



AGENDA
BREVARD PLANNING BOARD - REGULAR MEETING
Tuesday, January 23, 2024 - 5:30 PM
City Council Chambers

- I. Welcome**
- II. Introduction of Board Members**
- III. Certification of Quorum**
- IV. Approval of Agenda**
- V. Approval of Minutes**
 - a. December 12, 2023
- VI. Public Comments**
- VII. New Business**
 - a. UDO Chapter 16 Legislative Decisions
 - b. Subdivision and Group Development Work Session
- VIII. Unfinished Business**
- IX. Remarks**
- X. Adjourn**

Agenda Posted, Website(January 19, 2024)
J. Pinson, Clerk to the Board

To review Agenda materials, go to the City's website www.cityofbrevard.com. Select "Your Government" tab followed by "Agenda Packet" tab. Agenda packet materials are posted on Friday afternoon prior to the meeting.

**MINUTES
BREVARD PLANNING BOARD REGULAR MEETING
DECEMBER 12, 2023
CITY COUNCIL CHAMBERS**

Brevard Planning Board met for a regular meeting, Tuesday, December 12, 2023, at 5:30 PM, in Council Chambers at City Hall.

Members Present: Reid Wood, Vice Chair
Peter Chaveas
John Schommer
Molly Jenkins
Alan Mercaldo
James Carli

Members Absent: Greg Hunter, Chair

Staff Present: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
Emily Brewer, Senior Planner
Janice H. Pinson, Board Clerk

Others: Charles Moore, Maple Street

I. Welcome

At 5:30 PM, Reid Wood, Vice Chair called the meeting to order.

II. Introduction of Planning Board Members

The Board introduced themselves.

III. Certification of Quorum

Vice Chair, R. Wood confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion to approve the agenda P. Chaveas, second J. Schommer, unanimously carried.

V. Approval of Minutes

Motion to approve the October 24, 2023, minutes by M. Jenkins, second by P. Chaveas, unanimously carried.

VI. Public Comment – Charles Moore, Maple Street asked why the Transylvania County property was included in the proposed Downtown Overlay District. It was determined that Staff would most likely answer the question during their presentation.

VII. New Business

a. REZ-23-005 Downtown Overlay District

Aaron Bland, Assistant Planning Director presented his staff report a portion of which follows:

Background On August 22, 2023 the Board discussed a potential rezoning that would amend the Official Zoning Map of the City of Brevard to expand the Downtown Development Overlay District (DDOD). The Board forwarded a recommendation to City Council of an expansion area even greater than Staff's initial proposal. City Council held a public hearing, advertised for the Board's enlarged expansion area, on October 16, 2023 and approved an expansion of the district at their November 6, 2023 meeting. **Discussion** Prior to Council voting on the expansion at their November 6th meeting, the City Attorney cautioned Council against enacting the Planning Board's expanded area, based on Section 16.7.D.2.a of the UDO which does not grant the Board the authority to make a recommendation that *enlarges* the area to be rezoned. Given this advice, Council voted to approve the original expansion area proposed by Staff. However, in their discussion, Council expressed interest in expanding the DDOD further than Staff's proposal and instructed Staff to initiate another map amendment to do just that. For this amendment, Staff is bringing the area proposed by the Board in August, as well as additional properties across South Caldwell and South Broad Streets, as instructed by Council. See the attached map that depicts the new current DDOD in green, the Board's proposed additional expansion areas in yellow, and Council's proposed additional expansion areas in red. This proposed map amendment would add the yellow and black areas to the DDOD. One project that is now underway that had not yet been initiated when the first DDOD expansion went before the Board is the rewrite of Chapter 5 of the UDO, which includes all the City's architectural standards. Part of the scope of this rewrite will include adding specific architectural requirements and standards to the DDOD to act as a form-based code for the downtown area. Staff believes expanding the DDOD too far beyond the downtown city center could be problematic when adding these standards and recommends careful consideration of further expansion to the DDOD until these new standards are in place. **Policy Analysis** The 2030 Building Brevard plan Land Use & Housing recommendation LUH-7 recommends enacting build-to lines in areas outside of the current (former) DDOD.

Map of Second Expansion Proposal is attached hereto and labeled, Exhibit "A".

After discussion and questions about whether to recommend expansion prior to UDO Architectural Standard revisions being complete and discussion as to whether to include the southern portion of the recommended expansion in it's entirety.

J. Carli made a motion to recommend including both yellow areas and the red section on the S. Caldwell Street side into the Downtown Development Overlay District, with reference to the consistency statement (Attached as Exhibit "B"), second by J. Schommer, all votes were in favor except A. Mercaldo voted nay.

- b. Election of Officers – M. Jenkins moved to nominate Greg Hunter, Chair and Reid Wood, Vice Chair, second by P. Chaveas, unanimously carried.
- c. Meeting Schedule 2024 – Motion by A. Mercaldo to amend the meeting schedule for 2024 as follows meeting dates for November and December will be November 19, 2024, December 17, 2024, second J. Schommer, unanimously carried.

VIII. Unfinished Business - None

IX. Remarks- None

X. Adjournment

There being no further business, M. Jenkins made a motion to adjourn seconded by A. Mercaldo, the motion carried unanimously, and the meeting adjourned 6:15 PM.

Reid Wood, Vice Chair

Janice H. Pinson, Board Clerk

STAFF REPORT

Planning Board, Tuesday, January 23, 2024

Title: UDO Chapter 16 Legislative Decisions

Speaker: Aaron Bland, Asst Planning Director
Emily Brewer, Senior Planner

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

During the process of expanding the Downtown Development Overlay District it was discovered that the Unified Development Ordinance does not authorize the Planning Board to forward a recommendation to City Council regarding a zoning map amendment that enlarges the area of the proposed change. Council instructed Planning Staff to initiate a text amendment that would provide the Board with such authority.

Discussion

The concern with allowing the area of a proposed zoning change to be expanded is that often the property owners in the expanded area would not know that their property has become included in the proposal. Often, a property owner is the one who has initiated the rezoning process and therefore is aware of the potential change. Neighboring property owners that become involved due to an increase in the area for a zoning change need to be made aware of their inclusion.

To this end, Staff has included a provision that if the Board wants to recommend an increase in the rezoning area, then a second meeting must be held and the newly included property owners sent a letter by the Planning Department inviting them to the meeting. At the second meeting, the Board could then hear from the newly affected property owners and make their final recommendation to Council considering their feedback.

This amendment also includes a new provision that if the City initiates a rezoning, then the property owners are to be sent a letter giving notice of the proposal and the Planning Board meeting. Currently, the only required mailed notice is for the public hearing by City Council; that notice requirement would remain unchanged. The intent of these changes is to ensure that anyone who has a property proposed for a rezoning is given the opportunity to engage in the process at the Planning Board stage.

Policy Analysis

Increasing City communication about and citizen participation in the rezoning process falls well within action item LUH-19 of the *Building Brevard* comprehensive land use plan, which states "Enhance communication of land use planning efforts, policy development, approvals and processes."

Fiscal Impact

The new requirement for additional notification mailings will result in slightly increased printing and postage costs for the Planning Department. This is expected to be negligible.

Action

The Board's role is to forward a recommendation to City Council. The Board shall make one of the following recommendations with regard to a petition to amend the text of a development regulation:

1. Adoption of the amendment as written;
2. Adoption of the amendment as revised by the Board; or
3. Rejection of the amendment.

In accordance with NC General Statutes, the Board must include a statement of consistency with its recommendation to Council. A draft consistency statement is included in this packet.

Attachments:

1. TXT-24-001 Draft Amendments
2. Consistency Statement BPB



UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 16. ADMINISTRATION

16.7. Legislative decisions.

D. Procedures for zoning map amendments. Applications for zoning map amendments shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in Section 16.7.C except as provided below:

1. *Notification requirements:* Hearings on proposed zoning map amendments require additional public notices in accordance with G.S. 160D-602. Additional notification of the public hearing shall be as follows:
 - a. A notice of a proposed change to the official map shall be sent by first-class mail by the administrator to the affected property and to all abutting property owners. For the purpose of this section, properties are "abutting" even if separated from the subject property by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the hearing.
 - b. The first-class mail notice required under subsection (a) of this section shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice procedures provided that the advertisement shall not be less than one-half newspaper page in size. The local government will publish the notice of a hearing in a newspaper having general circulation in the city once a week, for two successive weeks, the first notice to be published not less than ten days nor more than 25 days prior to the date established for the hearing. The notice shall only be effective for the property owners who reside in the area of general circulation of the newspaper which published the notice. Property owners who reside outside of the city's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the city council that fact, and the certificates shall be deemed conclusive in the absence of fraud.
 - c. One or more prominent signs with the notice of the hearing shall be posted on the subject property or properties beginning not less than ten days nor more than 25 days prior to the date established for the hearing. Such notice shall state a phone number to contact during business hours for information. The sign shall remain until after the city council has rendered its final decision.
 - d. When a zoning map amendment is proposed and if substantial impact on the neighborhood can be anticipated, the administrator shall have the right to require a neighborhood compatibility meeting in order to gather neighborhood feedback, and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. A substantial impact on the neighborhood includes but is not limited to applications for zoning map amendments affecting multiple parcels with separate owners and for conditional zoning districts that request modifications to requirements enumerated in Section 2.2 and Section 2.3.
2. *Brevard Planning Board review and comment:*



a. When a zoning map amendment is initiated by the City, the administrator shall send a notice of the Planning Board meeting by first-class mail to the affected property owners in the affected area. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the meeting. If the proposal affects more than 50 properties, the administrator may utilize the notification procedure outlined in Section D.1.b.

a.b. In place of the recommendations outlined in Section 16.7.C, the BPB shall make one of the following recommendations with regard to a petition for a zoning map amendment:

- i. Grant the zoning map amendment as requested;
- ii. Grant the zoning map amendment with a reduction-change of the area requested;
 - If the change in area is an expansion of the area requested, the Board shall hold a second meeting discussing the expanded area. The administrator shall send a notice of the meeting by first-class mail to the affected property owners in the proposed expanded area. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the second meeting. If the proposal affects more than 50 properties, the administrator may utilize the notification procedure outlined in Section D.1.b.
 - If the change in area is a reduction of the area requested. Then no additional meetings or notifications are required.

ii-iii. Grant the zoning map amendment to a more restrictive general zoning district or districts; or

iii-iv. Deny the application.

b.c. The BPB shall submit a statement analyzing the reasonableness of any proposal for a zoning map amendment. The statement of reasonableness may consider, among other factors:

- i. The size, physical conditions, and other attributes of any area proposed to be rezoned;
- ii. The benefits and detriments to the landowners, the neighbors, and the surrounding community;
- iii. The relationship between the current actual and permissible development and the development permissible under the proposed amendment;
- iv. Why the action taken is in the public interest; and
- v. Any changed conditions warranting the amendment.

3. *Legislative hearing:*

- a. In addition to the general procedures outlined in Section 16.7.C.7, when adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning must be approved by the city council in accordance with G.S. 160D-605. The statement of reasonableness and the plan consistency statement may be approved as a single statement.
- b. In place of the decisions outlined in Section 16.7.C.7(b), a decision concerning a petition for a zoning map amendment shall be as follows:
 - i. Grant the zoning map amendment as requested;
 - ii. Grant the zoning map amendment with a reduction in the area requested;
 - iii. Grant the zoning map amendment to a more restrictive general zoning district;
 - iv. Grant the zoning map amendment with a combination of (i) and (ii) above;
 - v. Deny the application;
 - vi. Send the application back to the BPB for further study and consideration; or
 - vii. Call for additional legislative hearings on petitions brought before them.



- c. In accordance with G.S. 160D-605, if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan, and shall be required. A plan amendment and a zoning amendment may be considered concurrently, and does not require a separate application fee for a plan amendment.

DRAFT

**COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS
TXT-24-001**

NCGS 160D-605 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard Comprehensive Land Use Plan:

LUH- 19: Enhance communication of land use planning efforts, policy development, approvals and processes. Create online public information portal to provide updates on proposed and in-progress development projects. Strive to make planning documents and UDO more approachable and user friendly to empower citizens to understand and advocate for their neighborhoods.

STAFF REPORT

Planning Board, Tuesday, January 23, 2024

Title: Subdivision and Group Development Work Session

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director

Background & Discussion

In October 2023, Staff introduced Planning Board to subdivision regulations and opportunities for improvement in the current ordinance. Under NCGS, a “subdivision” is the division of a “tract or parcel of land into two or more lots, building sites, or other divisions.” Subdivision regulations are one of the ways that a government can provide for orderly growth, facilitate adequate provision of public services, and maintain the necessary conditions for public health, safety and general welfare.

The *Building Brevard 2030* Comprehensive Land Use plan calls for “a development pattern that respects Brevard’s sense of place and prioritizes livable communities.” When launching the comprehensive review of subdivision regulations, Staff considered when the regulations should encourage subdivision of land and when subdivision wouldn’t be necessary. The Unified Development Ordinance identifies “group developments” as any development with more than one principal structure (i.e., apartment complexes, summer camps, school campuses and hospitals, shopping centers, industrial parks, etc.).

Staff will lead a discussion with Planning Board to introduce a new framework for group developments and subdivisions to allow for creative ways to increase density while still ensuring health, safety, and welfare is achieved.

Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan includes goals and actions related to how a city can grow and support development that is appropriate within the development context:

Goals

- **GOAL 2:** Encourage a **development pattern** that respects Brevard's sense of place and prioritizes **livable communities**.
- **GOAL 7:** Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.
- **GOAL 8:** Plan **for efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.

Actions

- **LUH-4:** *Identify areas across the city that are best positioned to accommodate future growth.*
- **LUH-9:** *Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*
- **LUH-19:** *Enhance communication of land use planning efforts, policy development, approvals and processes.*

Recommendation

No action requested at this time, as this is intended to be an informal work session.

Attachments:

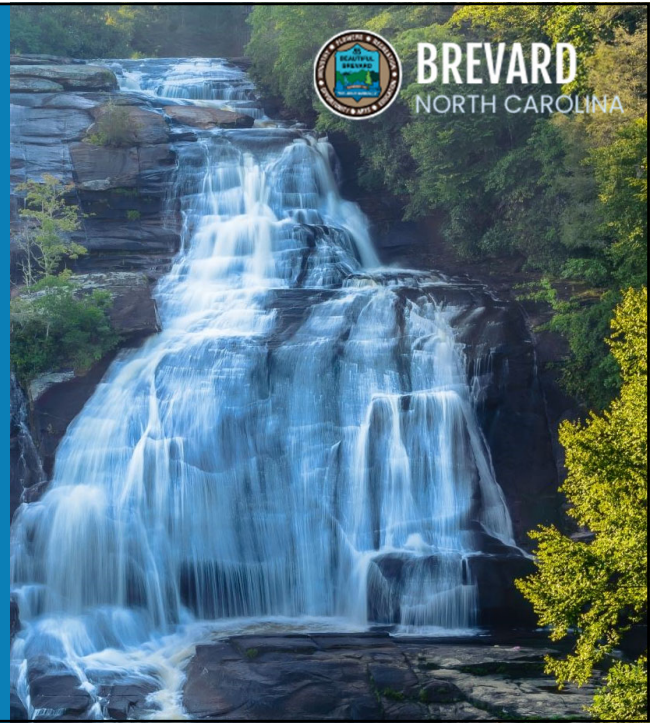
1. Subdivision Introduction Presentation (October 2023)

Introduction to Subdivision Regulations

Planning Board | October 24, 2023
Emily Brewer, AICP



BREVARD
NORTH CAROLINA



What is “Subdivision”? → NCGS §160D-802

SUBDIVISION = a division of a “tract or parcel of land into two or more lots, building sites, or other divisions”

- Local government can specify classes of subdivisions for expedited review (major vs. minor)
- Exemptions that require a plat, but are NOT subdivisions
 - Combination or recombination where total number of lots is not increased
 - Division of land greater than 10 acres with no public street dedication
 - Public acquisition of rights-of-way
 - Division of land no greater than 2 acres into no more than 3 lots
 - Division of tract to settle an estate

Purpose of Subdivision Regulations

- Provide for the orderly growth and development of the City and its extra-territorial jurisdiction;
- Protect and enhance property ownership and land values;
- Maintain conditions essential to the public's health, safety, and general welfare;
- Facilitate adequate provision of public services; and
- Facilitate the further re-subdivision of larger tracts into smaller parcels of land for development.



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Key Elements of Subdivision Regulations

- Types of Subdivisions (including exemptions)
- Review Process
- Plat Requirements & Specifications
- Lot requirements (e.g., road frontage)
- Neighborhood design standards
- Infrastructure requirements (sometimes)
- Performance guarantees



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Building Brevard 2030

- **GOAL 2:** Encourage a development pattern that respects Brevard's sense of place and **prioritizes livable communities**
- **GOAL 7:** Support economic vitality and **grow the tax base**, cultivate local businesses, and attract sustainable industry.
- **GOAL 8:** Plan for **efficient, equitable, and resilient infrastructure** and services that maintain and improve quality of life throughout the city.
- **LUH-4:** Identify areas across the city that are **best positioned** to accommodate **future growth**.
- **LUH-9:** Evaluate and amend development ordinances to **facilitate infill development** on vacant and underdeveloped parcels, as well as **revitalization of developed parcels**.
- **LUH-25:** Limit the scale and footprint of new development in Conservation Design / Low Density areas identified on the Future Land Use Map. *[Conservation Subdivisions]*



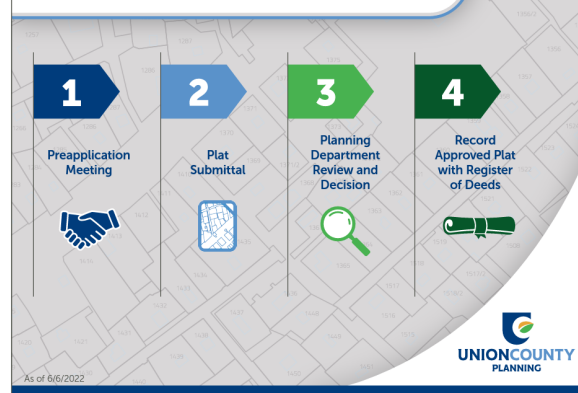
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Subdivision Process

Major Subdivision Process



Minor Subdivision Process



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Challenges in Current Ordinance

- Standards are spread throughout the UDO
 - No clear list of requirements for different types of subdivision activities
- Conflating the subdivision review process with the development plan review process
 - Process is unclear
 - Zoning standards can be varied, but subdivision standards may be varied in some circumstances
- Need to update to reflect changes to NCGS
 - Certifications are out of date and inaccurate
- Major vs. Minor Subdivision → 25 lots, but we require other improvements at 8 lots
 - Buncombe County – 10 lots
 - Black Mountain – 5 lots
 - Hendersonville – 8 lots



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Next Steps

- What should be a major versus a minor subdivision?
- How can we improve the usability of the subdivision regulations?
- How can we improve the process for subdivision review?

Image Source: David Oppenheimer, via Pixels.com

