

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY FOR THE PURPOSE OF **AMENDING THE CODE OF BARTOW COUNTY, APPENDIX A, ZONING ORDINANCE, RELATING TO USE REQUIREMENTS BY DISTRICT AND TO PROVIDE FOR A PLANNED GREENSPACE AND DEVELOPMENT DISTRICT**; AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE BARTOW COUNTY COMMISSIONER HELD ON THE 8th DAY OF MARCH 2023.

WHEREAS, THE AUBREY CORPORATION C/O JIM RAMSEUR submitted an application to amend the Bartow County Code of Ordinances, Appendix A, Zoning Ordinance, the same being A-2563-22; and

WHEREAS, Bartow County has had zoning in place for many years, and has most recently readopted the Zoning Ordinance on August 10, 2022; and

WHEREAS, the Commissioner has determined it is in the best interest of the public health, safety and welfare to make amendments to address matters not properly regulated in the Zoning Ordinance including making changes to uses and providing for a Planned Greenspace and Development District; and

WHEREAS, the Planning Commission considered the proposed amendment at its public meeting on November 7, 2022; and

WHEREAS, substantial public comment has been received, which has been considered; and

WHEREAS, County staff have made certain recommendations to adjust the language to better serve the public health, safety and welfare; and

WHEREAS, the Commissioner has determined that the proposed amendment to the Zoning Ordinance as stated herein serves such purposes and benefits the public health, safety and welfare;

NOW THEREFORE BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, that the Code of Bartow County, Appendix A, Zoning Ordinance, is amended as follows:

I. Article VII, hereby amended by adding the following new Section 7.22:

Sec. 7.22 **PLANNED GREENSPACE AND DEVELOPMENT
DISTRICT (PGDD)**

7.22.1. Title. This Section shall be known as and contain the regulations for the “Planned Greenspace and Development District” or PGDD.

7.22.2 General Purpose. The purpose of the PGDD district is to encourage flexibility in land planning and phased development that will best lead to addressing the county’s needs and opportunities identified in the comprehensive development plan, primarily the preservation and expansion of greenspace including natural resources, scenic features and open space but also to address the needs and opportunities identified in the comprehensive development plan for economic development, housing, transportation, land use, and community facilities and service; further address improved design, character, and quality of new housing of different types and densities and of compatible commercial, industrial, retail, and hospitality developments; promote the most appropriate use of land; and facilitate the provision of streets and utilities.

7.22.3 Applicability. The PGDD is an overlay zoning district. The regulations of this PGDD apply within all areas delineated and labeled on the official zoning map “PGDD”. The regulations of this PGDD are as follows:

- A. The existing zoning map and the underlying zoning regulations and entitlements governing all properties within the PGDD shall remain in full force and effect. Such map is made a public record and kept in the office of the zoning administrator and accessible to the public. Such map is incorporated herein by reference as if set forth fully herein.
- B. The regulations and entitlements contained within this section shall be overlaid upon, and shall apply in addition to, or in lieu of, as the case may be, said existing zoning regulations.
- C. Underlying zoning regulations and other land use and development regulations shall apply unless expressly modified by the sections of this ordinance pertaining to the PGDD district or by an approved PGDD concept plan.

7.22.4 Eligibility. To be eligible for consideration for adoption of a PGDD overlay, the following two criteria apply:

- A. Acreage. A minimum of ten thousand (10,000) contiguous acres of land, five thousand (5,000) acres of which must be reserved, proposed or developed as Greenspace, shall be required in order to be considered for the PGDD zoning overlay. Greenspace shall be approved and developed through subsequent applications to the county as per a developed master plan.

Greenspace shall include property previously zoned agricultural; industrial or mining lands that during the master plan phasing will be set aside; wildlife management areas; lakes, streams, and other water features; trails; undisturbed buffers; developed open spaces, buffers and nonresidential building setbacks including those required by zoning; recreation areas and parks; civic and education sites excluding structures; wetlands and/or, similar spaces. Greenspace also includes land leased, licensed, donated or sold to qualified non-profit trust(s), the state or Bartow County for recreational purposes. Greenspace also includes land on to which the property owner either directly or indirectly invites or permits without charge any person to use the property for recreational purposes. Land means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to realty. Recreational purpose includes, but is not limited to, any of the following or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, aviation activities, nature study, water skiing, winter sports, and viewing or enjoying historical, archeological, scenic, or scientific sites. The PGDD concept plans shall identify at least 5,000 acres of greenspace, provided that the Commissioner may, at his discretion, waive by 10% one or both of the acreage requirements of this paragraph upon a finding that the proposed concept plan would meet the general purpose of the PGDD; and

- B. Ownership. All property shall be under single ownership at the time of the PGDD overlay adoption, or if in multiple ownership, then by written consent of all owners who agree to be bound by the district designation and regulations.
- C. Expansion of boundary. Additional land may be added to an adopted PGDD overlay district through the amendment process set forth in Section 7.22.6.

7.22.5 Plans. In the PGDD, there are two types of plans and one type of permit:

- A. Concept Plan. The concept plan is the single guiding plan for the entire PGDD as a whole and is adopted at the time of applying the PGDD overlay. However, it does not authorize any land disturbing or building activity. Rather, the concept plan divides land within the PGDD by permitted use type such as residential, commercial, industrial, mining activities and Greenspace. The concept plan also specifies approximate development yields for each use type. For example, 1 unit of residential per gross acre; 1,000 SF of industrial uses per gross acre; 1,000 SF of commercial use per gross acre. Minimum greenspace location and acreage and the methods of preservation and proposed uses shall be identified on the concept plan. Any substantive change in concept plan requires approval of the Commissioner.
- B. Master Plans. The master plans are the guiding plans at the development site/tract(s) level of the PGDD, and shall be submitted from time to time as specific projects are proposed, and are approved administratively. Approved master plans evidence zoning compliance and authorization for a proposed development, including but not limited to lot size, density, height, building setbacks, buffers and parking, but do not authorize any land disturbance or construction activity. Proposed developments shown on master plans must be consistent with the concept plan. Any change in a master plan requires approval of the zoning administrator. Approved master plans shall identify the proposed portion of the Greenspace

consistent with the established acreage in the concept plan inclusive of the specific open space zoning requirements attributable to each master plan application. After the approval of a master plan, if property that is shown on that plan is put to a use that is inconsistent with the approved master plan, then no other development pursuant to the master plan shall be authorized until the inconsistency is brought into compliance with the master plan.

- C. Development Permits. Development permits authorize land disturbing and construction activity for development approved in a master plan. Development permit applications may be submitted concurrently with a corresponding master plan application but shall not be approved until approval of the corresponding master plan. Approved development permits evidence compliance with all applicable state and local regulations.

7.22.6 Procedures to Adopt the Planned Greenspace Development District Overlay.

- A. Adoption of the PGDD overlay shall follow the applicable procedure and requirements for zoning amendments set forth in Article XV, except as modified in this Section 7.22.6.
 - 1. Application. An application to adopt the PGDD overlay district shall be processed as an amendment to the official zoning map. Future land use maps may be updated by the county after the adoption of the PGDD overlay. The application shall be in the form required by the county and should contain a narrative statement as to the goals of development and a justification of why a PGDD designation is appropriate, a legal description or boundary depiction of the property proposed for the PGDD overlay adoption, and if in multiple ownership, the written consent of all owners who agree to be bound by the district designation and regulations. Because of the conceptual plan nature of the PGDD overlay, the

application need not include the information set forth in Sec. 15.2.6(B), (D), (G), (H), (J) and (K). Pursuant to Sec. 15.2.6, the zoning administrator may waive additional requirements he deems unnecessary. Additionally, because of the minimum acreage eligibility requirement for the adoption of the PGDD overlay, the requirement of Sec. 15.3.3 shall not apply.

2. Concept Plan. The concept plan shall contain, notwithstanding anything to the contrary in section 15.2.6(K):
 - i. The types of uses proposed, either specifically or generally;
 - ii. The maximum yields proposed for each type of use. At a minimum, the concept plan shall propose 5,000 acres of Greenspace, unless waived pursuant to Section 7.22.4(A). Greenspace shall be identified and approved under subsequent master plans consistent with the concept plan.
3. Open houses. The applicant for the initial PGDD overlay zoning district shall conduct two public open houses at least two hours in duration prior to the Planning Commission's public hearing. The open houses may be coordinated through county staff and may be conducted before the application is filed. At least one of the open houses shall be started after 4:00 P.M. on a weeknight.
4. Review and Recommendation by Planning Commission. The Planning Commission shall review the application, concept plan, and the zoning administrator's report and, based on the approval criteria of this ordinance and the standards for the exercise of the zoning power, recommend that the County Commissioner approve, approve with conditions, or deny the application.
5. Review and Decision by the Commissioner. The Commissioner will consider the application, concept plan, and

recommendations from the Planning Commission. The Commissioner may require submission of additional maps, data or proposed methods of addressing other pertinent matters relative to the development that are reasonably available and where, owing to the nature, size and location of the proposed development, particular elements critical to the health, safety and welfare of the community and its citizens.

6. The concept plan should identify the minimum amount of development, preservation, conservation of Greenspace, and provide in narrative form the conditions for its use. Greenspace which counts toward the minimum greenspace acreage required by this ordinance must be accessible by public road or recorded easement.

B. Approval Criteria. In addition to the standards set forth in Section 15.9, the following shall be considered by the Planning Commission and the Commissioner:

1. The extent to which the PGDD designation will address a unique situation or represents a substantial benefit to the county, compared to what could have been accomplished through strict application of otherwise applicable zoning district standards; and
2. The extent to which the concept plan complies with the standards in this Section 7.22.
3. The extent to which the property can be used or developed under its underlying zoning classification(s).

C. Effect of Approval. Upon approval by the Commissioner of the application, development within the PGDD shall be in accordance with the concept plan and subsequently approved master plan(s). It is the intent of this district to provide areas of the County that are not simply reserved from development, but which provide an amenity to the residents of the County. Therefore, the Greenspace shall be preserved in the form of an easement, lease, license, donation, sale or other permission in favor of a

qualified non-profit land trust(s), the state and/or Bartow County which allows for both public and private use and enjoyment of the natural environment. Execution and acceptance of the easement, lease, license, donation, sale or other permission shall be a condition of applying the PGDD overlay and shall occur prior to or concurrent with the first certificate of occupancy for development within the PGDD.

- D. Changes to Concept Plan. Because the concept plan is part of the ordinance approving the adoption of the PGDD overlay by the Commissioner, any amendment to the concept plan shall require approval by the Commissioner. An application to amend the concept plan shall be required and shall follow the procedural requirements of section 7.22.6. The Commissioner shall consider and decide the application to amend the concept plan based on the standards set forth in this section 7.22 and the standards for the exercise of the zoning power.

7.22.7. Specific Requirements

A. Development in Areas Zoned PGDD:

1. The adoption of a PGDD overlay shall not entitle an owner of the affected property any right to develop or engage in any land use or land disturbing activity, other than that in lawful existence at the time of the adoption of the PGDD. In addition, uses permitted by right by the prior zoning may be initiated and continued until superseded by a new use commenced pursuant to approval of a master plan for such area of use.
2. To engage in development or any land use or land disturbing activity other than that as set forth above, a master plan and development permit must be approved for the areas to be developed or engaged in land disturbing activity. A PGDD overlay is not deemed by Bartow County to constitute the commencement of activity or use that would abrogate exemptions, tax or otherwise, attendant to silviculture activities.

B. Sale or Transfer within PGDD. The owner of a PGDD may sell or transfer ownership of development tracts within a PGDD in accordance with the following procedures and provisions:

1. The owner must submit and have secured approval of a concept plan for the PGDD;
2. Property covenants and restrictions must accompany the transfer of any development tract within the approved PGDD restricting the new owner to the development type and yields indicated on the approved concept plan as well as any road network, water, or sewer approach, if any, indicated on the approved concept plan;
3. The owner must submit a sworn affidavit to the county from the prospective purchaser of a development tract, wherein the purchaser waives rights to the guarantee of the installation of required improvements afforded through this Ordinance for the subdivision of land, and further acknowledges and agrees that an initial master plan and final development permit must be submitted, and approved, prior to commencement of any development on the tract;
4. The developer must submit a plat suitable for certification by zoning administrator authorizing the developer to record such plat with the clerk of court, including submissions in digital format and subsequently record such plat prior to the sale or transfer of any development tract or phase; and
5. This procedure will not be required for the sale or transfer of an individual single-family lot or group of lots intended for construction of one single-family dwelling.

7.22.8. Master Plans.

A. Applicability. A master plan shall be required for all or any portion of the PGDD property to be developed that would require a land disturbance permit. The master plan, as well as any fee as may be established by the

county, shall be submitted to the zoning administrator for administrative review and approval.

B. Minimum requirements for master plan. The minimum requirements of the master plan include:

1. Master plan in pdf format;
2. Proposed arrangement of land uses, including land for public facilities, approximate acreage of each use area or tract, type of use and density (residential use tracts). All specified densities will be construed as maximums, with acceptance of the maximums subject to satisfaction of other provisions within the PGDD overlay ordinance;
3. The proposed name of the development and the names and addresses of the owner(s) of record, and the applicant, if different from the owner(s), with proof of authority to submit and process the application;
4. Type of land use of all parcels contiguous to the development property;
5. A map or site plan showing:
 - i. Identify existing watercourses and drainage structures within the tract or on contiguous tracts;
 - ii. Location of municipal limits or county lines, and district boundaries, if they traverse the tract, form part of the boundary of the tract, or are contiguous to such boundary;
 - iii. Vicinity map or sketch showing the general relationship of the proposed development to the surrounding areas with access roads referenced to the intersection of the nearest state primary or secondary paved roads;
 - iv. Topographic survey based on county/municipal LIDAR records of the area being applied for;
 - v. The location, dimensions, name and description of all existing or recorded streets, alleys, reservations,

- easements or other public rights-of-way within the tract intersecting or contiguous with its boundaries or forming such boundaries;
- vi. The location, dimensions, name and description of all existing or recorded residential lots, parks, public areas, permanent structures and other sites within or contiguous with the tract;
 - vii. The proposed location, dimensions and description of land(s) for public facilities; and
 - viii. Proposed conceptual street system layout, vehicular and pedestrian, with the written comments of the County Engineer or designated Engineer.
- 6. Traffic impact analysis, if required, as set forth and a statement of need for mitigation (if any). If mitigation is required, a statement of proposed mitigation;
 - 7. Preliminary Master Drainage Plan and Master Water and Sewer Plan with the written comments of the County's Engineer or designated Engineer;
 - 8. Where applicable, surveyed line delineating the extent of any special district boundary on the development property limited to roadways and traffic study analysis as required.
 - 9. Preliminary comments from affected agencies having approval or permitting authority over elements related to the proposed development, or evidence that a written request for such comments was properly submitted to the agency and a reasonable period of time has elapsed without receipt of such comments.
 - 10. A narrative addressing:
 - i. The proposed ownership and maintenance of streets, drainage systems, water and sewer systems, open space areas, parking areas, and other proposed amenities and improvements; and when any are to be privately owned, a

description of the governance, operation and financial structure to be used to secure their maintenance management and long-term improvements;

- ii. Proposed phasing and time schedule if development is to be done in phases;
- iii. Proposed phasing and time schedule for lands to be dedicated for public facilities;
- iv. Proposed internal site planning standards such as typical lot sizes and widths, and setbacks and buffers aimed at addressing potential incompatibility between adjacent land uses and activities;
- v. Letters of capability and intent to serve community water supply or sewage disposal service from the affected agency or entity, where applicable;
- vi. A statement describing the character of, and rationale for, the proposed master plan; and
- vii. Other information or descriptions deemed reasonably appropriate by staff for review.

C. Waiver of master plan minimum requirements. The zoning administrator may, in his sole discretion, accept a master plan application which does not include all of the above elements for processing and consideration upon a showing by the applicant why such information is unavailable or impractical to provide.

D. Master Plan Review and Approval. The zoning administrator shall review the master plan for conformance with the concept plan. The zoning administrator may request such additional information as it may deem reasonably necessary to evaluate the master plan prior to approval. A master plan that proposes use(s) and/or densities defined by state regulation as a development of regional impact shall be reviewed as such prior to a decision by the zoning administrator on whether to approve the master plan.

1. Upon review of the proposed master plan, the zoning administrator shall approve the master plan if it meets the requirements of this section and shall deny the master plan if it does not meet the requirements of this section.
2. Any master plan reviewed and approved shall not be recordable with the clerk of court for the purpose of sale of any lots or parcels of land, and no land use or land disturbance activity, other than that in existence as of the time of the master plan approval, shall be permitted unless and until the applicant has secured the corresponding development plan permit approval.
3. Plats, surveys and other information suitable for submission in digitized format for approved master plans shall be submitted to the County in both paper and digitized format, in accordance with adopted County procedures.
4. All phases of the PGDD will be required to adhere to the latest version of the following standards at the time of development permit application submittal:
 - i. All sections of non-zoning general development standards.
 - ii. Environmental quality standards.
 - iii. County fees.
 - iv. Impact fees (if any)

E. Changes to Approved Master Plans.

1. Minor Change. Changes to a previously approved master plan may be approved by the zoning administrator without requiring a full master plan application submittal for the following minor changes:
 - i. the location of roads or widths of streets or rights-of-ways within the Master Plan;
 - ii. the allocation of housing density within the master plan so long as the overall approved density of the master plan is not increased; and
 - iii. the proposed build-out and phasing schedule.

2. Major Change. Proposed changes to a previously approved master plan may be approved by the zoning administrator only upon the filing of a master plan major-change application for the following.
 - i. re-designation of land uses within a development area or phase, so long as uses are consistent with the Concept Plan;
 - ii. increases in building heights, or decreases in setbacks, and buffers indicated on the master plan;
 - iii. major changes in the location of roads or widths of streets or rights-of-way within the Master Plan;
 - iv. major changes in the allocation of housing density within the master plan, and any proposed increase in density of the master plan; and/or
 - v. lot sizes and dimensions

7.22.9 Permitted Uses. Subject to the concept plan's locational delineation of use type and sub-use type, uses permitted in the A-1, RE-1, R-1, R-2, R-3, O/I, C-N, C-1, I-1, M-1, and BPD districts by right are permitted by right in the PGDD overlay district. Uses permitted by right in other zoning districts, or by conditional use permit, where not expressly designated on the approved concept plan, shall be reviewed and approved or denied consistently with the process for conditional use permit approval.

7.22.10. Notice of applications to the zoning administrator under section 7.22.8 shall be provided in the same manner as variances under Section 14.5 of this zoning code. In addition, the zoning administrator shall post notice on the County's website and also establish a list of interested parties who shall be notified of any application by email at least 30 days prior to the decision. Any interested party may request in writing with the zoning administrator to be placed on such list. The emailed notice shall include the application filed and give notice

of any hearing or anticipated date of decision, and how comments on the application may be submitted by interested parties.

7.22.11. Appeals. Any decision of the zoning administrator under section 7.22.8 may be appealed directly to the Commissioner by filing a request for appeal with the zoning administrator within 30 days of the date of the zoning administrator’s decision. The appeal shall be processed in the same manner as other administrative appeals, except that the matter will go directly to the Commissioner.

All other Ordinances and Resolutions, or parts of said Ordinances or Resolutions, in conflict herewith are hereby repealed, except to the extend that said Ordinances are more restrictive than this Ordinance.

SO ADOPTED this 8th day of March, 2023, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, Clerk

Steve Taylor, Commissioner