incorporate rooftops into the development plans for our property will increase interests of potential tenants and partners that can bring new commercial businesses, hospitality, and entertainment to residents and visitors.

Allowing residential use with an SUP in GC districts would enable the property owner to pursue this vision, which would have several advantages for the town and the business:

- It would expand the hospitality options in the town, attracting more visitors and generating more tax revenue.
- It would create a built-in customer base for the existing and future businesses on the site, such as the restaurant, the event venue, and the retail shops.
- It would increase the investment and development potential of the property, enhancing its value and appearance.
- It would preserve the historic character and charm of the House at Gatewood, which is a landmark and an asset for the town.

By allowing residential use with an SUP in GC districts, the town would support the growth and success of the House at Gatewood and the 300 Route 70 property, while ensuring that any proposed development meets the standards and goals of the town's comprehensive plan and zoning ordinance.

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

P = Permitted by Right

SUP = Permitted with a Special Use Permit

PA = Permitted as accessory use

* = Refer to 5.2.47

| | LO | NB | OI | CC | GC | HIC | ARU | BP | EDD | LI | GI | ESU | NBSU | SDSU |
|------------------------------------|----|-----|-----|-----|--------|--------|-----|----|-----|----|-----|-----|------|------|
| Adult Day Care | | | P | | | P | | | | | | SUP | SUP | SUP |
| Adult Use | | | | | | SUP | | | | | | | | |
| Artisan Studio | P | P | P | P | P | P | P | P | P | P | P | SUP | SUP | SUP |
| Bank & Financial Institution | P | | P | SUP | P | P | | P | P | | | SUP | | SUP |
| Bar | | | | P | P | P | P | | P | | | SUP | | SUP |
| Bed and Breakfast Facility | | | | | | | | | | | | | | |
| Botanical Garden & Arboretum | | P | P | P | P | P | P | | | | P | SUP | | |
| Brewery | | SUP | | | P | P | P | P | P | P | P | | | |
| Building/Trade Contractor's office | | P | | | P | P | | P | P | P | P | SUP | | |
| Cemetery | | | SUP | | | SUP | | | | | | | | |
| Child Day Care | | P | P | | P | P | P | P | P | | | SUP | SUP | SUP |
| Church, Place of worship | | P | P | P | | | P | | P | | | SUP | SUP | SUP |
| Detention Facility | | | SUP | | | | | | SUP | | | | | |
| Dwelling: Accessory | | P | P | P | P | P | | P | | | | SUP | SUP | SUP |
| Dwelling: Attached (1-4 units) | | | | P | | | P | | | | SUP | SUP | SUP | SUP |
| Dwelling: Attached (5-19 units) | | | | P | SUP | | P | | | | SUP | SUP | | SUP |
| Dwelling: Attached (20+ units) | | | | SUP | SUP | | P | | | | SUP | SUP | | SUP |
| Dwelling: Mobile Home A | | | | | | | | | | | | | | |
| Dwelling: Mobile Home B | | | | | | | | | | | | | | |
| Dwelling: Mobile Home C | | | | | | | | | | | | | | |
| Dwelling: Single-family | | P | P | P | P | P | | | | | | SUP | SUP | SUP |
| Electronic Gaming Operation | | PA | | PA | PA/SUP | PA/SUP | | | | | | | SUP | |
| Event Center | | | P | SUP | P | P | P | P | P | | | SUP | SUP | SUP |
| Extended Care Facility | | | P | | | P | | | | | | SUP | | SUP |
| Family Care Home | | | | | | | | | | | | SUP | SUP | SUP |
| Family Child Care Home | | | | | | | | | | | | | SUP | |

| | | | | | | | | | | | | | | | |
|-----------------|--|---|---|---|---|---|---|--|---|---|---|--|-----|--|-----|
| Farm, Bona fide | | | | | | | | | | | | | | | |
| Farmer's Market | | P | P | P | P | P | P | | P | P | P | | SUP | | SUP |



Section 4, Item C.

Town of Hillsborough Properties Zoned General Commercial (GC)

- Properties Zoned GC
- Parcels
- Town Limits
- Extraterritorial Jurisdiction



4C. Staff draft of text amendment

4.2 BUSINESS BASE ZONING DISTRICTS

4.2.5 GENERAL COMMERCIAL DISTRICT (GC)

4.2.5.1 Intent

The purpose of the GC District is to accommodate a diverse range of retail, service, and office uses that provide goods and services to the residents and businesses in the community at large – e.g., shopping centers, convenience stores, and retail sales establishments. Attached dwelling developments of 5 units or more may be allowed subject to the issuance of a Special Use Permit. Performance standards shall be used to insure the absence of adverse impacts beyond the zoning district boundary.

4.2.5.2 Application Criteria

This district will usually be applied where the following conditions exist:

- 4.2.5.2.a Water and sewer lines exist at the site or are to be made available as part of the development process.
- 4.2.5.2.b All property to be designated for new development under this classification shall have direct access to arterial streets.

5.1.8 TABLE: USE TABLE FOR NON-RESIDENTIAL DISTRICTS

| P = Permitted by Right | SUP = Permitted with a Special Use Permit | | | | | | PA = Permitted as accessory use | | | | | * = Refer to 5.2.47 | | | |
|------------------------------------|---|-----|-----|-----|------------|--------|---------------------------------|----|-----|----|-----|---------------------|-----|------|------|
| | LO | NB | OI | CC | GC | HIC | ARU | BP | EDD | LI | GI | | ESU | NBSU | SDSU |
| Adult Day Care | | | P | | | P | | | | | | | SUP | SUP | SUP |
| Adult Use | | | | | | SUP | | | | | | | | | |
| Artisan Studio | P | P | P | P | P | P | P | P | P | P | P | | SUP | SUP | SUP |
| Bank & Financial Institution | P | | P | SUP | P | P | | P | P | | | | SUP | | SUP |
| Bar | | | | P | P | P | P | | P | | | | SUP | | SUP |
| Bed and Breakfast Facility | | | | | | | | | | | | | | | |
| Botanical Garden & Arboretum | | P | P | P | P | P | P | | | | P | | SUP | | |
| Brewery | | SUP | | | P | P | P | P | P | P | P | | | | |
| Building/Trade Contractor's office | | P | | | P | P | | P | P | P | P | | SUP | | |
| Cemetery | | | SUP | | | SUP | | | | | | | | | |
| Child Day Care | | P | P | | P | P | P | P | P | | | | SUP | SUP | SUP |
| Church, Place of worship | | P | P | P | | | P | | P | | | | SUP | SUP | SUP |
| Detention Facility | | | SUP | | | | | | SUP | | | | | | |
| Dwelling: Accessory | | P | P | P | P | P | | P | | | | | SUP | SUP | SUP |
| Dwelling: Attached (1-4 units) | | | | P | | | P | | | | SUP | | SUP | SUP | SUP |
| Dwelling: Attached (5-19 units) | | | | P | <u>SUP</u> | | P | | | | SUP | | SUP | | SUP |
| Dwelling: Attached (20+ units) | | | | SUP | <u>SUP</u> | | P | | | | SUP | | SUP | | SUP |
| Dwelling: Mobile Home A | | | | | | | | | | | | | | | |
| Dwelling: Mobile Home B | | | | | | | | | | | | | | | |
| Dwelling: Mobile Home C | | | | | | | | | | | | | | | |
| Dwelling: Single-family | | P | P | P | P | P | | | | | | | SUP | SUP | SUP |
| Electronic Gaming Operation | | PA | | PA | PA/SUP | PA/SUP | | | | | | | | SUP | |
| Event Center | | | P | SUP | P | P | P | P | P | | | | SUP | SUP | SUP |
| Extended Care Facility | | | P | | | P | | | | | | | SUP | | SUP |
| Family Care Home | | | | | | | | | | | | | SUP | SUP | SUP |
| Family Child Care Home | | | | | | | | | | | | | | SUP | |
| Farm, Bona fide | | | | | | | | | | | | | | | |
| Farmer's Market | | P | P | P | P | P | P | | P | P | P | | SUP | | SUP |

5.2 USE-SPECIFIC STANDARDS

5.2.9 DWELLING, ATTACHED

5.2.9.1 Categories of Attached Dwellings

This Ordinance hereby establishes the following attached dwelling use types:

- 5.2.9.1.a Attached Dwellings Up to 4 Units;
- 5.2.9.1.b Attached Dwellings 5-19 Units; and
- 5.2.9.1.c Attached Dwellings 20+ Units.

The review and approval process for these uses are specified in tables 5.1.7, *Use Table for Residential Districts*, and 5.1.8, *Use table for Non-Residential districts*, for each zoning district.

5.2.9.2 Standards of Evaluation

The following specific standards shall be used to evaluate an application for approval of this use:

- 5.2.9.2.a The number of dwelling units per acre proposed is equal to or less than the maximum number of units per acre permitted in the district in which they are proposed, when calculated according to the rounding information provided in Section 9.
- 5.2.9.2.b Site plans show compliance with the dimensional requirements for the applicable Zoning District in which the attached dwelling unit is being developed.
- 5.2.9.2.c For developments consisting of 5 or more dwelling units, vehicular ingress and egress and exits for the development are directly off a public road(s) which is either a collector or arterial street and meet the driveway standards in Section 6.9, *Driveway Connections*. Up to 4 dwelling units are permissible on any public street.
- 5.2.9.2.d The interior roads and parking areas shall meet the required specifications included in Section 6.21, *Streets*.
- 5.2.9.2.e The project is served or is proposed to be served by public water and sewer systems. The proposed distribution systems have been sized to meet the demands of the project, including fire protection.
- 5.2.9.2.f The Fire Marshal has reviewed and approved in writing the fire protection plan, including the location of fire hydrants.
- 5.2.9.2.g The utility plan has been reviewed and approved by the Utilities Director and the State has approved the extension of the Town's systems. All utilities, including electrical, telephone, and cable television, are to be installed underground.
- 5.2.9.2.h The lighting plan meets or exceeds the specification of this Ordinance.
- 5.2.9.2.i The grading, storm drainage, and soil erosion and sedimentation control plans have been reviewed and approved by the Orange County Soil Erosion and Sedimentation Control Officer or consulting Engineer, as applicable.
- 5.2.9.2.j The pedestrian circulation minimizes the conflicts between pedestrians and

motor vehicles, and it provides convenient access to all common areas and facilities and to public streets.

- 5.2.9.2.k** The proposed trash container and recycling system meets the requirements of this Ordinance and the Orange County Solid Waste Management Ordinance.
- 5.2.9.2.l** The site plan shows the phasing, if any, of the development, including any phases to be developed later. If a development is to be built in phases, and complete plans for the succeeding phases are not available, then the requirements in this section shall apply to each phase as if it were a separate and discrete development. Further, when a development is built in phases and includes improvements that are designed to relate to, benefit, or be used by the entire development, (such as swimming pools or tennis courts), the developer shall submit a schedule for completion of these improvements. All common implements necessary to comply with the requirements of this Ordinance for each phase must be completed before occupancy of a subsequent phase may commence.
- 5.2.9.2.m** An improvement must be scheduled and completed before the final phase of the development is begun. The permit-issuing authority may, in special cases (exclusive of financial hardship) authorize the applicant to commence the intended use of the property or to occupy any building before these improvements are installed provided that a performance bond or other security satisfactory as to amount certified by the applicant's engineer to be 125% of the estimated cost to complete the work, and in a form to the Town Attorney, is furnished.

5.2.9.3 Recreational Standards for attached dwellings

For recreational standards, see Section 6.15, *Recreational Sites*.

5.2.9.4 Open Space Standards for attached dwellings

For open space standards, see Section 6.12, *Open Space*.

5.2.9.5 Zoning District Specific Standards for attached dwellings

5.2.9.5.a Central Commercial (CC) District

- (a) It is the intent of these provisions to allow attached dwelling developments on lots zoned Central Commercial in an effort to mix land uses within the Central Commercial zone to the extent that it does not detract from the function of the zone as a commercial center. It is not the intent of this section to impede the location of retail establishments in the CC district.
- (b) Any lot within the CC zone may contain a single dwelling unit along with a non-residential enterprise or as an individual use.
- (c) An existing building in the CC zone may renovate existing gross floor area into attached dwellings when:
 - i. The ground floor area is used for non-residential uses and access to the dwelling(s).
 - ii. The conversion does not require an addition of enclosed building

- area other than creating access from the ground level, if necessary.
- iii. Applicant provides construction drawings verifying there is adequate water, sewer, and solid waste collection service to the property to comply with paragraphs e, f, g, h, and k in Section 5.2.109.2 above and all other applicable town and building codes. The requirements in Section 5.2.109.2_a, b, c, d, i, j, l, and m, Section 5.2.109.3, and Section 5.2.109.4 do not apply to these units.
- (d) New buildings in the CC zone may be constructed for attached dwellings when:
- i. The ground floor area of all buildings(s) is used for non-residential uses and access to the dwelling(s).
 - ii. Off-street parking is provided at a rate of 1.2 spaces per dwelling unit.
 - iii. Applicant provides a site plan and construction drawings verifying compliance with the relevant requirements of Section 5.2.109.2 and all other applicable town and building codes.
 - iv. The requirements in Section 5.2.109.3 and Section 5.2.109.4 apply to any site containing twenty or more dwelling units
 - v. The requirements of Section 6.10, Landscaping (Parking Lot), apply to parking and vehicle accommodation areas proposed to be constructed or modified as part of the project.

5.2.9.5.b General Commercial (GC) District

- (a) It is the intent of these provisions to allow attached dwelling developments on lots zoned General Commercial in an effort to mix land uses within the General Commercial district to the extent that it does not detract from the function of the district as predominantly commercial. It is not the intent of this section to impede the location of commercial establishments in the General Commercial district.
- (b) Any lot within the General Commercial district may contain a single-family dwelling unit along with a non-residential enterprise or as an individual use.
- (c) An applicant may seek approval of a Special Use Permit to convert existing buildings or construct new buildings for attached dwellings of five (5) units or more. In addition to all other requirements for Special Use Permits set forth in Section 3.8, Special Use Permits, an applicant seeking a Special Use Permit under this subparagraph must submit the following information with their application:
- i. Documentation from a licensed commercial real estate appraiser indicating that the property is not suitable for sole commercial use due to reasons other than market trends, such as location, access, lot size, topography, and environmental features; and
 - ii. A written statement from the Town of Hillsborough Utilities Department that the town has capacity to serve the proposed development with water and sewer.

(d) Attached dwellings shall be permissible on property zoned General Commercial only when commercial development is also present or proposed on the property.

5.2.9.5.c *General Industrial (GI) District*

An applicant may seek approval of a Special Use Permit to convert an existing or former industrial building to an attached dwelling development if the building façade is maintained or designed to maintain sufficient detailing and characteristics as to retain its industrial character.

In addition to all other required submittals for Special Use Permits set forth in Section 3.8, *Special Use Permits*, applicants seeking a Special Use Permit under this subparagraph must include with their application:

- (a) Elevations showing the existing building facade and the proposed building façade.
- (b) Application materials shall indicate compliance with the relevant requirements for accessory dwelling developments in this Ordinance.
- (c) An applicant may include retail, service, and/or office uses in the permit request which encompass up to thirty (30) percent of the floor area of the project.
- (d) The Board of ~~Commissioners-Adjustment~~ shall carefully consider the potential impacts on proposed residences of any existing industrial uses in the immediate vicinity and may deny an SUP for attached dwelling uses under this section if they deem the development incompatible with the existing industrial use. In addition, the Board of ~~Commissioners-Adjustment~~ must consider the potential impact of any other use permitted as of right in the district on the proposed residential use before it may find the proposed use to be compatible with the district. The Board of ~~Commissioners-Adjustment~~ may deny the SUP for attached dwelling use if the Board determines that such use, if developed as proposed at the proposed location, would not be compatible with any other use(s) permitted in the district.

6.3.2 TABLE: DIMENSIONAL REQUIREMENTS –NON-RESIDENTIAL

| | ARU | OI | NB & NBSU | CC & CCSU | GC | HIC | LI | GI | LO | ESU | EDD | BP | SDSU |
|--|----------------------|--------|--------------|--------------|--|------------------|--------|--------------|--------|---------|--------|--------|------|
| Minimum Lot Area (sf or acre) | 3 acres | 10,000 | 10,000 | None | 10,000 | 10,000 | 40,000 | 40,000 | 1 acre | 2 acres | 40,000 | 40,000 | TBD |
| Attached dwelling minimum lot size (min sf per unit) | 3,630 sf 12 DU/ac | NA | NA TBD (SUP) | NA TBD (SUP) | NA <u>2,900 sf</u> <u>15 DU/ac</u> | NA | NA | NA TBD (SUP) | NA | TBD | NA | NA | TBD |
| Minimum Lot Width | 100 | 75 | 75 | 0 | 75 | 75 | 100 | 200 | 75 | 100 | 75 | 75 | TBD |
| Minimum Side Yard Width | 20* | 20* | 15* | 0 | 15* [^] | 15* [^] | 50* | 50* | 20 | 20 | 25 | 25 | TBD |
| Minimum Rear Yard Width | 20* | 20* | 20* | 0 | 20* [^] | 20* [^] | 50* | 50* | 20 | 20 | 25 | 25 | TBD |
| Minimum Front Setback | 20 | 20 | 20 | 0 | 20 ⁺ | 20 ⁺ | 35 | 35 | 20 | 50 | 25 | 25 | TBD |
| Maximum Building Height | 65 | 40 | 35 | 40 | 40 | 65 | 65 | 65 | 60 | 60 | 45 | 60 | 60 |

* Refer to Table 6.3.3 for Side and Rear Setbacks for Zoning Lots Abutting a Different Zoning District.
[^] For parcels abutting South Churton Street between Interstate-40 and the Eno River, parking must observe at 10' landscaped setback from a side or rear property line. Please refer to Section 6.10.3
⁺ For parcels abutting South Churton Street between Interstate-40 and the Eno River, the minimum front yard setback is 30 feet and the maximum front yard setback is 100 feet, measured from the Churton Street right of way boundary.
TBD – *This standard will be determined during the SPECIAL Use Permit review process*

6.3.3 TABLE: SIDE AND REAR SETBACKS FOR LOTS ABUTTING A DIFFERENT ZONING DISTRICT

| Adjacent -> Proposed | R-40 | R-20 | R-15 | R-10 | MF | AR | ARU | OI | NB | CC | GC | HIC | GI | LI | EDD | NB-SU | CC-SU | PW | PWCA |
|--|-------------|-------------|-------------|-------------|-----------|-----------|------------|-----------|-----------|-----------|-----------|------------|-----------|-----------|------------|--------------|--------------|-----------|-------------|
| ARU | 50 | 50 | 50 | 50 | 50 | 50 | 0 | 20 | 20 | 0 | 0 | 0 | 20 | 20 | 20 | 20 | 0 | 50 | 50 |
| OI | 20 | 20 | 20 | 20 | 20 | 20 | 0 | 0 | 0 | 0 | 0 | 15 | 20 | 20 | 20 | 0 | 0 | 20 | 20 |
| NB | 15 | 15 | 15 | 15 | 15 | 15 | 0 | 0 | 0 | 0 | 0 | 15 | 15 | 15 | 15 | 0 | 0 | 15 | 15 |
| GC | 30 | 30 | 20 | 20 | 20 | 30 | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 20 | 20 | 0 | 0 | 30 | 30 |
| HIC | 30 | 30 | 20 | 20 | 20 | 30 | 0 | 15 | 15 | 15 | 0 | 0 | 20 | 20 | 20 | 0 | 0 | 30 | 30 |
| LI | 50 | 50 | 50 | 50 | 50 | 50 | 0 | 50 | 50 | 50 | 50 | 30 | 0 | 0 | 20 | 0 | 0 | 50 | 50 |
| GI | 50 | 50 | 50 | 50 | 50 | 50 | 0 | 50 | 50 | 50 | 50 | 30 | 0 | 0 | 20 | 0 | 0 | 50 | 50 |
| EDD | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 20 | 25 | 25 | 25 | 25 | 25 | 20 | 25 | 25 | 25 | 25 | 25 |



PLANNING BOARD STATEMENT OF PLAN CONSISTENCY AND RECOMMENDATION

Unified Development Ordinance Text Amendment request from a resident regarding attached dwellings in the General Commercial district
September 19, 2024

WHEREAS, the Town of Hillsborough Planning Board has received and reviewed an application from Jen Spada to amend the Town of Hillsborough UDO (Unified Development Ordinance) as follows:

Amend UDO §5.1.8 (Use Table for Non-residential Districts) to allow attached dwellings units with 5 units or more in the General Commercial district with the issuance of a Special Use Permit.

WHEREAS, North Carolina General Statute 160D-604 (Planning Board Review and Comment), paragraphs (b) (Zoning Amendments) and (d) (Plan Consistency), require that, when considering a proposed text amendment, the Planning Board must advise and comment on whether the amendment is consistent with any adopted comprehensive or land-use plan, and any other applicable, officially adopted plan. The Planning Board must then provide a written recommendation to the Town Board of Commissioners addressing plan consistency and other matters deemed appropriate; and

WHEREAS, UDO §3.7.10 (Planning Board Recommendation) requires the written report be delivered to the Town Board of Commissioners within 30 days of the amendment's initial referral to the Planning Board; and

WHEREAS, after discussion and deliberation on the requested amendment, the Planning Board finds:

1. The proposed amendment **IS/IS NOT CONSISTENT** with the Town of Hillsborough CSP (Comprehensive Sustainability Plan); specifically, the following goal and strategy in the *Land Use and Development* chapter:
 - Land Use and Development Goal 1: Ensure that future growth and development, including infill and redevelopment, are aligned with smart growth principles and consider infrastructure constraints such as water and wastewater system capacity.

- Strategy: Develop and adopt plans that contribute to meeting preferred future land use and growth patterns.

2. The proposed regulations **ADVANCE/DO NOT ADVANCE** identified goals and strategies found in the CSP and **PROMOTE/DO NOT PROMOTE** the public health, safety, and welfare by _____.

WHEREFORE, upon a motion by _____, seconded by _____, the foregoing was put to a vote of the Board, the results of which vote are as follows:

Ayes:

Noes:

Absent:

NOW, THEREFORE, the Board hereby **RECOMMENDS** that the Town Board of Commissioners **APPROVE/DENY** the requested text amendment.

Frank Casadonte, Chair
Town of Hillsborough Planning Board

Date of signature by Chair: _____, 2024



Agenda Abstract PLANNING BOARD

| | |
|-------------------------|--|
| Meeting Date: | September 19, 2024 |
| Department: | Planning and Economic Development Division |
| Agenda Section: | 4D |
| Public hearing: | Yes |
| Date of public hearing: | August 15, 2024 |

PRESENTER/INFORMATION CONTACT

Tom King, Senior Planner: (919) 296-9475; tom.king@hillsboroughnc.gov
Molly Boyle, Planner II: (919) 296-9473; molly.boyle@hillsboroughnc.gov

ITEM TO BE CONSIDERED

Subject: Unified Development Ordinance (UDO) text amendment (staff initiated):

- Section 3, *Administrative Procedures*, Subsection 3.13, *Site Plan Review*

Attachments:

1. Subsection 3.13 with proposed amendments
2. Subsection 3.13 clean version
3. Draft Statement of Plan Consistency

Summary:

Site plan review is a staff-level procedure designed to ensure uses allowed by right in a particular zoning district comply with applicable UDO requirements before zoning permit issuance. Currently, single-family homes, smaller commercial structures, & additions are exempt from the procedure, as are uses subject to a special use permit (for special use permits, site plans are reviewed and approved by the Board of Adjustment as part of the permit). Recent requests for certain uses requiring site plan approval prompted staff to re-examine when the procedure should apply. Staff discovered current requirements hinder residential uses that could increase the town's supply of duplexes & other smaller multi-family housing, as well as agricultural land uses. Staff revisited Subsection 3.13 in its entirety & proposes additional changes to remove unnecessary language & provide opportunity for vesting beyond the standard expiration date.

Comprehensive Sustainability Plan goals:

- Town Government & Public Services Goal 2: Adopt local laws, regulations, & policies that help to achieve sustainable & equitable outcomes.
 - Strategy: Develop & adopt policies that help accomplish town goals.
 - Implementation Action: Regularly review & update town policies as new information is garnered & achievements are met.
- Land Use and Development Goal 1: Ensure that future growth & development, including infill & redevelopment, are aligned with smart growth principles & consider infrastructure constraints such as water & wastewater system capacity.
 - Strategy: Ensure that land use & development regulations are aligned with preferred future land use & growth patterns.

- Implementation Action: Ensure that the Unified Development Ordinance incorporates strategies to achieve a mix of housing types through zoning.
- Housing & Affordability Goal 1: Develop & maintain a variety of safe, healthy, & sustainable housing options to increase housing stability for renters & homeowners.
 - Strategy: Adopt development regulations that contribute to meeting identifiable affordable housing needs.
 - Implementation Action: Increase diversity of housing stock through development regulations & decisions.
 - Strategy: Adopt development regulations that contribute to meeting overall housing needs.
 - Implementation Actions:
 - Adopt regulations that promote a variety in housing that fills the missing middle housing.
 - Streamline the permitting process for multiple parts of the housing development process.

Financial impacts:

None.

Staff recommendation and comments:

No public comment was received on this case at the August 15, 2024, joint public hearing. After the hearing, the Planning Board decided there was need for additional time to consider the amendment & deferred the matter to their September 19, 2024, meeting. Staff has since made one important correction & a few minor amendments to the initial draft reviewed on August 15th. The correction & amendments are captured in the Version 2 of the draft amendments.

Action requested:

Planning Board review the proposed text amendment & forward a recommendation to Town Board of Commissioners for their October 14, 2024, meeting.

VERSION 2: August 20, 2024 (Post-August 15, 2024 Joint Public Hearing)

Version 1: ~~Strikethrough~~ = Existing Language to be Removed
Underlined = Proposed Language

Version 2: ~~**Bold Strikethrough**~~ = Proposed Language to be Removed from Version 1
~~**Bold Underlined**~~ = Proposed Language Added to Version 1

1 **3.13 SITE PLAN REVIEW**

2
3 **3.13.1 INTENT**

4 ~~It is t~~The intent of this subsection is to address the specific conditions and standards of
5 evaluation for ~~the review of site plans~~ review and approval.

6
7 **3.13.2 APPLICABILITY**

8 ~~Site Plan review is the general term used to describe review of projects other than (a) the~~
9 ~~construction of or addition to single-family dwellings on lots zoned for single-family uses~~
10 ~~and (b) uses requiring a Special Use Permit, as Site Plan review is built into the Special Use~~
11 ~~Permit review process.~~

12 ~~The Site Plan Review process is applicable only to proposed development involving:~~

13 ~~**3.13.2.1** The disturbance of 10,000 square feet or more of land and/or:~~

14
15
16
17 ~~**3.13.2.1.a** the construction of new structures consisting of more than 5,000 square~~
18 ~~feet of gross floor area, or~~

19
20 ~~**3.13.2.1.b** additions to existing structures consisting of more than 2,500 square~~
21 ~~feet of gross floor area~~

22
23 ~~in any general purpose residential or non-residential zoning district.~~

24
25 ~~**3.13.2.2** The construction of attached dwelling units in any general-purpose zoning district~~
26 ~~that does not otherwise exceed a threshold established by subparagraphs a or b~~
27 ~~above.~~

28
29 ~~**3.13.2.3** All development located within the PD (Planned Development) zoning district.~~

30
31 Site plan review and approval is required prior to issuance of a Zoning Compliance Permit
32 for any development except the following:

33
34 (a) Bona fide farms and agricultural uses, including associated principal and accessory
35 buildings and structures.

36
37 (b) Single-family dwellings, two-, three-, and four-unit attached dwellings, and
38 manufactured homes, including their accessory uses and structures, located on an
39 individual lot.

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1 (c) ~~The~~ Construction of new structures not listed in (a) or (b), above consisting of **no**
2 more than 5,000 square feet of gross floor area~~;~~.

3
4 (d) Expansion of existing development if the expansion results in:

5
6 (1) an addition of no more than 15% of previously existing gross floor area, or
7 2,500 square feet of gross floor area, whichever is greater, **or**

8
9 (2) an addition of no more than 15% of previously existing parking spaces, or 10
10 parking spaces, whichever is greater, **and or**

11
12 (3) an increase of no more than 15% in the amount of land cleared for non-
13 agricultural development, or 10,000 square feet of new land clearing,
14 whichever is greater.

15
16 (e) **Any change in use provided the change does not involve development other**
17 **than that exempted above.**

18
19 (f) Any sign.

20
21 (g) Uses requiring a Special Use Permit, as site plan review is built into the Special Use
22 Permit review process.

23
24 **3.13.3 PROCEDURE**

25
26 **3.13.3.1 Authority to Apply**

27 The property owner ~~of any property,~~ or their authorized representative, may apply ~~to the~~
28 ~~Planning Director~~ for site plan approval.

29
30 **3.13.3.2 Pre-application Conference**

31 ~~Before submitting an application for site plan approval, the Applicants should first~~
32 ~~meet with the Planning Director to review the proposed site plan and the discuss~~
33 ordinance requirements of this Ordinance ~~before submitting an application for site~~
34 plan review.

35
36 **3.13.4 APPLICATION REQUIREMENTS**

37 The Planning Director shall provide forms ~~for applications~~ for site plan ~~approval review;~~
38 ~~which shall be submitted by the applicant.~~ Applicants for site plan approval shall submit all
39 required information ~~required to be submitted as set forth~~ found in the *Administrative*
40 *Manual*, and any additional information needed to demonstrate ~~and support~~ compliance

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1 with ~~the standards of evaluation~~ this Ordinance. No application shall be accepted as
2 complete unless accompanied by ~~all the~~ required application fees ~~as set forth in the~~
3 Schedule of Fees.
4

5 **3.13.5 REVIEW PROCESS**
6

7 **3.13.5.1 GENERAL**

8 The Planning Director shall review and, if the site plan submitted otherwise meets all
9 ~~of the~~ standards of this Ordinance, approve the site plans for uses permitted as of
10 right in any general-purpose zoning district. Approval or denial of the ~~Site Plan~~ shall
11 be made within 45 working days of a site plan submittal being deemed complete.
12

13 **3.13.5.2 COMPLETENESS REVIEW**

14 Upon receipt of a Site Plan Review application, the Planning Director shall first
15 determine whether the application is complete, including ~~the~~ payment of all the
16 required application fees. The Planning Director shall have five working days in which
17 to determine application completeness. If the Planning Director determines the
18 application is ~~not~~ incomplete, they shall notify the applicant in writing of the reasons
19 for such determination.
20

21 **3.13.5.3 TECHNICAL REVIEW COMMITTEE**

22 Upon determination that a complete application has been filed, the Planning Director
23 shall refer the site plan to the Technical Review Committee. The Technical Review
24 Committee shall review the plan at its next regularly scheduled meeting. Written
25 ~~committee~~ review comments shall then be forwarded to the applicant.
26

27 **3.13.6 DECISIONS ON SITE PLAN APPLICATIONS**

28 The Planning Director ~~shall have~~ has the authority to approve or deny site plans, ~~or to deny~~.
29 Denial of site plan approval shall be based on the grounds that the site plan ~~submitted~~ fails
30 to comply with any specific requirements of this Ordinance. ~~The d~~ Decisions shall be
31 provided in writing via first class mail to the applicant within 5 working days of the decision.
32

33 **3.13.7 APPEAL**
34

35 ~~**3.13.7.1**~~ A decision of the Planning Director's decision on an application for a Site Plan Review
36 may be appealed to the Board of Adjustment ~~by an aggrieved party~~. ~~Such appeal shall~~
37 ~~be made within thirty (30) days of filing of the decision in the office of the Planning~~
38 ~~Director or the delivery of the notice required in Section 3.13.6, *Decision on Site Plan*~~
39 ~~*Applications*, whichever is later, following procedures established in Section 3.11,~~
40 *Appeal*.

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1 ~~3.13.7.2~~ The official who made the decision to deny the Site Plan shall be present at the appeal
2 hearing as a witness.
3

4 ~~3.13.7.3~~ The appellant shall not be limited at the hearing to matters stated in the notice of
5 appeal. If any party or the Town would be unduly prejudiced by the presentation of
6 matters not presented in the notice of appeal, the Board of Adjustment shall continue
7 the hearing to allow such party time to adequately prepare a response.
8

9 ~~3.13.7.4~~ The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the
10 decision appealed from. The Board of Adjustment shall make any order, requirement,
11 decision, or determination that ought to be made.
12

13 **3.13.8 VESTING**

14 No statutory vested right is established by approval of a site plan. However, as part of their
15 application, applicants may request statutory vesting of a site plan following procedures
16 found in subsection 1.8, *Vested Rights*, of this Ordinance.
17

18 **3.13.9 MODIFICATIONS**

19 Approval of modifications ~~to approved site plans can~~ shall be made to the approved Site
20 Plan by applying the ~~procedures and criteria found in Sections paragraphs 3.8.18, *Minor*~~
21 ~~*Changes and Modifications*, and 3.8.19, *Criteria Used for Determination*, of this Ordinance.~~
22

23 **3.13.10 REVOCATION**

24 ~~The Planning Director may revoke site Pplan Approval may be revoked by the issuing~~
25 ~~authority by following the same procedure and applying the same criteria as established for~~
26 ~~revocation found in Section sub-paragraph 8.6.4.5, *Revocation of Permits or Certificates*, of~~
27 ~~this Ordinance.~~
28

29 **3.13.11 EXPIRATION**

30 Site plan approval expires ~~twelve (12)~~ calendar months from the date of approval if unless:

31
32 (a) a Zoning Compliance Permit has ~~not~~ been issued for the project prior to the
33 expiration date.

34
35 (b) a statutory vested right was obtained under procedures found in subsection 1.8,
36 *Vested Rights*, of this Ordinance prior to approval, or

37
38 (c) a common law vested right is obtained from the Planning Director following
39 provisions found in North Carolina General Statute 160D-108(h).

3.13 SITE PLAN REVIEW

3.13.1 INTENT

The intent of this subsection is to address the specific conditions and standards of evaluation for site plan review and approval.

3.13.2 APPLICABILITY

Site plan review and approval is required prior to issuance of a Zoning Compliance Permit for any development except the following:

- (a) Bona fide farms and agricultural uses, including associated principal and accessory buildings and structures.
- (b) Single-family dwellings, two-, three-, and four-unit attached dwellings, and manufactured homes, including their accessory uses and structures, located on an individual lot.
- (c) Construction of new structures not listed in (a) or (b), above consisting of no more than 5,000 square feet of gross floor area.
- (d) Expansion of existing development if the expansion results in:
 - (1) an addition of no more than 15% of previously existing gross floor area, or 2,500 square feet of gross floor area, whichever is greater, or
 - (2) an addition of no more than 15% of previously existing parking spaces, or 10 parking spaces, whichever is greater, or
 - (3) an increase of no more than 15% in the amount of land cleared for non-agricultural development, or 10,000 square feet of new land clearing, whichever is greater.
- (e) Any change in use, provided the change does not involve development other than that exempted above.
- (f) Any sign.
- (g) Uses requiring a Special Use Permit, as site plan review is built into the Special Use Permit review process.

3.13.3 PROCEDURE

3.13.3.1 Authority to Apply

The property owner or their authorized representative may apply for site plan approval.

3.13.3.2 Pre-application Conference

Applicants should meet with the Planning Director to review the proposed plan and discuss ordinance requirements before submitting an application for site plan review.

3.13.4 APPLICATION REQUIREMENTS

The Planning Director shall provide forms for site plan review. Applicants shall submit all required information found in the *Administrative Manual*, and any additional information needed to demonstrate compliance with this Ordinance. No application shall be accepted as complete unless accompanied by the required application fee.

3.13.5 REVIEW PROCESS

3.13.5.1 GENERAL

The Planning Director shall review and, if the site plan submitted otherwise meets all standards of this Ordinance, approve the site plan. Approval or denial of the site plan shall be made within 45 working days of a site plan submittal being deemed complete.

3.13.5.2 COMPLETENESS REVIEW

Upon receipt of a Site Plan Review application, the Planning Director shall first determine whether the application is complete, including payment of the application fee. The Planning Director shall have five working days in which to determine application completeness. If the Planning Director determine the application is incomplete, they shall notify the applicant in writing of the reasons for such determination.

3.13.5.3 TECHNICAL REVIEW COMMITTEE

Upon determination that a complete application has been filed, the Planning Director shall refer the site plan to the Technical Review Committee. The Technical Review Committee shall review the plan at its next regularly scheduled meeting. Written review comments shall then be forwarded to the applicant.

3.13.6 DECISIONS ON SITE PLAN APPLICATIONS

The Planning Director has the authority to approve or deny site plans. Denial of site plan approval shall be based on the grounds that the site plan fails to comply with any specific requirements of this Ordinance. Decisions shall be provided in writing via first class mail to the applicant within 5 working days of the decision.

3.13.7 APPEAL

The Planning Director's decision on an application for a Site Plan Review may be appealed to the Board of Adjustment following procedures established in Section 3.11, *Appeal*.

3.13.8 VESTING

No statutory vested right is established by approval of a site plan. However, as part of their application, applicants may request statutory vesting of a site plan following procedures found in subsection 1.8, *Vested Rights*, of this Ordinance.

3.13.9 MODIFICATIONS

Approval of modifications to approved site plans shall be made by applying the criteria found in paragraphs 3.8.18, *Minor Changes and Modifications*, and 3.8.19, *Criteria Used for Determination*, of this Ordinance.

3.13.10 REVOCATION

The Planning Director may revoke site plan approval by following the procedure found in sub-paragraph 8.6.4.5, *Revocation of Permits or Certificates*, of this Ordinance.

3.13.11 EXPIRATION

Site plan approval expires 12 calendar months from the date of approval unless:

- (a) a Zoning Compliance Permit has been issued for the project prior to the expiration date,
- (b) a statutory vested right was obtained under procedures found in subsection 1.8, *Vested Rights*, of this Ordinance prior to approval, or
- (c) a common law vested right is obtained from the Planning Director following provisions found in North Carolina General Statute 160D-108(h).



PLANNING BOARD STATEMENT OF PLAN CONSISTENCY AND RECOMMENDATION

Unified Development Ordinance Text Amendment request from the Planning and Economic Development Division to amend Section 3.13, *Administrative Procedures – Site Plan Review* September 19, 2024

WHEREAS, the Town of Hillsborough Planning Board has received and reviewed an application from Planning and Economic Development staff to amend the Town of Hillsborough UDO (Unified Development Ordinance) as follows:

Amend UDO §3.13 (Administrative Procedures – Site Plan Review) to exempt the following uses from site plan review and approval requirements: bona fide farms and agricultural uses; single-family dwellings; attached dwellings with 2-4 units; manufactured homes; new structures equal to or less than 5,000 sq. ft. in gross floor area; and the expansion of existing development under specific conditions.

These uses would still be subject to any other necessary approvals or permitting requirements (e.g., zoning compliance permit; building permit; riparian buffer authorization).

WHEREAS, North Carolina General Statute 160D-604 (Planning Board Review and Comment), paragraphs (b) (Zoning Amendments) and (d) (Plan Consistency), require that, when considering a proposed text amendment, the Planning Board must advise and comment on whether the amendment is consistent with any adopted comprehensive or land-use plan, and any other applicable, officially adopted plan. The Planning Board must then provide a written recommendation to the Town Board of Commissioners addressing plan consistency and other matters deemed appropriate; and

WHEREAS, UDO §3.7.10 (Planning Board Recommendation) requires the written report be delivered to the Town Board of Commissioners within 30 days of the amendment's initial referral to the Planning Board; and

WHEREAS, after discussion and deliberation on the requested amendment, the Planning Board finds:

1. The proposed amendment **IS/IS NOT CONSISTENT** with the Town of Hillsborough CSP (Comprehensive Sustainability Plan); specifically, the *Town Government and Public*

Services chapter goal to “Adopt local laws, regulations, and policies that help to achieve sustainable and equitable outcomes.”

2. The proposed regulations **ADVANCE/DO NOT ADVANCE** identified goals and strategies found in the CSP and **PROMOTE/DO NOT PROMOTE** the public health, safety, and welfare by setting more appropriate review requirements for smaller projects, including small-scale multi-family buildings.

WHEREFORE, upon a motion by _____, seconded by _____, the foregoing was put to a vote of the Board, the results of which vote are as follows:

Ayes:

Noes:

Absent:

NOW, THEREFORE, the Board hereby **RECOMMENDS** that the Town Board of Commissioners **APPROVE/DENY** the requested text amendment.

Frank Casadonte, Chair
Town of Hillsborough Planning Board

Date of signature by Chair: _____, 2024