

**REGULAR MEETING OF
THE VILLAGE OF CLEMMONS PLANNING BOARD
February 15, 2022**

The Village of Clemmons Planning Board met on Tuesday, February 15, 2022 at 6:00 p.m. The meeting was held at the Village Hall, Clemmons, North Carolina. The following members were present: Rob Cockrum, Lanny Farmer, Brad Hunter, Tressa Krenzer, Tom Mekis, Carolyn Miller, and Dave Orrell. Planner Nasser Rahimzadeh, Planning Technician Caroline Drake, and Attorney Elliot Fus were also present.

I. CALL TO ORDER

Chair Brad Hunter called the meeting to order at 6:00 p.m.

II. APPROVAL OF MINUTES for October 19, 2021 meeting

Vice Chair Dave Orrell made a motion to approve the minutes as presented. Lanny Farmer seconded the motion which was unanimously approved.

III. CHANGES AND/OR APPROVAL OF THE AGENDA

There were no changes to the agenda.

IV. ANNOUNCEMENTS

There were no announcements.

V. PUBLIC COMMENTS

There were no public comments.

VI. BUSINESS

- A. Public Hearing for Zoning Text Amendment Text Amendment** to amend multiple sections in Chapter A Definition Ordinance, Chapter B Zoning Ordinance, Chapter C Environmental Ordinance and Chapter D Subdivision Ordinance of the *Unified Development Ordinances* per changes to North Carolina General Statutes (**Zoning Docket C-UDO-86**).

Planner Rahimzadeh presented Text Amendment C-UDO-86 to the board (attached hereto as Exhibit A and incorporated as part of the minutes). The text amendment includes changes required by state legislature as well as some staff-initiated changes.

There was discussion regarding the logistics of a Village-initiated rezoning compared to one initiated by a developer, the benefits and concerns of allowing a rezoning to a special use district without a site plan, and the removal of the fee in lieu option for open space in subdivisions.

Chair Hunter opened the public hearing at 6:40 p.m., and with no opponents or proponents wishing to speak, the public hearing was closed.

Vice Chair Orrell made a **motion** to recommend **APPROVAL** of text amendment C-UDO-86 as presented. Tom Mekis seconded the motion which was unanimously approved.

B. Staff Report – Next scheduled meeting on March 15, 2021.

Planner Rahimzadeh advised the board of the possibility of two rezoning cases for the March meeting. There was discussion regarding interest in additional training sessions relating to the Community Compass.

VII. ADJOURNMENT

Carolyn Miller made a motion to adjourn at 7:01 p.m. Lanny Farmer seconded the motion which was unanimously approved.

Respectfully submitted,

Caroline Drake, Planning Technician

Nasser Rahimzadeh, Secretary

C-UDO-86

AN ORDINANCE AMENDING CHAPTERS A, B, C and D OF THE
UNIFIED DEVELOPMENT ORDINANCES

Be it ordained by the Village Council of the Village of Clemmons, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter A, Article II

Article II Definitions

EASEMENT, SIGHT. An easement which grants the right to maintain unobstructed view across property located at a street intersection. Per G.S. 160A-306(b)(3), measurements for sight distances at street intersections, including sight triangles, must begin within the roadway or edge of pavement of a proposed or existing street; the method that produces a larger sight triangle will be used.

Section 2. Chapter B, Article II, Section 2-5.44(B) Manufactured Home, Class A

2-5.44 MANUFACTURED HOME, CLASS A

Each Class A manufactured home shall meet the following criteria in all districts in which it is permitted, except the MH District:

- (B) Foundation...The manufactured home shall be set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent, masonry foundation or masonry curtain wall constructed in accordance with the standards of the State Residential Building Code, unpierced except for required ventilation and access, shall be installed under the perimeter. Per G.S. 160D-910(g), in situations where the manufactured home is located on land leased to the homeowner, masonry foundation or masonry curtain wall is not required and the following shall apply:
- (1) Material...Skirting shall be of noncombustible material or material that will not support combustion. Skirting material shall be durable and suitable for exterior exposures.
 - (2) Wood Framing...Any wood framing used to support the skirting shall be of approved moisture resistant treated wood.
 - (3) Venting...The skirting shall be vented in accordance with State requirements.
 - (4) Installation...Skirting manufactured specifically for this purpose shall be installed in accordance with the manufacturer's specifications.
 - (5) Within Sixty (60) Days...Skirting shall be installed no later than sixty (60) days after the setup of the home.
 - (6) Maintenance...Skirting shall be properly maintained.

Section 3. Chapter B, Article VI, Section 6-1.2 Neighborhood Meeting

6-1.5(B) Applicability

- (3) Exemptions...Zoning map amendments initiated by the Elected Body, Planning Board and Planning Director or designee may be exempted from B.6-1.2 Neighborhood Meeting.

6-1.5(C) Notice

- (1) Time and Place...The neighborhood meeting shall be held at a place that is convenient and generally accessible to neighbors that reside in proximity to the land subject to the application. The meeting shall be held in the evening or at a time of day when the maximum number of neighbors may attend. Neighborhood meetings shall be in person except for instances where a local state of emergency has been declared per G.S. 166A-8.

Section 4. Chapter B, Article VI, Section 6-1.5 Legislative & Evidentiary Hearings

6-1.5(B) Evidentiary Hearings

- (6) Oaths...The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is subject to criminal punishment under G.S. 14-209 or other applicable law. ~~guilty of a Class 1 misdemeanor.~~

6-1.5(C) Timeframe for Action

- (2) Approval Timeline...Where a legislative or quasi-judicial decision are required by a decision-making board or Elected Body, the decision shall be made within one hundred and eighty (180) days from the date an application is deemed complete, unless such dates are extended by ~~mutual consent of the petitioner and~~ the decision-making board or Elected Body. Such timeframe shall not begin to run until a determination of a complete application has been made.

Section 5. Chapter B, Article VI, Section 6-2.5 Zoning Map Amendment – General Use District

6-2.5(D)(2)(d) Elected Body Authority

- (i) The Elected Body may change the existing zoning classification of the area covered by a petition, or any part or parts thereof, to the classification requested or to ~~a lower~~ differing classification(s) without the necessity of withdrawal or modification of the petition.

Section 6. Chapter B, Article VI, Section 6-2.6 Zoning Map Amendment Special Use District

6-2.6(B)(3) Application Submission and Staff Review

- ~~(d) Petitioner Consideration...Special use Zoning District classification is appropriate for instances where firm plans for development are in place. The petitioner should consider whether it is appropriate to request a special use district or a general use map amendment. Additionally, the petitioner should consider Section B.6-2.5(C)(3)(e).~~
- (d) Special Use District without a site plan...Property may be rezoned to a special use zoning district with no site plan only in response to and consistent with a petition submitted by the landowners of all the property to be included in the district.
- (i) The application must specify the actual use(s) intended, one or more of the permitted uses listed in Table B.2.6 Permitted Use Table, for the entire tract or any part or parts thereof, for the property specified in the petition, and the proposed use(s) must be a use(s) permitted in the corresponding general use district.
- (ii) All requirements of the general use zoning shall be met.
- (e) Petitioner Consideration...Special use Zoning District classification with a site plan is appropriate for instances where firm plans for development are in place. Special use Zoning District without a site plan is appropriate for instances where the Elected Body, Planning Board, or Planning Director desires to amend the zoning of property. The petitioner should consider whether it is appropriate to request a special use district or a general use map amendment. Additionally, the petitioner should consider Section B.6-2.5(C)(3)(c).

6-2.6(C)(3)(d) Elected Body Authority

- (i) The Elected Body may change the existing zoning classification of the area covered by a petition, or any part or parts thereof, to the classification requested or to a ~~lower~~ differing classification(s) without the necessity of withdrawal or modification of the petition.

Section 7. Chapter B, Article VI, Section 6-2.11 Appeals and Interpretations

6-2.11(A) Authority

- (1) ~~The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Zoning Officer or Designee. Appeals of administrative decisions and the Historic Resources Commission shall be made to the Board of Adjustment as provided in the *Unified Development Ordinances*.~~

Section 8. Chapter B, Article IX, Section 9-1.3 Board of Adjustment

9-1.3(E) Powers and Duties

- (3) Appeals and Interpretations...~~The Board of Adjustment shall hear and pass upon appeals from and shall review any decision made by the Zoning Officer or designee per Section.~~ Appeals of administrative decisions and the Historic Resources Commission shall be made to the Board of Adjustment as provided in the *Unified Development Ordinances*.

Section 9. Chapter B, Article IX, Section 9-2.1 Enforcement Procedures

9-2.1(A) Notice of Violations

- (2) Appeals...Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation ~~may~~ shall be appealed to the Board of Adjustment per Section B.6-2.11 Appeals and Interpretations.

9-2.1(B) Stop Work Orders

- (2) Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order ~~may~~ shall be appealed pursuant to section B.6-2.11 Appeals and Interpretations. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order pertaining to unsafe buildings shall constitute a Class 1 misdemeanor.

Section 10. Chapter B, Article IX, Section 9-2.2 Criminal Penalties

~~9-2.2 Criminal Penalties~~

- ~~(A) Any person, firm, or corporation violating any provisions of this Ordinance shall be guilty of a class 3 misdemeanor excluding section B.9-2.1(B) Work Stop Orders.~~
~~(B) Upon conviction thereof, such violator shall be subjected to a fine not to exceed five hundred dollars (\$500.00) or imprisoned not more than thirty (30) days except that no such violation shall be punishable until the expiration of ten (10) days after notice shall have been issued by the Zoning Officer and served upon such violator.~~
~~(C) Each and every day beyond the initial ten (10) day notice period during which such violation continues shall be deemed a separate offense.~~

Section 11. Chapter B, Article IX, Section 9-2.3 Civil Penalties

9-2.32 Civil Penalties

- (A) Assessment of Civil Penalties

- (1) ~~In addition to criminal penalties, any~~ Any person, firm, or corporation violating any provisions of this Ordinance shall be subject to a civil penalty of one hundred dollars (\$100.00) to be recovered by the jurisdiction in a civil action in the nature of a debt.

Section 12. Chapter B, Article IX, Section 9-2.4 through 9-2.6

9-2.43 Injunctive or Other Relief

9-2.54 Special Use District and Special Use Permits

9-2.65 Revocation of Approvals

Section 13. Chapter C, Article III, Section 3-1.5 Exceptions to Applicability

3-1.5 EXCEPTIONS TO APPLICABILITY

- (A) Nothing contained herein shall repeal, modify, or amend any federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the Village of Clemmons; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in Clemmons at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
- (B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (C) Existing development, as defined in this Ordinance, is not subject to the requirements of this Ordinance. Expansions to structure classified as existing development must meet the requirements of this Ordinance; however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.
- (D) This Ordinance shall not apply to any lot or subdivision established prior to May 17, 1993 provided the same is developed for single family residential purpose.
- (E) This Ordinance shall not apply to development or redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale.
- (F) Per G.S. 143-214.5(d3), The Village of Clemmons shall allow an applicant to exceed the allowable density under the applicable water supply watershed rules if all of the following circumstances apply:

- (1) The property was developed prior to the effective date of the local water supply watershed program.
- (2) The property has not been combined with additional lots after January 1, 2021.
- (3) The property has not been a participant in a density averaging transaction under 3-3.6.3.1 Paired-Average-Density Development of *this Ordinance*.
- (4) The current use of the property is nonresidential.
- (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- (6) The remaining vegetated buffers on the property are preserved in accordance with the local water supply watershed protection program requirements.

Note: Redevelopment projects that result in no net increase in built-upon area and provide equal or greater stormwater control than the previous development shall be considered incompliance with requirements of this Ordinance.

Additionally, activities exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this Ordinance.

Section 14. Chapter C, Article III, Section 3-1.8(B)(3) Civil Penalties & Remedies

3-1.8 CIVIL PENALTIES AND REMEDIES

- (B) Remedies...If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved part or parties may appeal such ruling to the Watershed Review Board.
- (3) ~~Injunction, and Abatements, Etc...~~ ~~The Village Manager, with the written authorization of the Elected Body, Watershed Administrator~~ may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

Section 15. Chapter C, Article III, Section 7-1.9(B)(3) Civil Penalties and Remedies

7-1.9 CIVIL PENALTIES AND REMEDIES

- (B) Remedies...If the Stormwater Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. Remedies may include, but shall not be limited to, the following. If a ruling of the Stormwater Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.
- (3) Injunction and Abatements...~~The Village Manager, with the written authorization of the Elected Body,~~ Stormwater Administrator may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this Ordinance. Any person violating this Ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

Section 16. Chapter D, Section 1 General Provisions and Administration

1 General Provisions and Administration

- (F) Penalties for Transferring Lots in Unapproved Subdivisions ... ~~No~~Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Village of Clemmons, shall thereafter subdivide the land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the *Subdivision Ordinances* and recorded in the office of the appropriate register of deeds. ~~guilty of a Class 1 misdemeanor.~~ The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The local government may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, a local government may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.
- (K) Appeal Denial of a Subdivision...The decision whether to approve or deny a preliminary or final subdivision plat is administrative and ~~may~~ shall be appealed to the Board of Adjustment. Appeal requirements shall be the same requirements specified in Chapter B Zoning Ordinances Article VI Administrative Provisions of the Clemmons Unified Development Ordinances.

Section 17. Chapter D, Section 4(B)(4) Major Subdivisions

(4) Dedication of Land for ~~and/or Fees in Lieu of~~ Park, Recreation and Open Space Purposes.

(a) Dedication of Land.

- (i) General Provisions...Every subdivider who proposes a subdivision of land for residential purposes shall dedicate a portion of land ~~or pay a fee in lieu thereof~~, in accordance with this section, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision or the development.
- (ii) Amount of land to be dedicated...At least 1/35 of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development. The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. ~~When the area to be provided is less than two (2) acres, the subdivider shall be required to make a payment in lieu of the dedication to be use for public acquisition or development of recreation, park, or open space sites which would service the needs of the residents of the subdivision.~~
- (iii) Nature of Land to be Dedicated...Except as otherwise required by the Village Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria:
 - ~~(a)~~[A] Unity...The dedicated land shall form a single parcel of land, except where the Village Council determines that two (2) or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Village Council may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.
 - ~~(b)~~[B] Usability...Two-thirds ($\frac{2}{3}$) of the dedicated land shall be useable for active recreation and the slope shall not exceed fifteen percent (~~15~~10%). Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.
 - ~~(c)~~[C] Shape...The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this subsection.
 - ~~(d)~~[D] Location...The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.
 - ~~(e)~~[E] Access...Public access to the dedicated land shall be provided either by adjoining a private or public street or by a dedicated public easement, at least twenty-five (25) feet wide, which connects the dedicated land to a private or public street. Gradients adjacent to existing and proposed streets shall allow for pedestrian access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least eight (8) feet wide and provide a thirty (30) foot easement.

~~(f) — Topography...The slope shall meet requirements as listed in letter (e) of this section.~~

~~(b) — Payments of Fees in Lieu of Land Dedication.~~

~~(i) — General...The payment of fees, in lieu of the dedication of land under subsection (a)(ii) above, may occur by the developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Village Council after having received a recommendation from the Planning Board and the Parks and Recreation Board (reserved) having evaluated the proposed dedication and the relationship such dedication would have with the Village's overall recreational needs.~~

~~(ii) — Time of Payment...The fees in lieu of dedication shall be paid prior to the final plat approval or per phasing plan as denoted on the preliminary and final plat.~~

~~(1) — Amount of Payment...A payment in lieu of dedication shall equal the number of acres required to be dedicate multiplied by the fair market value of the land to be dedicated. Fair market value shall be determined by the tax appraisal of the property prior to the final plat recordation.~~

(c) Procedures.

(i) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated, pursuant to Section (c). ~~If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat.~~ The Village Council reserves the right to refuse to accept the dedication of parcels for public parks or open space. In such case the area dedicated for public use shall be maintained by the developer or a homeowner's association acceptable to the Village of Clemmons.

(ii) ~~Where dedication of land is required, such~~ A land dedication shall be shown on the final plat when submitted, and such plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the Village. The final plat will note that the area dedicated for public use shall be maintained by the developer or homeowner's association. ~~Where a payment in lieu of dedication is approved by the Village Council such payment will be made before the final plat is signed and recorded. The payment in lieu may be paid per phase of the development as shown on the preliminary and final plat.~~

Section 18. This ordinance shall be effective upon adoption

Approval this _____ day of _____, 2022.

Michael Rogers, Mayor

Attest:

Lisa Shortt, Village Clerk