

**CITY OF BELFAST PLANNING BOARD
PUBLIC HEARING - PROPOSED ORDINANCE AMENDMENTS
THURSDAY, DECEMBER 13, 2018 6:00 PM
COUNCIL CHAMBERS, BELFAST CITY HALL**

AMENDMENTS TO

CHAPTER 66, GENERAL PROVISIONS

AND

CHAPTER 102, ZONING

**ARTICLE VI, PLANNED UNIT DEVELOPMENT AND CLUSTER HOUSING
DEVELOPMENT**

**DIVISION 1. RESIDENTIAL PLANNED UNIT DEVELOPMENT AND
CLUSTER HOUSING DEVELOPMENT AND NONRESIDENTIAL
PLANNED UNIT DEVELOPMENT**

1) Background Information and Explanation of Proposed Amendments

The Belfast City Council and Planning Board, in the past 2+ years, have implemented or actively considered amendments to current City Ordinances to try and increase the amount of rental housing available in Belfast. One potential approach that could benefit this effort, and perhaps just as importantly, present more opportunities for creativity and the preservation of land in the lay-out of housing projects, would be to allow more flexibility in the City's current planned unit development (PUD) standards. While the City has long allowed planned unit developments, some of the threshold requirements identified in the current standards have essentially negated the use of this approach in the Inside the Bypass area and other areas that allow smaller lot sizes.

Some of the key provisions of this proposal include:

- Replacing the current requirement that a property must be a minimum of 5 acres in size for an applicant to propose a project for a planned unit development with a requirement based on a minimum number of housing units. The intent of the change is to allow more property owners to consider proposing a PUD, particularly in areas such as Inside the Bypass.
- Amending the open space requirements associated with a PUD. The amendments would result in increasing the minimum amount of open space required in rural areas, and revising specific requirements that recreation facilities be provided.
- Multi-family housing would always be allowed as a development option, even if the underlying zoning district in which the project is located does not allow multi-family housing.

- Density bonuses will be allowed for projects that involve a minimum of 7 units and that preserve a minimum of 10% more open space than the minimum required in these Ordinance standards.

2) Planning Board Hearing of December 13, 2018 and Role of Planning Board

The Planning Board, consistent with City Code of Ordinances, Chapter 102, Zoning, Section 102-182, is responsible for the review of proposed amendments to the Zoning Ordinance and to offer a recommendation to the City Council. The December 13 public hearing will provide the public an opportunity to offer comment to the Planning Board. The Board, following the public hearing, will vote on the recommendation that it will offer on this proposal to the City Council. The City Council will subsequently conduct a public hearing on the amendments following its receipt of a recommendation from the Planning Board. The City Council must vote to adopt the amendments for the proposed amendments to become part of City Ordinances.

3) How to Offer Public Comment to the Planning Board on the Proposed Amendments.

The public may offer comment on or by the date of the December 13, 2018 Planning Board public hearing in one of three ways:

- You can attend the December 13 public hearing and offer verbal comment to the Planning Board at the hearing.
- You can submit comment in writing to: Wayne Marshall, Code and Planning, City of Belfast, 131 Church St, Belfast, ME, 04915.
- You can submit comment via email to: **public@cityofbelfast.org**.

All comment that is provided in writing or via email will be provided to the Planning Board at or before the hearing. If you chose to submit comment in writing or via email, we ask that you do so by 2:00 pm on December 13 so that copies can be made for the Planning Board in advance of the 6:00 pm public hearing. The Planning Board gives equal consideration to all forms of comment that are offered.

Questions regarding the proposed Ordinance amendment should be directed to Wayne Marshall, Director, Code & Planning at 338-1417 x 125 or at wmarshall@cityofbelfast.org.

4) Format of Amendments.

All text shown in black font is current text in the adopted City Code of Ordinances, Chapter 102, Zoning. **All text shown in red font** is new language that is proposed to be added, and ~~all text shown in blue and strike-through font~~ is existing language that is proposed to be deleted. All text shown in **green font** is advisory/informational only, and is not part of the formal Ordinance language.

TEXT OF PROPOSED AMENDMENTS

CHAPTER 66, GENERAL PROVISIONS

Sec. 66-1. Definitions.

- (a) The purpose of this section is to provide a list of terms and their meanings so as to assist applicants and others in understanding the terms used in subpart B, Land Use Regulations. Unless incorporated by reference in another chapter or another city ordinance, the definitions in this section are not controlling.

Further, definitions that are unique to a specific chapter of subpart B, Land Use Regulations, can typically be found in that specific chapter rather than this chapter. For example, definitions unique to Chapter 78, Floods, and Chapter 82, Shoreland, can be found in said chapters. Applicants and others are encouraged to consult the other chapters of subpart B, Land Use Regulations, for a list of terms and their meanings that may apply to a specific chapter.

- (b) In the interpretation and enforcement of subpart B, all words shall carry their customary dictionary meanings. For the purpose of subpart B, certain words and terms are defined as follows:
- (1) City means The City of Belfast.
 - (2) Municipal officers means the City Council.
 - (3) Tense and number. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
 - (4) Shall, may. The word "shall" is always mandatory; the word "may" is permissive.
 - (5) Person. Includes a firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual.
 - (6) Lot. The word "lot" includes the words "plot", "property", and "parcel."
 - (7) Building. The word "building" includes the word "structure."
- (c) The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

~~CLUSTER DEVELOPMENT~~

See "[Cluster housing.](#)"

CLUSTER HOUSING **DEVELOPMENT**

A subdivision lot layout design that concentrates ~~homes~~ **residential development** in specific areas on the site to allow the remaining land to be used for recreation, **agriculture**, open space, ~~and~~ the preservation of environmentally sensitive areas, **and similar**

purposes. Such development can involve new construction or the conversion of existing structures, and multi-family residential development is allowed, even if the underlying zoning district does not allow multi-family residences.

PLANNED UNIT DEVELOPMENT.

Land under unified management, planned and developed as a whole according to comprehensive and detailed plans. Any use permitted in the district in which a planned unit development is located shall be allowed within the development, as well as a multi-dwelling unit structure. Such development can involve new construction or the conversion of existing structures.

TEXT OF PROPOSED AMENDMENTS

CHAPTER 102, ZONING

ARTICLE VI. Planned Unit Development and Cluster Housing Development.

Division 1. Residential Planned Unit Development and Cluster Housing Development and Nonresidential Planned Unit Development

Sec. 102-801. Intent and purpose of **Division 1 article**. [Ord. of 4-6-2010(3)]

The intent of planned unit development and cluster housing development is to permit greater flexibility and, consequently, more creative and imaginative design **and lay-out** for residential, commercial or industrial uses than are generally possible under conventional zoning, **subdivision and site plan** regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, ~~a higher level of amenities, and the~~ preservation of **the natural environment and environmentally sensitive areas, recreation, agriculture** and ~~scenic qualities of~~ open space.

Sec. 102-802. Permitted uses; modification of standards. [Ord. of 4-6-2010(3)]

In all zoning districts, the following special provisions may apply, subject to the conditions set forth in this **eChapter**:

- (1) Any permitted use or permitted use requiring Planning Board review in an existing district where a planned unit development or cluster housing development is proposed shall be permitted as a planned unit development or cluster housing development, subject to the criteria established in this eChapter, and provided such are consistent with the definitions of cluster housing **development** and planned **unit** development identified in Chapter 66, General Provisions. Applications for permits for planned unit development and cluster housing development shall be reviewed and acted upon by the Planning Board to ensure compliance with this eChapter. **In zoning districts in which multi-family residential housing is not identified as a permitted use, the Planning Board shall have the authority to allow multi-family residential housing as an alternative lay-out if the Planning Board determines that allowing multi-family housing would help achieve the overall intent and purposes of this Division.** Additional or accessory uses may be allowed upon conditions adopted by the Planning Board. However, no use shall be permitted except in conformity with specific and precise development plans **that are reviewed and approved by the Planning Board** pursuant to the procedural and regulatory provisions of this eChapter.
- (2) Notwithstanding other provisions of this eChapter relating to space **and dimensional requirements, including but not necessarily limited to minimum lot size, minimum structure setbacks and minimum lot coverage standards,** the Planning Board, in reviewing and approving a proposed planned unit development or cluster housing development ~~located in the City,~~ **may shall have the authority** to modify the provisions related to space **and dimensional requirements** to permit innovative approaches to building layout and environmental design in accordance with **the intent and purposes** of this **Division article**. This **authority and action of the Board** shall not be construed as granting variances to relieve hardship.

Sec. 102-803. Fees. [Ord. of 4-6-2010(3)]

Fees for permits under this **Division article** shall be established by the City Council to cover administrative costs **incurred by the City** and shall be paid upon application for the permit.

Sec. 102-804. Criteria for approval. [Ord. of 4-6-2010(3)]

Innovative approaches to planned unit development and cluster housing development design, including building layout, landscaping, **the preservation of open space, encouraging agricultural uses,** and environmental concerns, shall be subject to the following criteria:

- (1) Compliance with zoning regulations. The purposes and intent of this Chapter shall be

upheld, **subject to the provision in Sec. 102-803 regarding allowing multi-family housing in zoning districts in which said use is otherwise prohibited.**

(2) Compliance with other standards. There shall be compliance with all federal, state and local codes, rules, ordinances and regulations, **subject to the provision in Sec. 102-803 regarding allowing multi-family housing in zoning districts in which said use is otherwise prohibited.**

(3) General plan; minimum site area. Each building shall be an element of an overall plan for site development. The area of land to be developed as a planned unit development and cluster housing development shall ~~not be less than five acres~~ comply with the following standards:

3.1 A cluster housing development shall be permitted as a development option for a project that involves a minimum of 4 single family residential units, 3 two-family dwelling structures (6 dwelling units), 8 multi-family dwelling units (in one or more structures), or a project that involves two or more of the above types of development, provided that a minimum of 6 dwelling units are proposed. A cluster housing development may also involve active agricultural uses, including accessory uses such but not limited to a farm stand.

3.2 A planned unit development that includes only nonresidential uses or a mix of nonresidential uses and residential uses, shall be located on a property that is a minimum of five contiguous acres in size.

(4) Density **and Density Bonuses.**

4.1 The Planning Board shall make a finding determining that the average overall residential density of the proposed planned unit development or cluster housing development ~~located in a district with specific density limitations is not in excess of 10 units per acre~~ is consistent with the following standards:

a. A project that provides the minimum amount (percentage of land area) of open space identified in clause 6) below, shall comply with the residential density standards identified for the respective zoning district in which the project is located. If multi-family housing is not identified as a permitted use in that zoning district, and multi-family housing is proposed for the project, the density standard for the number of units of multi-family housing that can be constructed shall be the same as the number of units of two-family housing that could be constructed.

- b. A project that involves the development of 10 or more housing units, and that provides a minimum of 10 percent more open space than is required in clause 6) below, shall qualify for a density bonus of one additional housing unit for each 5 housing units that are developed.
- c. A project that involves the development of 10 or more housing units, and that adopts provisions to ensure the long-term affordability of at least twenty percent of the housing units that are developed, shall qualify for a density bonus of one additional housing unit for each 5 housing units that are developed. The Planning Board shall consult information prepared by the Maine State Housing Authority to determine what qualifies as an affordable housing unit.
- d. A planned unit development that includes only nonresidential development is not subject to satisfying density requirements. The Planning Board, in its review of a nonresidential planned unit development, shall consider the quality of and location of open space that is preserved, as well as the appropriateness of the lay-out of the development.
- e. A planned unit development that includes both nonresidential uses and residential uses shall comply with density requirements for the zoning district in which the project is located, with the maximum amount of density for the residential units based on the amount of land occupied by the residential units and the amount of land dedicated to open space per clause 6) below. The land area that is occupied by a nonresidential use shall not be used to calculate the amount of residential density that is permitted. This standard, however, shall not apply when agriculture and accessory uses to agriculture are the only nonresidential uses that occur on the property, and the agricultural use is associated with satisfying the open space (clause 6) requirement.

(5) Setbacks. Setback standards may be ~~altered~~ **waived**, except along the perimeter of the development, as long as the project is in compliance with the ~~average density and~~ open space provisions (**clause 6**) of this ~~Division chapter~~. ~~Setbacks from the perimeter of planned unit development or cluster housing development must comply with setback requirements of the surrounding zoning districts.~~

(6) Open space and recreation area required. ~~A minimum of 20% of the~~

~~total project area shall be reserved for recreation. A minimum of 30% of the total project area shall be preserved as open space. Recreation areas may be used in meeting open space requirements. In addition to recreational uses, open space shall be used for other outdoor purposes such as preservation of large trees, tree groves, woods, ponds, streams, wetlands, glens, rock outcrops, native plant life and wildlife cover. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for recreational, environmental, or conservation purposes.~~

6.1 All planned unit developments and cluster housing developments shall be required to preserve open space. Open space that is preserved shall generally consist of contiguous land areas that directly contribute to the lay-out of the project and surrounding area. Open space areas that are preserved shall satisfy one or more of the following purposes:

- a. Protection of environmentally sensitive areas and resources, including but not necessarily limited to large trees, woods, ponds, streams, wetlands, glens, rock outcrops, native plant life and wildlife cover and corridors.**
- b. Promotion of active or passive recreation areas and facilities, including but not necessarily limited to trails, open play fields, constructed courts and facilities for athletic activities, and buildings for community activities.**
- c. Promotion of agricultural activities, including but not necessarily limited to fields for crops, hay fields, fields for animals, fields for commercial ventures such as U-Pick operations, areas on which buildings that support agricultural activities are located, and community gardens.**
- d. Preservation of open space areas that contribute to and enhance the quality of the development, such as but not necessarily limited to open fields, forested areas, green spaces, protection of view sheds, and providing good quality buffers from one or more adjacent properties or public facilities (particularly roads).**
- e. Other features that the Planning Board deems are important to the lay-out and quality of the development that warrant preservation as open space.**

6.2 A planned unit development or cluster housing development project, at a minimum, shall preserve the following amounts of open space:

- a. In zoning districts in which the minimum lot size requirement for a residential or nonresidential use is one acre or less, the amount of open space shall be no less than 30 percent of the total size of the project parcel.**
- b. In zoning districts in which the minimum lot size requirement for a residential or nonresidential use is greater than one acre, the amount of open space shall be no less than 50 percent of the total size of the project parcel.**

6.3 An area that is identified to satisfy the open space requirement shall be protected and preserved. The Planning Board shall have the authority to require the applicant to permanently protect the open space through mechanisms and dedications such as but not necessarily limited to the following: private covenants with a homeowners association or condominium association, easements granted to a land trust or similar non-profit organization, and dedication to the City. All such dedications shall be recorded in the Waldo County Registry of Deeds and the requirements of said dedications shall be identified in the respective deed for each property in the project that is sold.

(7) Specific design standards. The **applicant/developer** shall **take—into consideration address** the following **points concerns**, and shall illustrate on the plan the treatment of open spaces, paths, roads, **infrastructure**, service and parking areas, **buildings**, and other features required in **his—the** proposal **submitted to the Planning Board**:

- a. Project lay-out. ~~Aesthetics and orientation~~. The orientation and lay-out of ~~B~~buildings and other improvements shall be depicted on the plan, and shall respect scenic vistas and natural features as identified on the site plan and as may be ~~in—the~~ defined in the comprehensive plan.**
- b. Streets. Access from public ways, internal circulation, and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, and delivery and collection services. Streets shall be laid out and constructed consistent with the provisions of ~~e~~Chapter 98. The Planning Board, however, shall have the authority to allow**

variations to the Chapter 98, Technical Standard requirements regarding the lay-out and design of roads and parking to help achieve the purposes of the planned unit development and cluster housing development project. An applicant may request that the City accept a constructed road as a public road.

- c. **Drainage Stormwater.** Adequate provision shall be made for stormwater, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be ~~prevented~~ **managed** by landscaping or other means (see sections 102-1123 and 102-1124 and chapter 98).
 - d. Sewage disposal. Adequate provision shall be made for sewage disposal. If public sewer is unavailable or inadequate, the planned unit development **or cluster housing development** ~~must~~ **may** utilize a private community package **(engineered)** system designed in compliance with the state subsurface water disposal rules, **or may install individual subsurface wastewater disposal systems for the respective uses in the project.**
 - e. Water supply. Adequate provision shall be made for water for ordinary use as well as firefighting needs. **The Board shall consult with the City Fire Chief to determine what constitutes an acceptable water supply for firefighting needs.**
 - f. Utilities. **The applicant shall propose how utilities will be installed.** ~~All~~ **u**Utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.
 - g. Recreation. **An applicant may propose recreational facilities** ~~shall be provided~~ consistent with the development proposal **as a means of satisfying open space requirements.**
 - h. Buffering. Planting, landscaping, **location of open space, disposition lay-out** and form of buildings, and other improvements, or fencing and screening, shall be ~~utilized~~ **used** to integrate the proposed development with the landscape and the character of ~~any~~ surrounding development.
 - i. Disposition **and lay-out** of buildings. **The lay-out and** ~~D~~disposition of buildings shall recognize the need for natural light, ~~and~~ **ventilation, and solar gain, to the maximum extent practical.**
 - j. Snow removal. The plan shall provide for storage of snow accumulation or removal from the site.
- (8) Recording of covenants and conditions. For the purpose of this ~~article~~

Division, the owners of the tract or parcel of land involved shall agree ~~in advance~~ to be bound by the conditions **of approval on the project established by the Planning Board** and to record such covenants, easements and other provisions ~~with in~~ the **Waldo County Registrar of Deeds**. **Said conditions of approval established by the Planning Board shall remain in effect unless the Planning Board approves an amendment to said conditions.**

- (9) Performance guarantee. The **Planning Board shall have the authority to establish specific conditions of approval to require the applicant to provide an appropriate developer shall file** a performance guarantee with the City at the time of **approval submission** of the final plans. The performance guarantee established by the Planning Board can be in any of the following forms:
- a. ~~This may be tendered in the form of a~~ **A** certified check payable to the City;
 - b. ~~a~~ **A** savings account passbook issued in the name of the City; ~~or~~
 - c. ~~a~~ **A** faithful performance bond running to the City and issued by a surety company acceptable to the City; **or**
 - d. **The Board establishing a Condition of Approval that no occupancy permits shall be issued by the City until the applicant completes construction of an acceptable amount of project infrastructure.**

For the methods of performance guarantee identified in a, b, and c, above, The conditions pertaining to such check, passbook or performance bond shall be determined by the City manager. The the amount shall be equal to ~~110%~~ **120 percent** of the total cost of furnishing, installing, connecting and completing the entire street grading, paving, storm drainage and utilities or other improvements specified in the final plan, and shall guarantee the satisfactory completion of all specified improvements. If an applicant proposes to present project infrastructure for City acceptance, the Planning Board must require a performance guarantee in the form of a, b, or c above.

If all project infrastructure is to remain in private ownership, the Planning Board may allow a performance guarantee that complies with method d above, or may require a performance guarantee in the form of a, b, or c above.

- (10) Dedication of common open space.
- a. Common open space shall be dedicated after approval of the project. There shall be no further subdivision of the land, or buildings constructed, which would cause an increase in the density of the planned unit development or cluster housing development **project, unless an amendment to the approved plan is approved by the**

Planning Board to allow an increase in density.

- b. The common open space shall be shown on the development plan with an appropriate notation on the face thereof to indicate that:
 1. It shall not be used for future building lots; and
 2. A part or all of the common **open** space may, at the option of the City Council, be dedicated ~~for operation as a municipal recreation facility~~ **for public ownership by the City.**

(11) Neighborhood **or Condominium** Association.

- a. If any or all of the common open space is to be reserved for use by the residents or owners, the formation and incorporation by the ~~developer~~ **applicant** of a neighborhood **or condominium** association shall be required **by the Planning Board as a condition of** ~~prior to final plat~~ **approval of the final planned unit development or cluster housing development plan.**
- b. Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot or dwelling unit.
- c. The neighborhood **or condominium** association shall have the responsibility of maintaining the common open space, ~~as well as road maintenance, parking lot maintenance, snow removal and maintenance of recreational facilities/areas~~ and all project infrastructure. **The Planning Board, in its approval of the final planned unit development or cluster housing development plan, shall require the applicant to identify the responsibilities of the neighborhood or condominium association and shall establish said responsibilities as a condition of approval of the final plan.**
- d. The **neighborhood or condominium** association shall levy charges (**assess fees**) against all property owners to ~~defray the~~ **pay appropriate pro-rata share** expenses connected with the maintenance of open space, neighborhood recreational facilities, ~~road maintenance, maintenance of landscaping of buffers~~ and **landscaping project infrastructure noted identified** on the final **approved** plan, and City **property tax** assessments.
- e. The developer/applicant shall maintain control of **such designated** open space **areas and project infrastructure** and be responsible for its maintenance until the development is sufficient to support the association, or, alternatively, **until** the objectives of the planned unit development **or cluster housing development** have been met. Such determination shall be made by the Planning Board upon request

of the neighborhood **or condominium** association or the developer/applicant.