



AGENDA
BREVARD PLANNING BOARD - REGULAR MEETING
Tuesday, February 27, 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. January 23, 2024

VI. Public Comments

VII. Unfinished Business

- a. Group Development - Continuation

VIII. New Business

- a. Planning Board By-Laws Amendments
- b. TXT-24-001 Consideration of Text Amendment UDO Chapter 15 Boards and Commissions
- c. Resilience Action Plan - Board Presentation

IX. Remarks

X. Adjourn

Agenda Posted, Website (2/23/2024)
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
JANUARY 23, 2024
CITY COUNCIL CHAMBERS**

Brevard Planning Board met for a regular meeting, Tuesday, January 23, 2024, at 5:30 PM, in Council Chambers at City Hall.

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

Members Absent: James Carli

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

I. Welcome

At 5:30 PM, Greg Hunter, Chair called the meeting to order.

II. Introduction of Planning Board Members

The Board introduced themselves.

III. Certification of Quorum

G. Hunter, Chair confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion to approve the agenda A. Mercaldo, second P. Chaveas, unanimously carried.

V. Approval of Minutes

Motion to approve the December 12, 2023, minutes by M. Jenkins, second by P. Chaveas, unanimously carried.

VI. Public Comment – None.

VII. New Business

a. UDO Chapter 16 Legislative Changes –

Aaron Bland, Assistant Planning Director presented his staff report as follows:

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.

Draft Amendment and Consistency Statement are attached and labeled, Exhibit "A".

After a brief discussion, P. Chaveas moved to approve as presented with reference to the Consistency Statement, seconded by A Mercaldo.

b. Group Development Work Session-

Emily Brewer, Senior Planner, presented her staff report, a portion of which follows and gave a presentation, "Introduction to Subdivision Regulations", which is attached hereto and labeled, "Exhibit B".

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.*

There was discussion that Group Developments include manufactured homes in the "Cluster Homes" category and the exploring possible map amendments to allow manufactured homes in more areas of the city.

Emily Brewer explained that she is hoping to bring the amendments before the Board in sections starting with their next meeting, and that there is a lot of work to be done because the subdivision regulations touch so many places in the UDO.

VIII. Unfinished Business - None

IX. Remarks-

Greg Hunter thanked the board for the nomination and vote.

X. Adjournment

There being no further business, M. Jenkins made a motion to adjourn seconded by P. Chaveas, the motion carried unanimously, and the meeting adjourned 6:30 PM.

Greg Hunter, Chair

Janice H. Pinson, Board Clerk

DRAFT

STAFF REPORT

Planning Board, Tuesday, February 27, 2024

Title: Group Development - Continuation

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director

Background & Discussion

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 defines “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.). At the January 23rd meeting, Staff presented 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 (presentation attached for reference).

The revised group development regulations included as Attachment 2 are the next step in the comprehensive review of development patterns in the UDO. Staff will lead a work session to discuss these proposed changes.

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.*

Action

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

Attachments:

1. Subdivision & Group Development Work Session Presentation (1/23/24)
2. Group Development Sections (Draft)

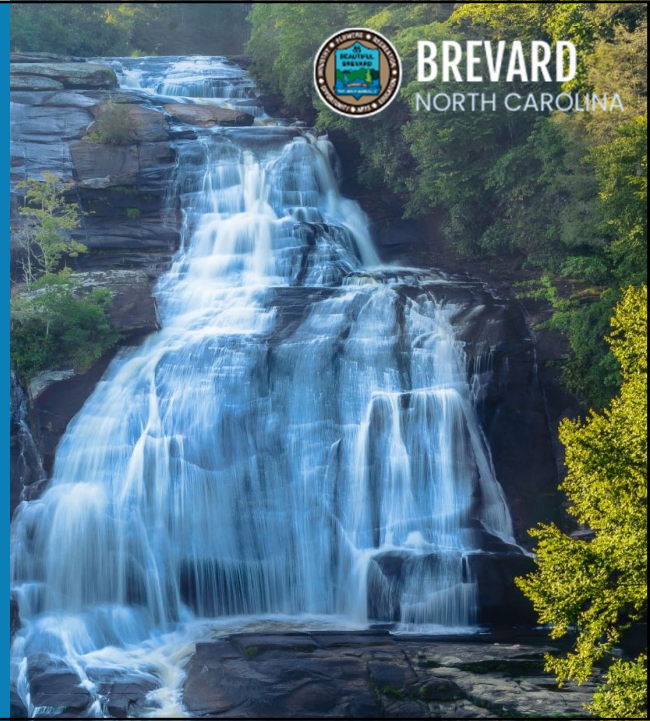
Subdivision & Group Development Work Session

Planning Board | January 23, 2024

Emily Brewer, AICP

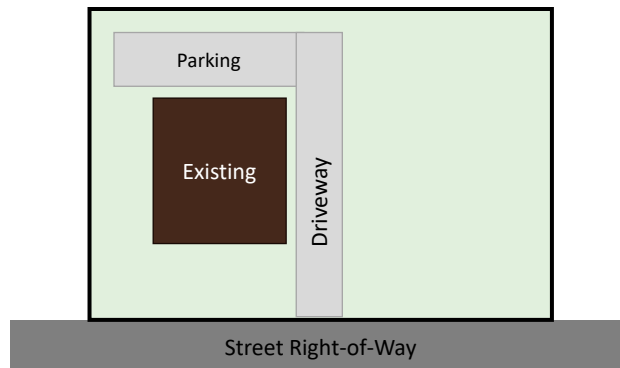


BREVARD
NORTH CAROLINA



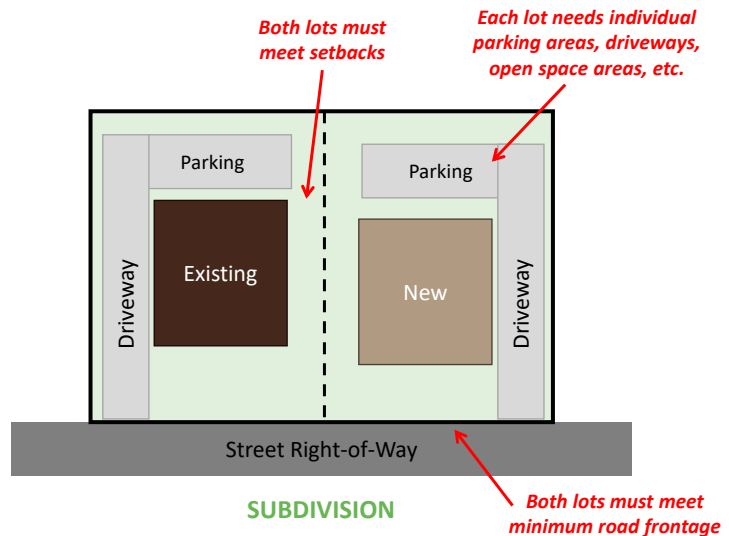
Illustration

- Business owner wants to add another building to the lot (could be an expansion or a new business)
- Do we want them to subdivide or allow multiple principal buildings on the same site?



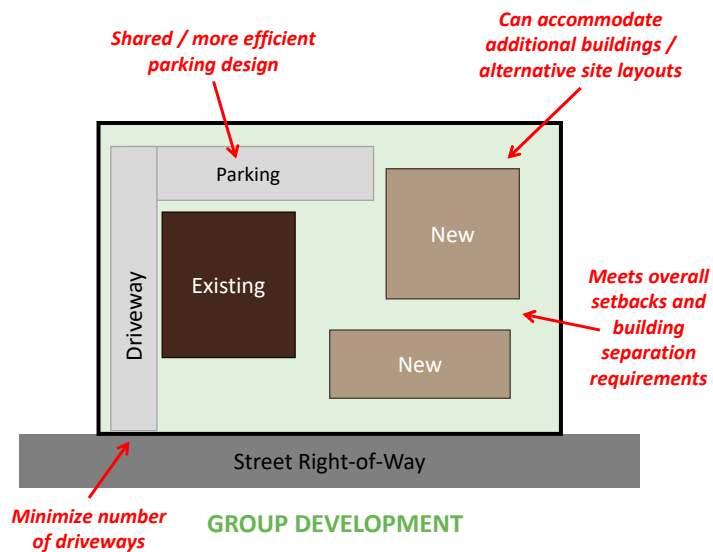
Illustration

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Illustration

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Group Development or Subdivision?

GROUP DEVELOPMENT = ONE PARCEL*

- Higher density projects that can share development requirements (parking, driveways, landscaping, stormwater, etc.)
- Businesses that require multiple principal buildings

SUBDIVISION = MULTIPLE PARCELS

- Developments that require infrastructure
- Large parcels that are not utilized
- Lower density residential (single-family and duplex)

Need to amend regulations for both types of development!

*Or one parent parcel with other lots established depending on ownership model



PLANNING DEPARTMENT | 5

Proposed Types of Group Developments

• Residential Group Development →

- Neighborhood Development
- Cluster Home Development
- Manufactured Home Park

• Non-Residential Group Development

- Shopping Centers

Apartment complexes with multiple buildings



Example: Colwell Apartments



PLANNING DEPARTMENT | 6

Proposed Types of Group Developments

- Residential Group Development
 - **Neighborhood Development** →
 - Cluster Home Development
 - Manufactured Home Park
- Non-Residential Group Development
 - Shopping Centers

Residential neighborhood with individual homes and parent parcel(s), typically under shared ownership



Example: Deerlake Village



PLANNING DEPARTMENT | 7

Proposed Types of Group Developments

- Residential Group Development
 - Neighborhood Development
 - **Cluster Home Development** →
 - Manufactured Home Park
- Non-Residential Group Development
 - Shopping Centers

[NEW] Smaller housing options clustered around a courtyard with shared parking areas and amenities



PLANNING DEPARTMENT | 8

Proposed Types of Group Developments

- Residential Group Development
 - Neighborhood Development
 - Cluster Home Development
 - **Manufactured Home Park** →
- Non-Residential Group Development
 - Shopping Centers

Groupings of manufactured homes
or home spaces



Example: Holcombe Road



PLANNING DEPARTMENT | 9

Proposed Types of Group Developments

- Residential Group Development
 - Neighborhood Development
 - Cluster Home Development
 - Manufactured Home Park
- **Non-Residential Group Development** →
 - Shopping Centers

Groupings of non-residential buildings operating
as a campus or a business park



Example: Brevard College



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Proposed Types of Group Developments

- Residential Group Development
 - Neighborhood Development
 - Cluster Home Development
 - Manufactured Home Park
- Non-Residential Group Development
 - **Shopping Centers** →

Groupings of non-residential buildings operating as a campus or a business park



Example: Food Lion Shopping Center



PLANNING DEPARTMENT | 11

Considerations for Group Developments

- Street Access (e.g., driveway widths, ingress/egress requirements)
- Building Separation (e.g., fire code requirements)
- Building Orientation (e.g., oriented towards the street or each other)
- Connectivity (e.g., all buildings and parking lots must be connected by pedestrian walkways)
- Use Limitations (e.g., cluster home developments can only be 1 to 4 unit buildings)
- Other Additional Requirements (e.g., shared common space)



PLANNING DEPARTMENT | 12

Types of Lots

- **Conventional Lot (meets road frontage requirements)** →

- Note: there are other types of conventional lots that have varying setback requirements, like zero-lot line lots, double-fronted lots, and triangle lots

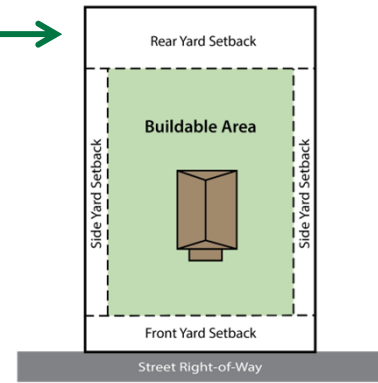
- Irregular Lot (meets irregular lots requirements)

- Lots Created in a Group Development

- Building sites
- Out-parcels
- Shared ownership / common element lots

- Condominium Lots

- Conservation Lots



PLANNING DEPARTMENT | 13

Types of Lots

- **Conventional Lot (meets road frontage requirements)**

- Note: there are other types of conventional lots that have varying setback requirements, like zero-lot line lots, double-fronted lots, and triangle lots

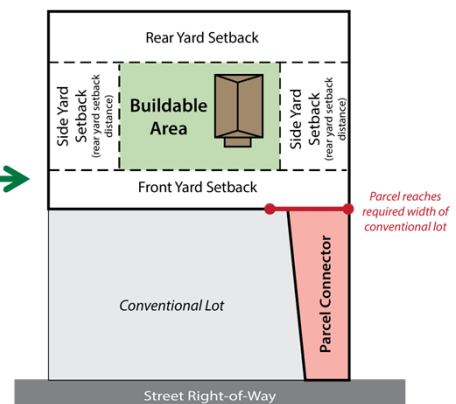
- **Irregular Lot (meets irregular lots requirements)** →

- Lots Created in a Group Development

- Building sites
- Out-parcels
- Shared ownership / common element lots

- Condominium Lots

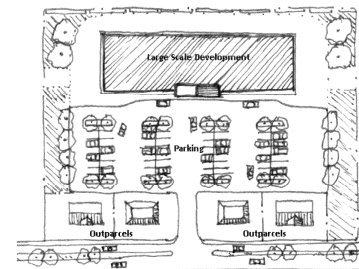
- Conservation Lots



PLANNING DEPARTMENT | 14

Types of Lots

- Conventional Lot (meets road frontage requirements)
 - Note: there are other types of conventional lots that have varying setback requirements, like zero-lot line lots, double-fronted lots, and triangle lots
- Irregular Lot (meets irregular lots requirements)
- **Lots Created in a Group Development** →
 - Building sites
 - Out-parcels
 - Shared ownership / common element lots
- Condominium Lots
- Conservation Lots



PLANNING DEPARTMENT | 15

Types of Lots

- Conventional Lot (meets road frontage requirements)
 - Note: there are other types of conventional lots that have varying setback requirements, like zero-lot line lots, double-fronted lots, and triangle lots
- Irregular Lot (meets irregular lots requirements)
- Lots Created in a Group Development
 - Building sites
 - Out-parcels
 - Shared ownership / common element lots
- **Condominium Lots** →
- Conservation Lots



PLANNING DEPARTMENT | 16

Types of Lots

- Conventional Lot (meets road frontage requirements)
 - Note: there are other types of conventional lots that have varying setback requirements, like zero-lot line lots, double-fronted lots, and triangle lots
- Irregular Lot (meets irregular lots requirements)
- Lots Created in a Group Development
 - Building sites
 - Out-parcels
 - Shared ownership / common element lots
- Condominium Lots
- **Conservation Lots** →



PLANNING DEPARTMENT | 17

Types of Subdivisions

- **Exempt Subdivisions (defined by NCGS)** →
 - **Recombination**
 - **Divisions greater than 10 acres**
 - **2 acres into 2 or 3 lots**
 - **Public ROW**
 - **Estate Exclusion**
- Minor Subdivision
 - [REVISED] creates a maximum of 8 lots and doesn't propose new public infrastructure
- Major Subdivision
 - [REVISED] creates more than 8 lots or proposes new public infrastructure

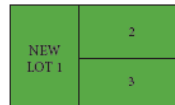
RECOMBINATION
Lot 1 & 2 combined



10 ACRE DIVISION
Lots divided into 10+ acres



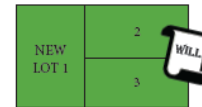
2 ACRES TO 3 LOTS
2 acres divided into 2 or 3 lots



PUBLIC ROW
Lot divided into 2 by ROW



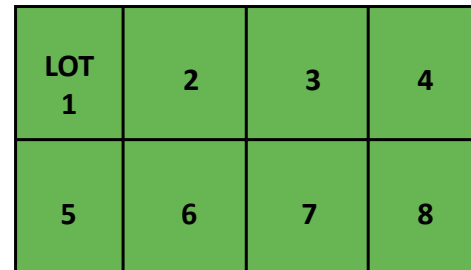
PROBATED WILL
Divisions to settle an estate



PLANNING DEPARTMENT | 18

Types of Subdivisions

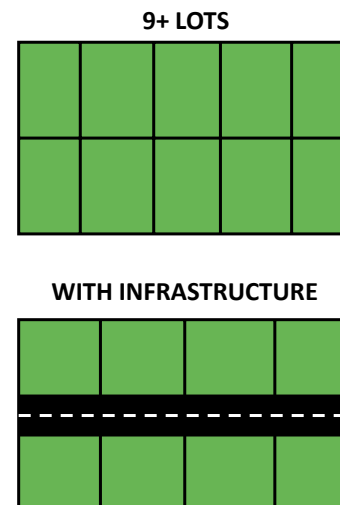
- Exempt Subdivisions (defined by NCGS)
 - Recombination
 - Divisions greater than 10 acres
 - 2 acres into 2 or 3 lots
 - Public ROW
 - Estate Exclusion
- **Minor Subdivision** →
 - [REVISED] creates a maximum of 8 lots and doesn't propose new public infrastructure
- Major Subdivision
 - [REVISED] creates more than 8 lots or proposes new public infrastructure



PLANNING DEPARTMENT | 19

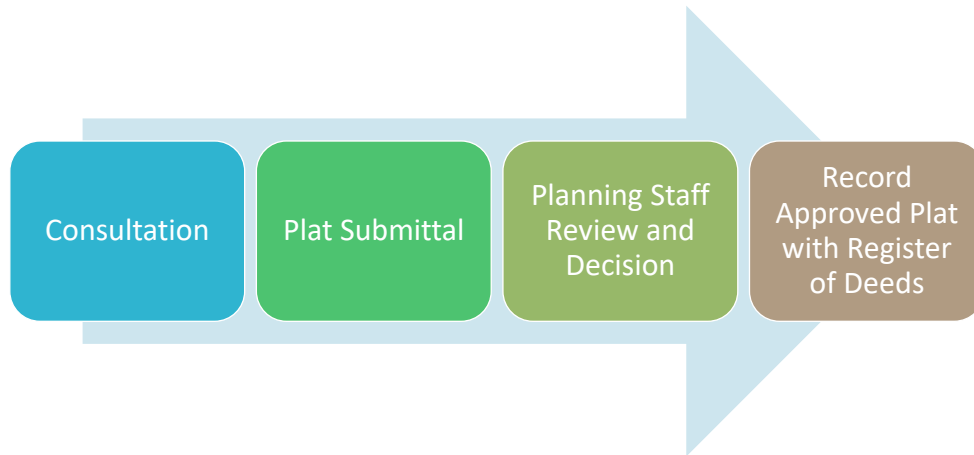
Types of Subdivisions

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- **Major Subdivision** →
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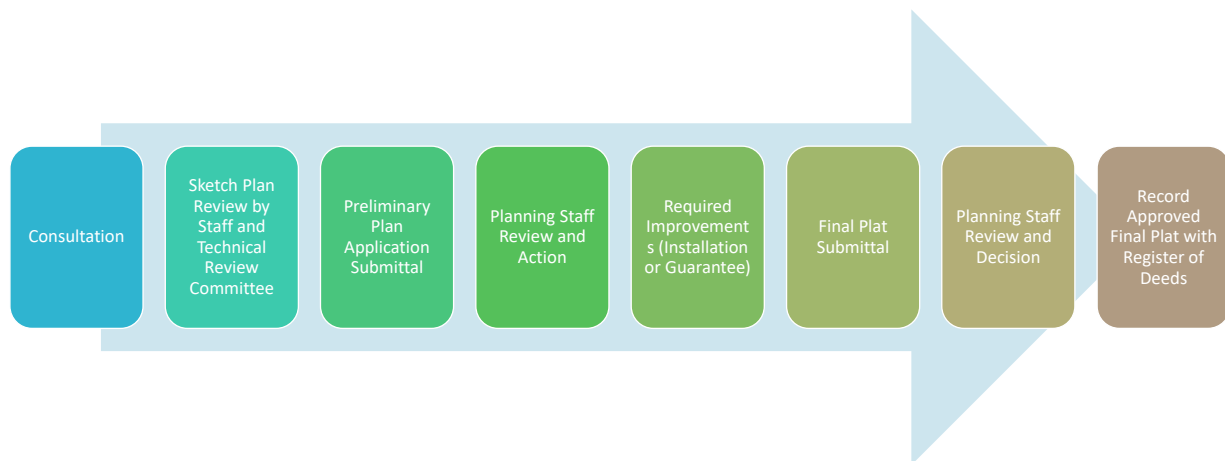


PLANNING DEPARTMENT | 20

Minor Subdivision Process



Major Subdivision Process





UNIFIED DEVELOPMENT ORDINANCE

[NEW] 2.3. Principal structures.

- A. No development shall contain more than one principal building per lot, unless:
1. As part of an approved group development;
 2. As part of a conditional zoning district;
 3. As part of an approved special use permit; or
 4. As part of a pre-existing nonconforming use.
- B. A multi-unit structure, such as duplexes, townhomes, and mixed-use buildings, within a single lot will be treated as a single primary structure for the purposes of compliance with the dimensional standards of this ordinance.
- C. For separate lots within a zero-lot line development, such as those for some types of townhomes and mixed-use buildings, the individual units will be considered the primary structure for each lot.
- D. The maximum ground floor area for principal structures varies by zoning district and shall be measured in accordance with the following table.

Commented [EB1]: Note that purple is in our current ordinance and black is new text!

TABLE 2.3A: GROUND FLOOR AREA

District	Maximum Ground Floor Area Each Principal Structure
GR4	10,000 sq. ft.
GR8	8,000 sq. ft.
RMX—Single-family home and duplex	8,000 sq. ft.
RMX—Multi-family and nonresidential	25,000 sq. ft.
NMX	30,000 sq. ft.
DMX	25,000 sq. ft.
CMX	50,000 sq. ft.
IC	100,000 sq. ft.
GI	100,000 sq. ft.

Note: Projects of developments that do not meet the above standards apply for conditional zoning in accordance with Section 2.1.C.

[NEW] 2.4. Group development.

2.4.1. General group development requirements.

- A. **Applicability:**
1. Group development review is applicable to any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future).



Unified Development Ordinance

2. Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

B. **Group development matrix:** The following matrix sets forth the manner by which certain types of group developments may be permitted within the various districts.

1. "P" denotes those uses that are permitted "by right."
2. "—" denotes those uses that are not permitted within the given district.
3. "PS" denotes those uses that are permitted with additional standards, which are set forth in CHAPTER 3.
4. "MHD" denotes those uses that are permitted within a Manufactured Housing Overlay District.

TABLE 2.4A: GROUP DEVELOPMENT TYPOLOGY MATRIX

CATEGORY	GROUP DEVELOPMENT	ZONING DISTRICTS						
		GR	RMX	NMX	DMX	CMX	IC	GI
Residential	All residential group developments, except as listed below	PS	PS	PS	PS	PS	PS	—
	Cluster Home Development	PS	PS	PS	—	—	PS	—
	Neighborhood Development	PS	PS	—	—	—	—	—
	Manufactured Home Park	MHD	MHD	MHD	MHD	MHD	MHD	MHD
Non-Residential	All non-residential or mixed-use group developments, except as listed below	—	PS	PS	PS	PS	PS	PS
	Shopping Centers	—	—	PS	PS	PS	—	—

C. **Submittal requirements:**

1. Each application for a group development shall be accompanied by development plans as required by CHAPTER 17 that show compliance with all applicable regulations, including but not limited to landscaping, parking, stormwater management, and infrastructure improvements.

D. **Use limitations:**

1. Unless otherwise provided by this section for a specific type, group developments must comply with the use matrix. No other uses may be permitted.
2. The following uses are not permitted in group developments, unless explicitly allowed by this section:
 - a. Dwelling - Single-family
 - b. Dwelling - Duplex
 - c. Manufactured Home

Commented [EB2]: This means that you couldn't put two single family houses on a property and call it a group development. These uses would only be allowed in a group development if they are in a cluster home, neighborhood development, or MHP

E. **Connectivity and circulation:**

1. The group development shall accommodate safe, efficient, and convenient vehicular, pedestrian, and bicycle circulation throughout the development.
2. All principal structures within a group development shall be connected by a sidewalk.

F. **Street access:**

1. Any building established as a part of a group development project, which cannot properly be served by emergency or service vehicles from an existing abutting street, shall be made accessible to such vehicles by a publicly-accessible road.



Unified Development Ordinance

- a. A building cannot be properly served if it is not within **X** feet of a fire hydrant, within **X** feet from a publicly accessible road, or otherwise deemed unacceptable by the Technical Review Committee.
2. All interior roads shall be paved to City standards with a minimum width of 20 feet and adequately maintained for emergency or service vehicle access.

G. **Building separation:**

1. All buildings established as part of a group development project shall be separated in accordance with North Carolina Building Code separation requirements.

H. **Setbacks:**

1. Unless otherwise provided by this section, each group development project shall comply with the setback requirements established for the zoning districts in Section 2.5.

I. **Ownership:**

1. When a group development is designed with individual lots with shared stewardship of the common areas, the following additional standards shall be met:
 - a. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final zoning inspection approval.
2. When a group development is designed as a multi-dwelling, multi-tenant or mixed-use development under single ownership, subject to the use limitations herein, the following additional standards shall be met:
 - a. If at any point in the future the owner intends to transfer individual lots into separate ownership, a plat meeting all requirements of this ordinance shall be submitted to Planning staff for review and approval. Covenants of shared stewardship shall be recorded in the Transylvania County Register of Deeds and such contractual rights and obligations shall be established prior to final plat approval.

2.4.2. Cluster home development.

- A. **Purpose:** A cluster home development allows for small lot residential development in a manner that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained in shared stewardship by residents.

B. **Applicability:**

1. Cluster home development may take one of the following forms:
 - a. A development may be designed with individual lots with shared stewardship of the common areas.
 - b. A development may be designed as a multi-dwelling development, subject to the use limitations below.
2. Cluster home development shall comply with the group development standards established herein and the following standards.

C. **Use Limitations:**

1. The following housing types are permitted in a cluster home development:
 - a. Dwelling - Single-family
 - b. Dwelling - Duplex
 - c. Dwelling – Multifamily 3-4 units/building
 - d. Dwelling – Townhome

Commented [EB3]: All of these distances will be vetted by TRC



Unified Development Ordinance

2. Accessory dwelling units are prohibited within a cluster home development.

D. **Density and buildings:**

1. The maximum allowable density of a cluster home development shall be equal to 50% greater than the underlying base zoning district.
2. Cluster home developments shall have a minimum of three detached residential buildings.
3. All principal buildings within the cluster home development shall front on a street or a common open space.
4. Each principal building within the cluster home development is permitted one accessory structure less than 120 SF.
5. A maximum of two accessory structures shall be allowed within a cluster home development project for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.

E. **Setbacks:**

1. Individual lots or building sites within the cluster home development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the cluster home development parcel.
2. Dwelling units oriented towards a common open space area shall provide a six feet minimum setback from the common area. Such setback does not count toward any required common area.

F. **Common open space:** Common open space areas shall meet the following standards:

1. The common open space shall include a central green, lawn or garden areas, playground, plaza, or other greenspace / feature as a central focal point.
2. The minimum size of the common open space area is 3,000 square feet or 500 square feet per dwelling unit, whichever is greater.
3. The common open space area shall maintain a minimum width of 30 feet, shall be contiguous and centrally located, and shall front on a public street.
4. A maximum of 30% of the common open space may be hardscape.

G. **Parking:** In addition to the parking standards in CHAPTER 10, parking for a cluster home development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the cluster home development or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:
 - a. between principal structures,
 - b. between principal structures and the street,
 - c. between principal structures and the required common area, or
 - d. within any required common area.

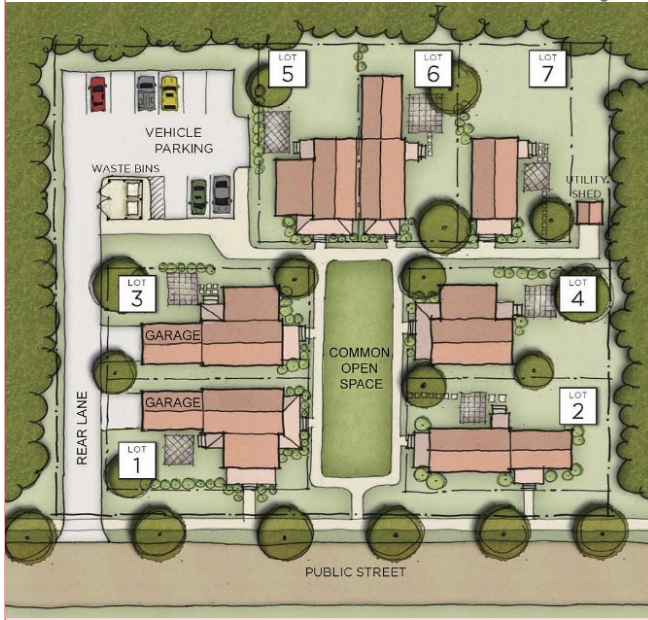
Commented [EB4]: Graphic from Charlotte



Unified Development Ordinance



3.



Commented [EB5]: Graphic from Sarasota, FL



2.4.3. Neighborhood development.

A. Applicability:

1. Neighborhood development standards shall apply to a predominately residential group development designed as individual lots with shared stewardship of common areas and infrastructure.
2. These standards shall apply to any project with 8 or more lots and/or shared infrastructure.

B. Use limitations:

1. Neighborhood development shall be predominately residential, subject to the use matrix in Section 2.2.

C. Street access:

1. Roads and driveways shall meet the requirements of CHAPTER 13. If the roads are to be dedicated to the City of Brevard for maintenance, they shall be built in compliance with public road standards.

D. Density and buildings:

1. The maximum allowable density of a neighborhood development shall be equal to the underlying base zoning district.

E. Setbacks:

1. All lots established as part of a neighborhood development shall comply with the setback requirements of the base zoning district.

F. Parking: In addition to the parking standards in CHAPTER 10, parking for a neighborhood development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the neighborhood development or in a shared parking area serving multiple dwellings on site.

2.4.4. Manufactured home park.

A. Applicability:

1. Manufactured home park standards shall apply to a residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents.
2. Manufactured home park may take one of the following forms:
 - a. A development may be designed with individual lots with shared stewardship of the common areas.
 - b. A development may be designed as a multi-dwelling development, subject to the use limitations below.

B. Use Limitations:

1. The following housing types are permitted in a manufactured home park:
 - a. Manufactured home.
2. Accessory dwelling units are prohibited within a manufactured home park.

C. Density and buildings:

1. The maximum allowable density of a manufactured home park shall be equal to 50% greater than the underlying base zoning district.
2. All principal buildings within the manufactured home park shall front on a street or interior road.



Unified Development Ordinance

3. Each principal building within the manufactured home park is permitted one accessory structure less than 120 SF.
4. A maximum of two accessory structures shall be allowed within a manufactured home park for shared use. This includes any shared community buildings, storage sheds, etc. The maximum ground floor area for accessory structures shall not exceed 50% of the aggregate ground floor area of the principal structures. Gazebos and other structures that are amenities within the common areas are exempt.

D. **Setbacks:**

1. Individual lots or manufactured home sites within the shopping center group development are exempt from the base zoning district setback requirements. However, the base zoning district setbacks apply to the shopping center parcel.

E. **Parking:** In addition to the parking standards in CHAPTER 10, parking for a cluster home development shall meet the following standards:

1. Required off-street parking may be provided on individual development sites within the manufactured home park or in a shared parking area serving multiple dwellings on site.
2. Parking shall not be located:
 - a. between principal structures,
 - b. between principal structures and the street,
 - c. between principal structures and the required common area, or
 - d. within any required common area.

2.4.5. Shopping center.

A. **Applicability:**

1. Shopping center regulations shall apply to large-scale non-residential or mixed-use group development with at least 2 commercial, recreational and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.
2. Shopping centers may be designed as multi-tenant commercial buildings, zero-lot line development of attached structure(s); as individual parcels with shared stewardship of the common areas; or a combination thereof.

B. **Use Limitations:**

1. The shopping center may contain uses permitted by the applicable zoning district.

C. **Setbacks:**

1. Individual lots or building sites within the shopping center group development are exempt from the base zoning district setback requirements. However, the base zoning setbacks apply to the shopping center parcel.

[MOVED] 2.5. Accessory structures.

Current Section 4.8



[MOVED] 2.6. Density and dimensional requirements.

Current Section 2.3 (the minimum road frontage and other lot standards will be relocated to the new subdivision chapter that is in development).

[EXCERPT] 19.3. Definitions.

Cluster home development: A small lot residential group development that organizes multiple dwellings around a common open space, designed as a cohesive whole and maintained by a single entity or in shared stewardship by residents.

Group development: Any land development subject to a site plan that includes 2 or more principal buildings on a single parcel (or grouping thereof) for the purpose of development (whether immediate or in the future). Other individual structures designed to accommodate a variety of distinct uses may be considered as a group development at the discretion of the administrator.

Manufactured home park: A residential group development with three or more manufactured homes or manufactured home spaces designed as a cohesive whole and maintained either by a single entity or in shared stewardship by residents. ~~The location of two or more manufactured homes or manufactured home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.~~

Neighborhood development: A residential group development designed as individual lots with shared stewardship of common areas and infrastructure. This definition shall apply to any predominately residential project with 8 or more lots and/or shared infrastructure.

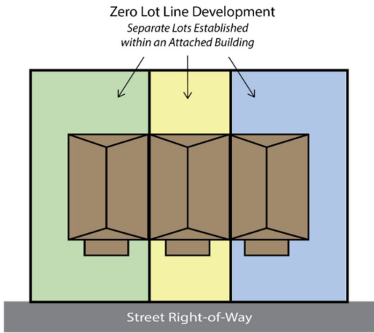
Principal building or principal structure: A building in which is conducted the principal use of the parcel on which it is situated.

Shopping center: A form of large-scale non-residential or mixed-use group development with at least 2 commercial, recreational and/or institutional uses and at least 25,000 square feet of gross floor area. Anchors may include supermarkets, drug stores, department stores, etc.

Zero lot line development: A development approach in which a building with attached units is located on separate lots where the common walls are along the interior lot lines.



FIGURE 19.3-X. ZERO LOT LINE DEVELOPMENT



STAFF REPORT

Planning Board, Tuesday, February 27, 2024

Title: Planning Board By-Laws Amendments

Speaker: Emily Brewer, AICP, Senior Planner

Prepared by: Emily Brewer, Senior Planner

Approved by: Paul Ray, Planning Director

Background

As authorized by N.C.G.S. §160D-301, the City of Brevard established the Brevard Planning Board to advise City Council on planning, development, and zoning matters. As an appointed board, all meetings of the Board are open to the public and are subject to open meeting law requirements.

Discussion

N.C.G.S. §160D-308 authorizes the Planning Board to adopt rules for procedure. Any board needs up-to-date and thorough rules of procedure to operate most effectively. The Planning Board bylaws were last updated in 2014. A summary of the proposed changes are as follows:

1. **Codifying Suggested Language:** Reference to the *Suggested Rules of Procedure for Small Local Government Boards* document was removed. Instead, the appropriate language from that booklet is incorporated into the document. This includes the description of the proposed agenda, actions by the Board, and reference to Robert's Rules of Order.
2. **Clarifying Responsibilities of Officers and the Board Clerk:** The language clarifies the responsibilities of the chair and vice-chair, in accordance with suggested language, and includes responsibilities of the board clerk.
3. **Removing Unnecessary Information:** The bylaws / rules of procedure currently have duplicative information about the responsibilities and authorities outlined in the Unified Development Ordinance Chapter 15. Those items (such as "Review of Zoning Amendments") have been removed here, as they are only amendable by ordinance.

Action

Staff requests that the Board take one of the following actions:

1. Adopt the amended Bylaws and Rules of Procedure;
2. Revise and adopt the amended Bylaws and Rules of Procedure; or
3. Table the matter for further consideration and discussion.

Attachments:

1. Proposed Bylaws - Strikethrough
2. Proposed Bylaws - Clean

BYLAWS AND RULES OF PROCEDURE
OF THE CITY OF BREVARD
PLANNING BOARD

REVISED AND READOPTED: FEBRUARY 27, 2024~~19, 2019~~

Article I. Name

The name of this organization is the City of Brevard Planning Board, hereinafter referred to as the "Board."

Article II. Purpose and Powers

The purpose of the Board is to function as the planning agency for the City of Brevard and to exercise all powers and duties specified by Section 15.1 of the City of Brevard Unified Development Ordinance (UDO), as such may be amended from time to time, and to fulfill such other responsibilities as may otherwise be delegated to the Board by City Council.

Article III. General Rules

The Board shall be governed by the Ordinances of the City of Brevard and the Laws of the State of North Carolina. The Board shall follow the procedures outlined in these rules of procedure ~~in Suggested Rules of Procedure for Small Local Government Boards, except as they may be modified by these rules of procedure.~~

Article IV. Jurisdiction

The Board's jurisdiction shall apply equally within the City limits and the City's area of extraterritorial jurisdiction.

Article V. Organization

Section 1. Membership. The Board shall consist of seven members, four of whom shall be residents of the City of Brevard; the other three shall be residents of the City's extraterritorial jurisdiction. The members who reside in the extraterritorial jurisdiction shall be entitled to equal rights, privileges and duties with other members of the board regardless of where the matters at issue arise.

Section 52. Quorum. A majority of actual members of the Board, excluding vacant seats, shall constitute a quorum for the conduct of business of the Board ~~or of any committee.~~

Section 23. Officer Elections. At its January meeting each year, the Board shall elect a chair and vice- chair for the coming year. The chair and vice-chair shall hold office for one year and shall be eligible for reelection.

Section 4. Chair. The chair shall preside over all meetings of the Board. The Chairman chair shall have the following powers:

I. To rule motions in or out of order, including the right to rule out of order, any

PAGE 1 OF 7

BYLAWS AND RULES OF PROCEDURE OF THE CITY OF BREVARD PLANNING BOARD
ADOPTED FEBRUARY ~~19, 2019~~ 27, 2024

- motion patently offered for obstructive or dilatory purposes;
- II. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
 - III. To entertain and answer questions of parliamentary law or procedure;
 - IV. To call a brief recess at any time;
 - V. To adjourn in an emergency.

The chair shall also have the privilege of discussing all matters before the Board and of voting thereon.

Section 5. Vice-chair. The vice-chair shall preside in the absence of the chair, and at such times shall have the same powers and duties as the chair. ~~The vice-chair shall assist the chair and shall serve as acting chair in the absence of the chair.~~ If the chair position is vacated, the vice-chair shall become the chair for the remainder of the vacated term.

Section 6. Clerk. The Planning Director shall designate a City of Brevard employee to serve as the clerk to the board. The board clerk shall keep all records, prepare meeting minutes for the signature of the chair, arrange for all required public notices, notify board members of upcoming meets and their agenda, and generally supervise the clerical work of the board.

Section 37. Attendance at Meetings. Members are expected to attend all meetings of the Board. In accordance with Section 15.4 of the UDO, any member who attends less than 75% of the regular and special meetings held by the Board during any one year period may be removed from the Board by City Council. The ~~Chair-board clerk~~ shall notify the chair and proper appointing authority if a member fails to abide by this requirement.

Section 48. Conflict of Interest. No Board member shall take part in the hearing, consideration, or deliberation of any case or matter before the Board in which the Board member, or any member of the Board member's family, either directly or indirectly, is a party or has any financial interest. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of remaining members present on the request.

~~**Section 5. Committees.** The Board shall have such standing committees as it finds necessary and convenient. In addition, the chair may create ad hoc committees. The chair shall designate the membership of all committees. The chair shall be either an active or ex-officio member of all committees.~~

VI. Meetings

Section 1. Open Meetings. All meetings shall be noticed and open to the public and properly noticed as provided by state law.

Section 12. Regular Meetings. The Board shall hold a regular meeting on the ~~third~~ fourth Tuesday of each month or at such other time as it may find convenient. The Board's current

meeting schedule shall be filed with the city clerk and the board clerk in accordance with state law.

Section 23. *Special Meetings.* The chair or a majority of the Board may call special meetings. ~~A majority of the Board may by written demand call a meeting.~~ Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.

Section 44. *Cancellation of Meetings.* Whenever there is no business for the Board, the chair, after consultation with the Planning Director, may cancel a meeting, by giving notice to all members not less than twenty-four hours before the time set for the meeting. In the event of severe weather or other sufficient cause the chair, after consultation with the Planning Director, may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board, the chair may cancel the meeting only upon the concurrence of a majority of the Board.

VII. Agenda

Section 1. *Proposed Agenda.* The board clerk shall prepare the agenda for the meeting. Any individual or group wishing to address the Board shall make a request to the board clerk to be placed on the agenda. However, the Board will determine at the meeting whether the individual's or group's request to be heard will be granted.

An agenda packet shall be prepared that includes, for each item of business placed on the agenda, as much background information on the subject as it is available and feasible to reproduce. Each board member shall receive a copy of the proposed agenda and agenda packet, and it shall be available for public inspection and/or distribution when they are distributed to the board members. The Board may, by majority vote, add an item that is not on the agenda.

Section 32. *Order of Business.* The order of business at regular meetings shall be, where pertinent:

- I. Welcome
- II. Introduction of Board Members
- III. Certification of Quorum
- IV. Approval of Agenda
- V. Approval of Minutes
- VI. Public Comment
- ~~VI.~~VII. Old Business
- ~~VII.~~VIII. New Business
- ~~VIII.I.~~ Public Comment
- IX. Remarks
- X. Adjournment

However, by general consent of the Board, items may be considered in another order.

~~**Section 4. Cancellation of Meetings.** Whenever there is no business for the Board the chair may cancel a meeting, by giving notice to all members not less than twenty four hours before the time set for the meeting. In the event of severe weather or other sufficient cause the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board the chair may cancel the meeting only upon the concurrence of a majority of the Board.~~

~~**Section 5. Quorum.** A majority of members shall constitute a quorum for the conduct of business of the Board or of any committee.~~

~~**Section 6. Conduct of Meetings.** All meetings shall be noticed and open to the public as provided by law. Any person who may be substantially affected by final action in any matter that comes before the Board may appear in person or by agent or attorney to make presentations respecting any such matter. The Chair may impose reasonable restraints on presentations.~~

~~The Chairman shall have the following powers:~~

- ~~I. To rule motions in or out of order, including the right to rule out of order, any motion patently offered for obstructive or dilatory purposes;~~
- ~~II. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;~~
- ~~III. To entertain and answer questions of parliamentary law or procedure; To call a brief recess at any time;~~
- ~~IV. To adjourn in an emergency.~~

VIII. Action by the Board

Section 17. Voting. Members must be present to vote on any matter. Except as may be otherwise required by these rules or other prevailing law, any motion to be carried must have the vote of the majority of members actually voting. The chair shall be eligible to vote as any other member.

No member shall be excused from voting except when a conflict of interest is present. In all other cases, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without a conflict of interest, shall be recorded as an affirmative vote.

~~**Section 8. Electronic Notice.** Notice to a member conforms to a requirement of these rules to be in writing if sent by electronic mail to an electronic address provided by the member and not returned to the sender with an error message.~~

Section 2. Motions. Action by the Board shall proceed by motion. Anyone, including the chair, may make a motion. A motion shall require a second. A member may make only one motion at a time.

Section 3. Deliberation. The Board may only deliberate, vote or otherwise take action on items duly noticed agenda items. The chair shall preside over the discussion according to the following general principles:

- I. The member who makes the motion is entitled to speak first.
- II. A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- III. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

Section 4. Adoption by Majority Vote. A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of North Carolina.

Section 95. Public Comment. Prior to the beginning of each regular meeting, the ~~Secretary~~ board clerk shall place in a conspicuous location, a sign-up sheet, which shall state the name of the speaker, and the subject, which the speaker will address. ~~The secretary shall bring the sheet to the Chairman at the time the meeting is called to order.~~

At the beginning of each agenda item under "old business" and "new business", the ~~Chairman~~ chair may, at that time, recognize those who have signed up to speak to that specific item. The ~~Chairman~~ chair shall first recognize those who are a scheduled party to that agenda item (i.e. applicant, agent, public official, etc.) and shall state the number of citizens who have signed up to speak on that particular item and may give the scheduled party the option of speaking first or last.

The ~~Chairman~~ chair shall, ~~in the interest of time,~~ have the right to limit any unscheduled speaker who has signed up under "public comment," to less than ~~five~~ three (35) minutes. An unscheduled speaker may not dedicate his allocated time to another speaker without unanimous consent of the ~~Planning~~ Board.

~~Any citizen arriving after the meeting begins may sign up under unscheduled "public comment" at the first recess of the Planning Board by contacting the secretary.~~

Article VII. Public Hearings

~~**Section 1. Conduct of Hearings.** The Board may conduct public hearings to fulfill its responsibilities as specified in Section 15.1 of the City of Brevard UDO. The chair shall preside at all hearings and unless overruled by a majority of the board shall have plenary power to limit presentations in the interest of brevity, clarity, fairness or other considerations. "Limit" in this sense shall be construed broadly, and shall include the power to provide for the representation of groups by spokespersons.~~

~~**Section 2. Review of Zoning Amendments.** The Board shall advise and comment on whether any proposed zoning amendment is consistent with the Comprehensive Plan, Bike Friendly Community Implementation Plan, Comprehensive Transportation Plan and other plans that~~

~~have been adopted and any other officially adopted plan that is applicable. The Board shall provide a written recommendation to City Council that addresses plan consistency and other matters as deemed appropriate by the Board.~~

Article ~~IX~~^{VIII}. ~~Repeal of Previous Bylaws~~, Rules and Policies

~~All bylaws, rules, policies and procedures heretofore adopted by the Board are REPEALED by the adoption of these Bylaws.~~

~~Article IX. Amendments~~

Section 1. Amendment of the Rules. These rules may be amended at any meeting after the meeting at which the amendment is first presented upon an affirmative vote of not fewer than four members of the Board. These rules should be reviewed annually.

Section 2. Reference to Robert's Rules of Order. The Board shall refer to the current edition of Robert's Rules of Order Newly Revised to answer procedural questions not resolved in these rules, so long as it does not conflict with North Carolina law or with the spirit of these rules.

Adopted by ~~a unanimous~~ vote of the Board this the ~~19th~~ 27th day of February, ~~2019~~ 2024.

~~Jimmy Perkins~~, Greg Hunter
Board Chair

~~Dr. John Folger~~ Alan Mercaldo
Board Member

~~Demi Loftis~~ Reid Wood
Board Vice-Chair

~~Chris Strassner~~ John Schommer
Board Member

Molly Jenkins
Board Member

Attested to:

~~Keenan Smith~~ James Carli
Board Member

Janice Pinson
Board Clerk

~~Stephanie Smith~~ Peter Chavez
Board Member

BYLAWS AND RULES OF PROCEDURE
OF THE CITY OF BREVARD
PLANNING BOARD

REVISED AND READOPTED: FEBRUARY 27, 2024

Article I. Name

The name of this organization is the City of Brevard Planning Board, hereinafter referred to as the "Board."

Article II. Purpose and Powers

The purpose of the Board is to function as the planning agency for the City of Brevard and to exercise all powers and duties specified by Section 15.1 of the City of Brevard Unified Development Ordinance (UDO), as such may be amended from time to time, and to fulfill such other responsibilities as may otherwise be delegated to the Board by City Council.

Article III. General Rules

The Board shall be governed by the Ordinances of the City of Brevard and the Laws of the State of North Carolina. The Board shall follow the procedures outlined in these rules of procedure

Article IV. Jurisdiction

The Board's jurisdiction shall apply equally within the City limits and the City's area of extraterritorial jurisdiction.

Article V. Organization

Section 1. *Membership.* The Board shall consist of seven members, four of whom shall be residents of the City of Brevard; the other three shall be residents of the City's extraterritorial jurisdiction. The members who reside in the extraterritorial jurisdiction shall be entitled to equal rights, privileges and duties with other members of the board regardless of where the matters at issue arise.

Section 2. *Quorum.* A majority of actual members of the Board, excluding vacant seats, shall constitute a quorum for the conduct of business of the Board.

Section 3. *Officer Election.* At its January meeting each year, the Board shall elect a chair and vice- chair for the coming year. The chair and vice-chair shall hold office for one year and shall be eligible for reelection.

Section 4. *Chair.* The chair shall preside over all meetings of the Board. The chair shall have the following powers:

- I. To rule motions in or out of order, including the right to rule out of order, any motion patently offered for obstructive or dilatory purposes;

- II. To determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and to entertain and rule on objections from other members on this ground;
- III. To entertain and answer questions of parliamentary law or procedure;
- IV. To call a brief recess at any time;
- V. To adjourn in an emergency.

The chair shall also have the privilege of discussing all matters before the Board and of voting thereon.

Section 5. *Vice-chair.* The vice-chair shall preside in the absence of the chair, and at such times shall have the same powers and duties as the chair. If the chair position is vacated, the vice-chair shall become the chair for the remainder of the vacated term.

Section 6. *Clerk.* The Planning Director shall designate a City of Brevard employee to serve as the clerk to the board. The board clerk shall keep all records, prepare meeting minutes for the signature of the chair, arrange for all required public notices, notify board members of upcoming meets and their agenda, and generally supervise the clerical work of the board.

Section 7. *Attendance at Meetings.* Members are expected to attend all meetings of the Board. In accordance with Section 15.4 of the UDO, any member who attends less than 75% of the regular and special meetings held by the Board during any one-year period may be removed from the Board by City Council. The board clerk shall notify the chair and proper appointing authority if a member fails to abide by this requirement.

Section 8. *Conflict of Interest.* No Board member shall take part in the hearing, consideration, or deliberation of any case or matter before the Board in which the Board member, or any member of the Board member's family, either directly or indirectly, is a party or has any financial interest. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of remaining members present on the request.

VI. Meetings

Section 1. *Open Meetings.* All meetings shall be open to the public and properly noticed as provided by state law.

Section 2. *Regular Meetings.* The Board shall hold a regular meeting on the fourth Tuesday of each month or at such other time as it may find convenient. The Board's current meeting schedule shall be filed with the city clerk and the board clerk in accordance with state law.

Section 3. *Special Meetings.* The chair or a majority of the Board may call special meetings. Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.

Section 4. *Cancellation of Meetings.* Whenever there is no business for the Board, the chair, after consultation with the Planning Director, may cancel a meeting, by giving notice to all members not less than twenty-four hours before the time set for the meeting. In the event

of severe weather or other sufficient cause the chair, after consultation with the Planning Director, may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board, the chair may cancel the meeting only upon the concurrence of a majority of the Board.

VII. Agenda

Section 1. *Proposed Agenda.* The board clerk shall prepare the agenda for the meeting. Any individual or group wishing to address the Board shall make a request to the board clerk to be placed on the agenda. However, the Board will determine at the meeting whether the individual's or group's request to be heard will be granted.

An agenda packet shall be prepared that includes, for each item of business placed on the agenda, as much background information on the subject as it is available and feasible to reproduce. Each board member shall receive a copy of the proposed agenda and agenda packet, and it shall be available for public inspection and/or distribution when they are distributed to the board members. The Board may, by majority vote, add an item that is not on the agenda.

Section 2. *Order of Business.* The order of business at regular meetings shall be, where pertinent:

- I. Welcome
- II. Introduction of Board Members
- III. Certification of Quorum
- IV. Approval of Agenda
- V. Approval of Minutes
- VI. Public Comment
- VII. Old Business
- VIII. New Business
- IX. Remarks
- X. Adjournment

However, by general consent of the Board, items may be considered in another order.

VIII. Action by the Board

Section 1. *Voting.* Members must be present to vote on any matter. Except as may be otherwise required by these rules or other prevailing law, any motion to be carried must have the vote of the majority of members actually voting. The chair shall be eligible to vote as any other member.

No member shall be excused from voting except when a conflict of interest is present. In all other cases, a failure to vote by a member who is physically present in the meeting room, or who has withdrawn without a conflict of interest, shall be recorded as an affirmative vote.

Section 2. *Motions.* Action by the Board shall proceed by motion. Anyone, including the chair, may make a motion. A motion shall require a second. A member may make only one motion at a time.

Section 3. *Deliberation.* The Board may only deliberate, vote or otherwise take action on items duly noticed agenda items. The chair shall preside over the discussion according to the following general principles:

- I. The member who makes the motion is entitled to speak first.
- II. A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- III. To the extent possible, the debate shall alternate between opponents and proponents of the measure.

Section 4. *Adoption by Majority Vote.* A motion shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of North Carolina.

Section 5. *Public Comment.* Prior to the beginning of each regular meeting, the board clerk shall place in a conspicuous location, a sign-up sheet, which shall state the name of the speaker, and the subject, which the speaker will address.

At the beginning of each agenda item under "old business" and "new business", the chair may, at that time, recognize those who have signed up to speak to that specific item. The chair shall first recognize those who are a scheduled party to that agenda item (i.e. applicant, agent, public official, etc.) and shall state the number of citizens who have signed up to speak on that particular item and may give the scheduled party the option of speaking first or last.

The chair shall have the right to limit any unscheduled speaker who has signed up under "public comment," to less than three (3) minutes. An unscheduled speaker may not dedicate his allocated time to another speaker without unanimous consent of the Board.

Article IX. Rules and Policies

Section 1. *Amendment of the Rules.* These rules may be amended at any meeting after the meeting at which the amendment is first presented upon an affirmative vote of not fewer than four members of the Board. These rules should be reviewed annually.

Section 2. *Reference to Robert's Rules of Order.* The Board shall refer to the current edition of *Robert's Rules of Order Newly Revised* to answer procedural questions not resolved in these rules, so long as it does not conflict with North Carolina law or with the spirit of these rules.

Adopted by vote of the Board this the 27th day of February, 2024.

Greg Hunter
Board Chair

Reid Wood
Board Vice-Chair

Molly Jenkins
Board Member

James Carli
Board Member

Peter Chavez
Board Member

Alan Mercaldo
Board Member

John Schommer
Board Member

Attested to:

Janice Pinson
Board Clerk

STAFF REPORT

Planning Board, Tuesday, February 27, 2024

Title: TXT-24-001 Consideration of Text Amendment UDO Chapter 15 Boards and Commissions

Speaker: Aaron Bland, Asst Planning Director

Prepared by: Aaron Bland, Asst Planning Director

Approved by: Paul Ray, Planning Director

Background

Section 15.1 of the City of Brevard Unified Development Ordinance (UDO) details the authorities and responsibilities for City's Planning Board (BPB) and Board of Adjustment (BOA). While statutory references in this section were updated following the adoption of General Statutes Chapter 160D, there was not a careful review of these enumerated authorities and responsibilities to conform with 160D. This is a staff-initiated text amendment that would do just that, and bring these listed roles of the two boards into compliance with the new general statutes that cover land use law in North Carolina.

Discussion

Throughout its many different subsections, Chapter 160D details both the required and potential duties of planning boards and boards of adjustment. A summary listing of these is attached.

This proposed text amendment does three things:

1. Eliminate anything listed that is not expressly authorized in the statutes
2. Ensure and make clear each board's required duties and responsibilities
3. List the optional responsibilities that each board actually engages in

In its review of this amendment, the Board should consider which of the optional duties are appropriate for each board to take on, particularly the Planning Board, which has a greater range of optional duties.

Policy Analysis

Ensuring the UDO and city board actions are consistent with state law is an obvious best practice and in the City's legal and procedural best interest.

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. Required and Optional Board Duties
2. TXT-24-003 - Draft Amendments
3. TXT-24-003 BPB Consistency Statement

Duties and Responsibilities Authorized and Mandated by NCGS Chapter 160D

Planning Board

- Required Duties
 - Review and comment on all proposed amendments to the zoning regulation or zoning map [§ 160D-604(b)]
 - Advise and comment on whether the proposed action is consistent with any comprehensive or land-use plan that has been adopted and any other officially adopted plan that is applicable. [§ 160D-604(d)]
 - Provide a written recommendation to the governing board that addresses plan consistency. [§ 160D-604(d)]
 - Review and provide advice and consultation to the governing board when adopting a new comprehensive plan [§ 160D-501(c)]
 - Review and comment on the required investigative study and reports required for the changing of the boundaries of a historic district, or the creation of additional districts within the city [§ 160D-944(c)]
- Optional Duties
 - Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis [§ 160D-301(b)]
 - Facilitate and coordinate citizen engagement and participation in the planning process [§ 160D-301(b)]
 - Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner [§ 160D-301(b)]
 - Exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct [§ 160D-301(b)]
 - Provide a preliminary review of quasi-judicial decisions [§ 160D-301(b)]
 - Perform any other related duties that the governing board may direct [§ 160D-301(b)]
 - Review and comment on development regulations other than a zoning regulation [§ 160D-604(c)]

Board of Adjustment

- Required Duties
 - Hear appeals of administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development [§ 160D-405(a) & § 160D-705(b)]
 - Decide special use permits [§ 160D-705(c)]
 - Decide variances [§ 160D-705(d)]

- Hear appeals of termination of modification of development agreements [§ 160D-1008(c)]
- Optional Duties
 - Act as Housing Appeals Board [§ 160D-305]
 - Hear appeals of minimum housing code [§ 160D-1207(e)]
 - Final decisions on subdivision plats if quasi-judicial [§ 160D-803(c)]
 - Hear appeals of decisions granting or denying a certificate of appropriateness [§ 160D-947(e)(2)]



CHAPTER 15. BOARDS AND COMMISSIONS

15.1. Boards and commissions established.

The following boards and commissions are hereby established:

A. *Brevard Planning Board.* The authority to establish a Planning Board for the City of Brevard is granted under the authority of G.S. 160D-301 and 160D-307.

1. *Authority and responsibility.* The Brevard Planning Board (hereafter BPB) shall have the following duties and responsibilities:

a. ~~Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions.~~

b. ~~Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area.~~

c. ~~Establish principles and policies for guiding action in the development of the area.~~

d. ~~Prepare and recommend to the city council ordinances promoting orderly development along the lines indicated in the comprehensive plan.~~

e. ~~Determine whether specific proposed zoning amendments developments conform to the principles and requirements of the adopted comprehensive plan for the growth and improvement of this area, as well as any other officially adopted plan that is applicable in accordance with G.S. 160D-604(d).~~

f. ~~Keep the city council and the general public informed and advised as to these matters.~~

g. ~~To review and make a recommendation on development activities and other requests as set forth in Section 16.6 of this ordinance in accordance with G.S. 160D-604(c).~~

h. ~~To render opinions and make recommendations on all issues and petitions related to the City of Brevard Code of Ordinances and other land use plans and policies, transportation plans and policies, road closings, and other policies which may be adopted from time to time which require approval by the city council, pursuant to G.S. 160D-604(c).~~

i. ~~To review with the city manager and other city officials and report its recommendations to the city council upon the extent, location and design of all public structures and facilities, on the acquisition and disposal of public properties, and on the establishment of building lines, mapped street lines and proposals to change existing street lines. However, in the absence of a recommendation from the board, the city council may, if it deems wise, after the expiration of 30 days from the date on which the question has been submitted in writing to the board for review and recommendation, take final action.~~

a. Review and comment on all proposed amendments to the zoning regulations or zoning map in accordance with G.S. 160D-604(b).

b. Advise and comment on whether any proposed amendment to the zoning regulations or zoning map action is consistent with any comprehensive or land-use plan that has been adopted, and any other officially adopted plan that is applicable, in accordance with G.S. 160D-604(d). 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.

c. Review and provide advice and consultation to the city council when adopting a new comprehensive



41 plan, in accordance with G.S. 160D-501(c).

42 d. Prepare, review, maintain, monitor, and periodically update and recommend to the city council a
43 comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related
44 research, data collection, mapping, and analysis to do so, in accordance with G.S. 160D-301(b).

45 e. Review and comment on the required investigative study and reports required for the changing of the
46 boundaries of a historic district, or the creation of additional districts within the city.

47 f. Review and make a recommendation on development activities and other requests as set forth in
48 Section 16.6 of this ordinance, in accordance with G.S. 160D-604(c).

49 j-g. Perform any other duties which may lawfully be assigned to itthe BPB by the city council or General
50 Statutes.

51 2. *Membership and terms of office.*

52 a. The BPB shall consist of a total of seven members with four members residing within the city and
53 three members residing in the extraterritorial jurisdiction. The members residing in the ETJ shall have
54 equal rights, privileges and duties with other members of the board in all matters pertaining to the
55 **UNIFIED DEVELOPMENT ORDINANCE** both within the corporate limits of the city and within its ETJ.

56 b. In accordance with G.S. 160D-307(a), the total membership of the BPB shall be proportional to the
57 population of residents of the city and residents in the ETJ area. At a minimum, the membership of
58 the board shall be examined following every decennial census, and changes shall be made as
59 necessary to maintain an appropriate balance of city and ETJ board membership.

60 c. Representatives from within the corporate limits shall be appointed by the Brevard City Council.
61 Representatives from the ETJ area shall be appointed by the Transylvania County Board of
62 Commissioners.

63 d. The term of office shall be three years staggered. Vacancies occurring for reasons other than
64 expiration of terms shall be filled as they occur for the period of the unexpired term.

65 e. The BPB shall elect the board chair and vice-chair from among its members. They each shall serve a
66 one-year term.

67 B. *Board of adjustment.* The authority to establish a board of adjustment is granted under the authority of G.S.
68 160D-302.

69 1. *Authority and responsibility.* The board of adjustment (hereinafter BOA) shall have the following duties
70 and responsibilities:

71 a. To hear and decide appeals from any order, decision, determination, or interpretation made by the
72 administrator pursuant to or regarding these regulations and in accordance with G.S. 160D-405, and
73 G.S. 160D-705, or G.S. 160D-1008.

74 b. To hear and decide petitions for variances from the requirements of these regulations.

75 c. To hear and decide petitions for special use permits.

76 d. To make an interpretation of any portion of this ordinance.

77 ~~e. To change the use of, or expand certain nonconformities.~~

78 2. *Membership and terms of office.*

79 a. The BOA shall consist of a total of five members with three members residing in the city limits and
80 two members residing in the ETJ. In addition, two alternate members residing in the city limits and
81 one alternate member residing in the ETJ shall be appointed. Alternates shall serve on the board in
82 the absence of a member and while serving shall have and may exercise all of the powers and duties
83 of a regular member. The members residing in the ETJ shall have equal right, privileges and duties
84 with other members of the board in all matters pertaining to the **UNIFIED DEVELOPMENT**



85 **ORDINANCE** both within the corporate limits of the city and within its ETJ.

- 86 b. In accordance with G.S. 160D-307(a), the total membership of the BOA shall be proportional to the
87 population of residents of the city and residents in the ETJ area. At a minimum, the membership of
88 the board shall be examined following every decennial census, and changes shall be made as
89 necessary to maintain an appropriate balance of city and ETJ board membership.
- 90 c. Representatives from within the corporate limits shall be appointed by the Brevard City Council.
91 Representatives from the ETJ area shall be appointed by the Transylvania County Board of
92 Commissioners.
- 93 d. The term of office shall be three years, although initial appointments shall be made for one, two and
94 three years so the terms may be staggered. Vacancies occurring for reasons other than expiration of
95 terms shall be filled as they occur for the period of the unexpired term.
- 96 e. The BOA shall elect the board chair and vice-chair from among its members. They shall each serve a
97 one-year term.

98 (Ord. No. 15-08, § 37, 12-5-08; Ord. No. 03-10, § 1(Exh. A), 2-15-10; Ord. No. 2014-25, § 05(Exh. E), 12-15-14; Ord.
99 No. 2019-27 , § 1(Exh. A), 11-18-19; Ord. No. 2020-23 , § 1(Exh. A), 10-19-20; Ord. No. 2021-16 , § 1(Exh. A), 4-19-
100 21; Ord. No. 2023-06, § 1(Exh. A), 2-6-23)

**COMMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
AND ANY OTHER OFFICIALLY ADOPTED APPLICABLE PLANS
TXT-24-003**

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 **neither consistent nor inconsistent** with the City's adopted comprehensive land use plan. However, ensuring the UDO and city board actions are consistent with state law is an obvious best practice and in the City's legal and procedural best interest.