

**MINUTES**  
**SPECIAL WORKSHOP CITY COUNCIL MEETING**  
**LAND DEVELOPMENT CODE REVISIONS**  
**WEDNESDAY, JUNE 29, 2022, 6:00 P.M.**  
**NEPTUNE BEACH CITY HALL**  
**116 FIRST STREET**  
**NEPTUNE BEACH, FLORIDA 32266**

Pursuant to proper notice, a Special Workshop City Council Meeting of the City Council of the City of Neptune Beach was held on Wednesday, June 29, 2022, at 6:00 p.m., at Neptune Beach City Hall, 116 First Street, Neptune Beach, Florida 32266.

**Attendance:**

**IN ATTENDANCE:**

Mayor Elaine Brown  
 Vice Mayor Kerry Chin  
 Councilor Lauren Key  
 Councilor Nia Livingston  
 Councilor Josh Messinger

**STAFF:**

City Manager Stefen Wynn  
 City Attorney Zachary Roth  
 Community Development Director Samantha Brisolara  
 Commander Michael Key  
 Grants and Resiliency Coordinator Colin Moore  
 City Clerk Catherine Ponson

**Call to Order/Roll  
Call/Pledge**

Mayor Brown called the Special Workshop Meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

**Public Comment**

Christine Burke, 113 Walnut Street, Neptune Beach, stated it was good to have a two-way dialogue. She added that there were compromises we can make. She noted that a lot of people are on vacation on July 5<sup>th</sup>, the first public hearing date, and Council should look at moving that date.

David Blais, 800 1<sup>st</sup> Street, Neptune Beach, thanked Council for the format of the meeting. He stated that Council hit the nail on the head with getting input from staff and the CDB and then discussing it in front of everyone. He agreed that many people are out of town on July 5<sup>th</sup> and suggested postponing that vote. He still questions 10 units per acre in the Central Business District as there are other things that are going to increase intensity of a lot of these uses.

**1. Uses in C-1**

**Presentation of  
Item**

Community Development Director Samantha Brisolara presented the CDB and staff recommendations for uses in the C-1 district. She stated that restaurants and retail are listed in staff recommendations to create a walkable commercial corridor that is required through the Comprehensive Plan.

**Public Comments**

Nicole de Venoge, 617 Oak Street, Neptune Beach, stated her biggest concern is that she has already noticed the traffic pattern change on Atlantic Boulevard cutting down on Third Street. It is already almost impossible to cross during high weekend times and other times in the evening and morning. Now we are talking about potentially increasing usage and

kinds of usage. She has concerns about what might happen. She doesn't see any restrictions and she is leery about what she is seeing.

Mark Waddell, 617 Oak Street, Neptune Beach, commented that one of his major concerns is that he doesn't know if there is anything in the Code that is going to limit the usages in a timeframe. Are we going to limit any potential usages after 10, 11 or 12 o'clock? We already have a traffic problem. He doesn't want restaurants with outside seating. He requested the presentation be made available ahead of time.

Richard Baker, 501 McCollum Circle, Neptune Beach, stated his house backs up to the C-1 district. There are a lot of concerns with the special exceptions, especially restaurants, because of the quality of life. He agrees with the CBD and removing it. We already have retail in C-1. He stated that this is a walkable corridor as it is.

Jim Moore, 401 McCollum Circle, Neptune Beach, questioned what is it about the C-1 district corridor as it stands that does not qualify for it being, at this time, a walkable corridor with services for citizens to enjoy today. This question needs to be answered before any kind of special exceptions are included in what is going to be voted on.

David Blais, 800 1<sup>st</sup> Street, Neptune Beach, stated that when the walkable corridor distinction came out in the Comp Plan, this was a Dover, Kohl term. We did not realize what it entailed. When the Land Use Code first came out, he found out it entailed basically turning C-1 into the Town Center. There were bars, restaurants, bed and breakfasts, and entertainment. He appreciates the removal of the craziness that was in there. It has been whittled down and it is not a good argument to say that because it is a walkable commercial corridor that it pigeonholes us into specific uses. If it does, then we need to go back and amend the Comp Plan. This has to do with the increase in traffic, noise and smells. He added that if the City needs tax revenue to maintain infrastructure, then it needs to be presented with facts.

**Council Comments** Vice Mayor Chin thanked everyone for their feedback. He has heard from a lot of citizens and had a productive meeting with Neptune by the Sea HOA. He remarked that he agrees with most of the CDB recommendations. He would say we should remove restaurants from the C-1 or an option for the C-1 and keep the retail in the special exception. That way we can add conditions if we need to. The reason to do that would be that each operation would be different and they would need different conditions. It would be difficult to apply a blanket condition on everything without knowing what is being requested in the application. He would recommend keeping the retail in special exception as the CDB recommended. He would pull the restaurants.

Vice Mayor Chin stated that the only question he would have are things like fraternal clubs, lodges and union halls. He can understand where people would be concerned about them having perhaps disruptive and alcohol parties. He asked the City Manager if gathering with alcohol would require them to get a permit from the City Manager first.

City Manager Stefen Wynn answered if it is a special event then yes they would, but that is only if it is in a public space. As of right now, in our existing Code, anything by special exception for a social or fraternal club or a union hall in C-1, requires a special exception. If the CDB or Council want to place certain conditions on granting that special exception, alcohol use could be taken into consideration.

Ms. Brisolara added that currently within the Code, it talks about alcohol use. Any time you are serving alcohol for more than half of your income, you have to have the 800-foot distance from a church or a school. Particularly in C-1, it would be difficult. If they were having a special event, they would have to come to the City for a permit. The State of Florida also regulates those permits so there is some protection.

Councilor Key stated she is good with the recommended uses and pulling restaurants. It seems to be not what everyone wants and the will of the people.

Councilor Livingston agrees with what has been said, but she has a hard time with it. In terms of what she thinks as walkable, she thinks of more uses, like retail or coffee shops that make it walkable. At the same time, she understands that it's not about what she wants, but she is a representative of the Community. She agrees with the CDB recommendations. She does not think that the C-1 is a place for restaurants at all. She went back and forth as to what is already in use in our existing Code as special exception or a permitted use already. She thinks that for the most part C-1 should remain the same. She has hesitation about retail because it is a slippery slope by putting retail as a special exception.

Councilor Livingston pointed out that there has been a lot of feedback about the building that is being built right now and talking about keeping C-1 the way it is. She was on the CDB when it was approved. The only variance they got was for parking. Basically, other than parking, a building like that is already completely fine in our Code. So, in keeping C-1 the same, we are going to see more of those office buildings just like that pop up all down Third Street. She wants to go with what the community is saying by keeping C-1 the same but in doing that, we will see more of those buildings. She wants to caution about that.

Councilor Messinger agrees to removing restaurants, fraternal lodges and related items. After confirmation that the hours of usage, regardless of what the use is, are 10:00 a.m. to 8:00 p.m., he stated that he is good to go with the Community Development Board recommendation.

Mayor Brown stated that she has not changed her mind. She wants to leave C-1 alone. She wants it to be very clear that we do not want a parking garage.

Councilor Key inquired and it was confirmed that there are no limits on hours for office buildings or things that you can have by right in C-1.

Public Comment

Chuck McCue, 1908 Third Street, Neptune Beach, commented that he does not want to see restaurants in the C-1. He stated that a lot of the activists who were anti-development, are now pro-development. He requested Council listen to constituents.

Staff Clarification

Ms. Brisolara clarified that in the Comp Plan, the C-1 is referred to as the "Walkable Commercial Corridor." In order to implement the Comprehensive Plan Policy related to the walkable commercial corridor, staff recommends keeping uses that will promote walkability along the Third Street corridor.

Policy A.1.4.2(C)(1) from the Comprehensive Plan states: "These areas shall include offices, professional services, and retail sales that promote and advance walkability, which service the routine and daily needs of residents and that are compatible with and have no measurable or noticeable adverse impacts upon surrounding residential uses."

Ms. Brisolara advised that restaurants will be removed. However, it is imperative that retail uses are allowed either by right, or by special exception as to remain in compliance with the state approved and city adopted comprehensive plan. If that is removed, then we are talking about having to redo the entire future land use element, possibly the transportation element and possibly the infrastructure and capital improvement elements. There are multiple elements that would be affected by one change. It does not look good for a City to have to go through that process.

Ms. Brisolara added that further in Section 27-237 it specifically states that new buildings can be no larger than 30,000 square feet and limited to 100 linear feet of frontage.

She also clarified that from a planning perspective any time you have buildings that are forward facing towards the street that are right next to the sidewalk, that makes it walkable.

Vice Mayor Chin stated "this Council is not pro-development, per se, because last year, we passed the Comp Plan. We pulled anything that would allow residential in C-1, C-2, C-3. So there's no massive development support here. He wants to make that very clear to the audience and to whoever is listening. Thank you."

Councilor Key commented she wanted to piggyback off of that. "For example, this was presented for an area of our City in our Comp Plan that was removed because people asked us to remove it. It is a development area, so I don't think there is a single person on here that is pro-development. I know that that seems to be a going theme. I can see for myself and probably everyone else might say that that's just simply not true. I hate that it's been painted that way because it's hurtful. Because there are a lot of ugly and unkind and hurtful things being said and personal attacks being made on us that are untrue."

"I haven't spoken to 99% of the people in this room on a personal level. We are at a precipice right now, where I don't want to come to Council meetings anymore because it has become so toxic. And I understand people feel passionately about things. As Mr. McCue mentioned earlier. I was part of Neptune Strong. I fought apartment complexes. I took time away from my family, my young children, to fight to not have apartments in our City. It is something I believe in. To be attacked and called pro-development is very frustrating for me. I take time away from my three young children, including a newborn, to serve on this Council. I beg that the attacks and personal attacks please stop. We are all humans. I have feelings too. I am not a punching bag for people's anger and frustration, even though that seems to be the going theme lately, and I've had it. I just ask all of you, can we just please have conversations that are productive and respectful? I am happy to return emails that are productive and respectful, but I will not be engaging with any more of the nasty attacks. I just ask that we please come together as a community. We're all neighbors and do that together. Thank you for respecting that. Like I said, it's gotten very difficult. I feel like we've done a lot for the will of the people to take things out. The constant attacks are just getting really, really difficult to deal with. So thank you for listening to me speak and I hope you all take what I am saying with an open heart because it is said with love."

Councilor Livingston said ditto on that. She asked if there is language we could add to C-1 to protect ourselves of what's going in there.

City Attorney Zachary Roth stated there are ways we can discuss adding language, but we have to be careful to avoid being just blatant discriminatory.

Ms. Brisolara added that there is still the caveat that is has to be compatible with the Comp Plan.

Mr. Wynn pointed out that if retail is kept as a special exception, there are the eight findings of fact that must have a positive finding. Rather than try to codify something specific to a zone, they can be looked at on a case by case basis.

## **2. RC/NC Overlay (Architectural Requirements)**

Presentation of  
Item

Ms. Brisolara stated that this is more of an explanation of what RC and NC Overlay are and what they are important. Residential Conservation (RC Overlay) is defined in the Comprehensive Plan as follows:

- An area east of 3<sup>rd</sup> street with historical development patterns.
- Density is limited to 10 residential units per gross area.

Existing duplexes on lots of at least 5,000 square feet are deemed conforming with regard to density, provided lot coverage and other retrofit regulations within the LDC or is

replaced with a new duplex that complies with all requirements for new buildings other than minimum lot size.

The way that that is implemented through the Land Development Code, in keeping with the historical development pattern, it allows the existing property to reduce their nonconformities through these architectural features. In the past there have been a lot of variances and things like that, where people wanted to build porches or balconies, but can't do it currently. This is an outlet for them to do these things without having to go through red tape or a variance process.

#### RC Overlay in Land Development Code

- Keeps with historical development patterns by allowing existing properties to reduce their non-conformities through architectural features
- Limited to 65% Floor Area Ratio (FAR) for all buildings, exclusive of architectural requirements
- Increasing the minimum lot width to 50 feet decreases issues with density through requiring larger lot sizes
- Staff recommends using 8,500 square feet as the minimum lot size for duplexes and 4,000 square feet for single-family lots based on best practice for density calculations.

Use of ½ the right-of-way allows non-conforming lots to make improvements to their properties by decreasing their non-conforming lot status. Staff is recommending limiting use of the right-of-way for density purposes only.

Neighborhood Conservation (NC Overlay) is defined in the Comprehensive Plan as follows:

- An area that shall include an eclectic mix of commercial, office, artisan, and production, distribution, and repair (PDR) uses.
- Promote walkability
- Intended to provide residents west of Penman Road with a place to show, eat, and seek professional services within bicycling distance

#### NC Overlay in Land Development Code:

- No commercial buildings can exceed 20,000 square feet
- Architectural requirements that match those required in the Central Business District (CBD) to promote walkability and bicycling

**Public Comments** Mark Waddell, 617 Oak Street, Neptune Beach, questioned what the gross area is.

David Blais, 800 1<sup>st</sup> Street, Neptune Beach, spoke regarding being able to rebuild and he questioned the logic of allowing someone to tear down the duplex if it's on a smaller lot than the 8,500 square feet. He asked on some of the restrictions, such as the garage door, to have staff put together reports of new construction that has been done to have a good idea of what is going on.

**Council Comments** Vice Mayor Chin commented that a lot of people hear the term RC overlay and they wonder what that means. It is really just a differentiation of the R-4 zone that's east of Third Street and the other R-4 zones that are in Neptune Beach. The R-4 that is east of Third has its own peculiarities, tight conditions and unique needs. It's merely a fact of just designating it, giving it a new label so that we can apply rules that are more appropriate to what's going on east of Third so that it won't affect what's west of Third. With the RC Overlay, there are a number of architectural standards, these form-based codes that people are upset about and asking why are we doing these HOA-type things.

Vice Mayor Chin spoke about his experience on the Planning Board and CDB. Many, many people would come before the Board and ask for variances for their homes to build a balcony or a porch or something on their house because they were already at their setback limits. Unfortunately, they did not meet the stringent findings of facts. He was

always voting no. He was always voting to deny them the variance to have a porch, something that they can enjoy the streetscape on. He became Mr. No and there are people to this day, who remember his vote and they are still mad at him.

From that perspective, he can see the rationale for doing something like this because, right now, these people are denied something that would be nice to enjoy. This includes, the open air streetscape, more neighborly atmosphere and environment, but with a tradeoff. The City is saying if we are going to let you do that into the setback, which you normally would not, then we are going to want something back. We're going to want a little control so that you're not building a 20-foot porch. That's the overall rationale. He is not tied to this and could go back to denying variances. It is the same thing with the NC Overlay district.

Vice Mayor Chin reported he is okay with the 8,500 square feet. Single-family needs to be at 4,356 square feet. He questions including half of the right-of-way for the gross site area.

Councilor Key stated she is good with the recommended lot sizes. She feels very strongly about duplexes. She thinks that duplexes offer, especially east of Third, the opportunity to have affordable housing at the beach. It is a very important aspect of our community. She believes you should be able to rebuild. She stated that there were complaints about cookie cutter houses. A solution was to require certain architectural features in order to not have the cookie cutter houses. But now the complaint is we don't want those architectural features. She just wants it to be transparent that we are good with cookie cutter houses. Her understanding is you can't have it both ways. What someone is doing east of Third is not the same as what someone is doing west of Third. Why are we held to the same standard when we are in different areas of town? She supports the RC and NC Overlay staff recommendations

Vice Mayor Chin mentioned that to lessen any kind of heartburn, he suggested we could go with optional versus required elements. If someone chooses it, it does count against their lot coverage calculation.

Councilor Livingston echoed what Vice Mayor Chin outlined. We are not taking away property rights. We are making it more so that you can exercise your property rights. She agrees with staff recommendations.

Councilor Messinger pointed out that the two-car garage door regulation has been removed. We are trying to achieve the same goals. We have an amazing culture of people being out on their porches and seeing neighbors. We are so neighborly here and that component of sitting out on your porch and connecting with your neighbor is not lost. It's keeping the community's culture while also allowing people to do more with their property. He agrees with the square footage of 4,356. He is good with having that kind of eclectic mix of uses. He enjoys the culture that makes Neptune Beach very unique

Mayor Brown added that she is a property rights person. She feels as though people are diverse in their thinking and what they like to have. She feels as though the 8,500 is fine and with the single-family as well. She thinks we are on the right track and believes that architecturally people will do the right thing with their homes.

#### Staff Clarification

Why is the RC overlay important?

- Staff has found, historically, that a number of variances were requested in the RC Overlay for setbacks, architectural features, and other land use provisions that otherwise would not have been requested in other areas in the City.
- The RC Overlay allows residents to make improvements to existing homes and build new homes without the need for additional processes, variances, or "red-tape."

Why is the NC Overlay important?

- The NC Overlay is intended to serve the residential areas west of Penman Rd.
- Essentially, its entire purpose is to provide services for residential areas west of Penman Road that typically require those residents to drive onto Atlantic Blvd or 3<sup>rd</sup> Street for the same type of services.

### **3. Density Clarifications for RC**

Presentation of  
Item

Ms. Brisolara explained that the CDB recommendation for density in the RC is:

- 8,712 square feet minimum duplex lot size
- Use of ½ right-of-way for density and lot coverage calculations

Staff recommendation is:

- 8,500 square foot minimum duplex lot size
- 4,000square foot minimum single-family lot size
- Use of ½ right-of-way for density and lot coverage calculations (only ½ of local street rights-of-way shall be used for the purpose of calculations)

Ms. Brisolara clarified that the one-half of the right-of-way for the calculation is only on local streets.

Public Comment

Nicole de Venoge, 617 Oak Street, Neptune Beach, spoke regarding the governor vetoing a bill that would have made it so we could not have any say over business hours. She thanked Mayor Brown for signing a letter in support of the veto. She would like something in the Code that takes into consideration the trees that are placed. She thanked Vice Mayor Chin for answering her email.

Mark Waddell, 617 Oak Street, Neptune Beach, stated he does not agree with including the right-of-way into the calculations. He does not believe that it is not part of your property if you can't build on it. He thanked Council for their time and energy.

David Blais, 800 1<sup>st</sup> Street, Neptune Beach, questioned if the 40% width of the garage door had also been removed. He stated that the angst has been released that was built up. Having this meeting and hearing Council's viewpoint makes everyone breathe a sigh of relief.

Council Comment

Vice Mayor Chin requested a real-world example of including half the right-of-way in the density coverage so he would understand the implication.

Ms. Brisolara stated and presented an example on an actual lot in Neptune Beach on South Avenue.

Mr. Wynn pointed out that footnote 11 on page 139 of the draft should say "the minimum lot width for duplexes that have been divided into two fee simple lots of 40' each prior to November 1, 2021 shall be deemed conforming."

Councilor Key commented that from a planning perspective it now makes sense after hearing the explanation and it is something she supports.

Councilor Livingston asked how many lots are like the example that was given.

Ms. Brisolara stated she had done a brief poll from property appraiser and she estimated there were about 450. They are not all east of Third.

Councilor Livingston remarked that it makes sense, if this was in place, only for density.

Ms. Brisolara added that even using the half right-of-way, the lot still doesn't meet the requirements, then it is a nonconformity.

Councilor Messinger stated clearly it is an issue with conformity. He asked if there would be a simpler method that has the same goal where we can allow people to bring their property into conformity and make improvements with a less confusing explanation.

Mr. Roth explained that he would have concerns with doing that because we would have to make sure we go through and catch every single property, find wherever the absolute smallest one is. If we don't have an issue, we say those are all fine.

Councilor Messinger expressed that he's not saying label each property but just articulating what the goal is or maybe there should be an explanation stating the intent.

Mr. Roth commented that we could state that the calculation only rounds up for purposes if required to permit one unit.

Councilor Messinger stated that he liked that language and requested it be added.

Mayor Brown added that she too had questions and appreciated the explanation.

Councilor Key remarked that Councilor Messinger's added language is a great idea and it might alleviate some of the concerns that citizens have.

Vice Mayor Chin explained that conformity means that your property satisfies all of the zoning codes. Where it could hurt you is if you have a 40-foot wide property that does not meet the density requirement, you are now nonconforming. Let's say you want to add or deck in the back, that is within your rights and within the setbacks, you would still have to come in for a variance on an existing condition because your property is nonconforming. You would need to pay the fee to be able to build something you normally should be able to. That's why doing these things are actually trying to help you bypass some of the restrictions you should not have to go through.

#### **4. Planned Unit Developments (PUDs)**

##### **Presentation of Item**

Ms. Brisolara explained what a Planned Unit Development(PUD) is. She stated that a PUD is:

A type of development and the regulatory process that permits a developer to meet overall community intensity and land use goals without being bound by existing zoning requirements.

- PUD is a special type of floating overlay district which generally does not appear on the municipal zoning map.
- Zoning is applied at the time a project is approved and may include provisions to encourage clustering of buildings, designation of common open space, requirements for additional landscaping, and incorporation of a variety of building types and mixed land uses and often times a public benefit.
- A PUD is planned and built as a unit which limits the type and location of uses and buildings over the entire project.
- Potential benefits of a PUD include more efficient site design, preservation of amenities such as open space, lower costs for street construction and utility extension, lower maintenance costs as well as public benefits such as sidewalks, parks, benches, and other infrastructure that benefits an entire municipality

##### **Public Comment**

Nicole de Venoge, 617 Oak Street, Neptune Beach, stated she is not in favor of PUDs added to the C-1. She added that some of the benefits can already be done.



Mark Waddell, 617 Oak Street, Neptune Beach, remarked he is against PUDs. He said that this is not a win for the City and there are too many negatives.

David Blais, 800 1<sup>st</sup> Street, Neptune Beach, commented that Council had made some great changes. There were clarifications about residential added. The wording had been changed to where only uses that are already permitted or permitted by special exception can be applied for. He stated that the word "only" is used but it does not specify only for the zoning district in which the PUD is being applied for.

Shellie Thole, 124 Margaret Street, Neptune Beach, stated she hoped the first read would not be on July 5. She also stated that staff mentions the good that comes from a PUD. She asked what is a bad situation that could happen and if that was addressed she might feel better about PUDs.

#### Council Comment

Vice Mayor Chin stated that to assuage everyone's concerns, PUDs are not a permitted use in C-1, C-2 and C-3 zoning districts. They are not a special exception in C-1, C-2, and C-3. No one can come in and build a PUD by right. He had suggested a couple of tweaks to the language in the PUD section that basically takes away explicit language that says they are allowed. The only thing our ordinance says is they can apply. They can only apply in the C-1, C-2 and C-3 zoning districts for the uses that already zoned in that area. Right now, PUDs are not allowed. They can apply and we can say no. It is a good idea to have the regulating language in case there is some overarching statutory requirement that suddenly trumps us. There may be perhaps a preemption from Tallahassee about PUDs and at least we have the controlling language.

Vice Mayor Chin advised that the City had passed a limitation on short-term rentals. Tallahassee passed a preemption that states short-term rentals are okay and cities can't regulate it. Because we had the rules already in place, ours were grandfathered in and we have retained the control of short-term rentals. If we did not have those rules in place, we would be in trouble. There are those that like to have their Airbnb's and try to skirt the law. We need to start somewhere and at least have them. It can be tightened up by staff and City Attorney.

Councilor Key stated that for her it was scary because she had flashbacks of 500 Atlantic and fighting those apartments. She wants to clarify that the difference between this and the PUD that was dealt with during that time was that was a PUD by special exception. That is the worst thing you can have in your Code. Having a PUD in the Code, we would not have been in the situation we were with 500 Atlantic.

Mr. Roth confirmed that by special exception, once an applicant meets the standards, they are entitled to have it. This is a zoning change and there is no entitlement. They can give all the positive information in the world and we can say no. It is a fundamentally different analysis in terms of factors that apply for consideration and who has the burden of proof.

Councilor Key continued that many sitting the room were a part of the 500 Atlantic experience and kept up with it. For her, PUDs were scary until she had a better understanding of them. She had met with Mr. Blais. She feels like it would be mistake to not have them and it could be the greatest tool in our toolbox.

Councilor Livingston agrees but has concerns about a PUD in the C-1. She thanked Mr. Blais for sending information. She does have language she would like to add. In Section 27-245, add "as determined by City Council," after "the development must provide a public benefit." She stated letting Council determine the public benefit might be helpful rather than the applicant presenting it.

Mr. Roth advised that the CDB had given feedback as well is including some language that makes it clear that it is the City's discretion that these things are determined.

Councilor Livingston questioned the definition of "non-transient lodging facilities" in Section 27-245(c). She stated the definition in F.S. 509.013 (4) uses the term "non-transient public lodging."

Mr. Roth explained that we are not trying to, based on his understanding, capture regular hotels. We don't want to capture transient lodging facilities. Transient is intended for temporary use. Non-transient is intended for permanent use. We didn't use public lodging facilities. We are not intending to prohibit transient lodging facilities.

Councilor Livingston requested clarification and to tighten up the language regarding what is specific to the zoning district being requested.

Ms. Brisolara answered that the best way to tighten that up is to break it out for each specific zoning district you're allowed to use whatever uses are allowed by right or special exception.

Councilor Livingston pointed out that that in some places in PUD section still refers to the PUD as a special exception.

Councilor Messinger stated he was torn on this. There have been cases where this has been a very good public benefit. There is a lot of concern around the C-1 district. There is a benefit to having something on our books and codified so when the state ultimately takes another right away from our community, we will have something codified that will protect us. There is a large value in protecting our community by having the language in our Code and removing it from the C-1, where there is a lot of concern. This would not require a Comp Plan rewrite as we would still have the PUD.

Mayor Brown stated she feels the same way and wants PUDs totally kept out of C-1. PUDs can be used as a great tool when used properly and the requirements will be extremely stringent.

Councilor Key questioned that if we pick and choose where we have PUDs, what does that look like? If we pick and choose zones, does that make a difference?

Ms. Brisolara answered not really because a PUD is a conglomeration of uses or the specific use that is allowed they want variances or special exceptions.

Councilor Key asked were there any ramifications for taking the PUD of C-1. Is there a minus for taking it out of C-1?

Vice Mayor Chin commented that is if a preemption comes down, and we don't protect C-1, then a PUD could be in C-1.

Councilor Key stated that if C-1 is what everyone is concerned about protecting, then it seems counter-intuitive to take it out if that is the area that is of most concern.

Mr. Roth stated he tends to have the same concern because what the PUD does is provide within the uses that are specifically allowed, either by right, or special exception, allow us to essentially to create the fabric they can do that development. We are not going to end up with a use that is any different than any of the other uses. We can require public benefits to be provided.

Councilor Key reiterated that it's worth looking at from the other perspective. Having full understanding of the ramifications is important.

Councilor Livingston stated with that clarification and with it protecting C-1, she is okay with it staying in C-1 with the added language regarding uses.

Mr. Roth advised that we can draft language that makes it clear that you can't take a C-2 use and put it into C-1.

Councilor Messinger added that there is a lot of concern around PUDs and C-1. He would ask as we are looking at tightening up the language and potentially including it in all zones, that we could go back and craft the language that a state preemption wouldn't negatively impact us.

Mr. Roth stated that he is not sure it is possible to predict any preemption that could ever exist in the future and try to craft something without knowing what that is as to a specific zoning district to avoid it. He can think about how to evaluate it.

Councilor Messinger remarked that there is great value in protecting our community from state preemption because we enjoy a much higher quality of life in Neptune Beach with our Codes.

Councilor Key clarified that the PUD was removed to provide temporary protection during the time after the litigation with 500 Atlantic. That was a temporary fix until we figured all of this out. The goal was not to have no PUDs.

Mr. Roth advised that he had never spoken to another attorney that had seen PUDs by special exception. We are taking something and making it more of what people actually do.

#### Staff Clarification

Ms. Brisolara explained that language in the proposed code for PUDs is much more favorable to the City than a developer. The City will have more leverage in how, what, where, when, and if a PUD may be permitted. The process to apply for a PUD includes a PUD application, a Development Order Review application, and a subdivision application. These forms of application review, as set in Article II, require both CDB and City Council Approval. Additionally, if the proposed Fee Schedule is adopted, the application fee for a PUD is between \$15,000 and \$60,000.

#### Final Council Comments

Mayor Brown thanked everyone for being at the meeting. It was productive and she appreciates it.

Vice Mayor Chin commented that he wondered if we could adjust the July 5<sup>th</sup> First Read of the Zoning Ordinance. This would also give staff to work in the new suggestions.

Councilor Key asked that if we are going to make a change to a Council meeting, she is not going to change her travel plans. We could find a date that would work for everyone, but there is a chance she may not be here.

Councilor Messinger also stated he had made his travel plans around meetings. If we moved it a day or two, this would give more time to get back from the holiday.

Mr. Roth reminded Council that due to notice requirements, the meeting can only be held on July 5<sup>th</sup> of that week.

Councilor Key stated that there was no collusion behind planning this meeting on that date. This meeting was supposed to happen months ago. This date was not chosen to limit public participation. It just happens to be where it landed on the schedule. There are options for public participation. She feels comfortable with July 5<sup>th</sup>.

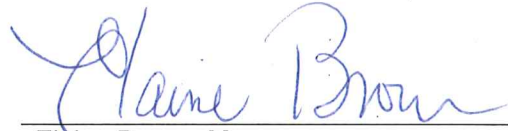
Mr. Wynn commented that knowing this is a first read and there is still a month in between. There is still time for public comment.

Councilor Livingston stated that July 5<sup>th</sup> was the original final vote. If the public is not able to make it, they can email whatever their public comments are.

Mayor Brown concluded that it is a first read and not a final vote and there is plenty of time for public comments.

Adjournment

There being no further business, the Special Workshop Meeting adjourned at 8:06 p.m.



Elaine Brown, Mayor

ATTEST:



Catherine Ponson, CMC  
City Clerk

Approved: \_\_\_\_\_

8/1/2022

