

**AN ORDINANCE OF THE CITY OF HENDERSONVILLE CITY COUNCIL TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF HENDERSONVILLE FOR PARCELS POSSESSING PIN NUMBERS 9579-48-2415 & 9579-48-6832 BY CHANGING THE ZONING DESIGNATION FROM R-40 (LOW DENSITY RESIDENTIAL) AND C-2 (SECONDARY BUSINESS) TO PRD (PLANNED RESIDENTIAL DEVELOPMENT – CONDITIONAL ZONING DISTRICT- AMENDED)**

IN RE:            Parcel Number:            9579-48-2415 & 9579-48-6832  
                      Addresses:                    102 Francis Rd & 228 Mastermind Ln  
                      Cottages at Mastermind        (File # P22-55-CZD)

**WHEREAS**, the City is in receipt of a Conditional Rezoning application from applicant, Elam Hall of DHIC, LLC. and property owners, The Hammond Family Trust & John Hammond Trustee for the development of 99 residential units on approximately 12.8 acres, and

**WHEREAS**, the Planning Board took up this application at its regular meeting on August 8, 2022; voting 10-0 to recommend City Council approve an ordinance amending the official zoning map of the City of Hendersonville, and

**WHEREAS**, City Council took up this application at its regular meeting on September 1, 2022, and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Hendersonville, North Carolina:

1. Pursuant to Article XI of the Zoning Ordinance of the City of Hendersonville, North Carolina, the Zoning Map is hereby amended by changing the zoning designation of the following: Parcel Numbers: 9579-48-2415 & 9579-48-6832, changing the zoning designation from R-40 (Low Density Residential) and C-2 (Secondary Business) to PRD (Planned Residential Development – Conditional Zoning District)
2. Development of the parcel pursuant to this Ordinance is subject to the following.
  - a. Development shall comply with the site plan submitted by the applicant dated September 1, 2022, including the conditions listed therein including modifications approved by City Council which shall be added to the site plan. The updated site shall be submitted to the City at or the applicant's execution of this Ordinance.
  - b. Permitted uses shall include:
    - i. Two-family residential
    - ii. Single-family residential

c. Additional conditions that shall be satisfied prior to final site plan approval include:

- i. Within the requirements of the Americans with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian-scale lighting as approved by City staff.
- ii. Subject to NCDOT standards and approvals, construct a left-hand turn lane on south-bound Francis Road at the access point to the development. Should said left-hand turn lane extend beyond the existing in-place right-of ways, then the developer shall use best efforts to obtain a sufficient right-of-way easement from affected property owners for construction of left-hand turn lane. In this instance, best efforts include an offer to purchase a right-of-way easement on the affected land at market value as determined by a certified MAI appraisal. If the developer is unable to obtain a right-of-way easement from the affected property owners, then the developer may request that the City of Hendersonville obtain the needed right-of-way easement from the affected property owner subject to the developer repaying the fair market value of the easement obtained by eminent domain. In this instance, fair market value shall be the value as determined by the condemning authorities' certified MAI appraisal or jury verdict, including any cost and attorneys' fees. If the City chooses not to use their powers of eminent domain, the developer will not be responsible for constructing a left-hand turn lane.
- ~~iii. A southbound left hand turn lane on Francis Rd will be constructed according to NCDOT standards at the access point to the development.~~
- ~~iv.~~ iii. A Transportation Impact Analysis will not be required.

3. Except where modified by the terms of this Ordinance, development of the parcel(s) shall occur in accordance with the final site plan requirements of Article VII of the Zoning Ordinance of the City of Hendersonville, North Carolina.
4. Except where explicit relief is granted by the terms of this Ordinance, the development of the parcel(s) shall occur in accordance with all applicable standards within local ordinances and policies.
5. This ordinance shall not be effective until the list of use(s) and conditions, established herein, is consented to in writing by the applicant and all owners of the subject property. Upon such written consent, this ordinance shall be effective retroactive to the date of its adoption.

Adopted this 26th<sup>1<sup>st</sup></sup> day of ~~September~~ October, 2022.

\_\_\_\_\_  
Barbara G. Volk, Mayor, City of Hendersonville

Attest:

\_\_\_\_\_  
Angela L. Reece, City Clerk

Approved as to form:

\_\_\_\_\_  
Angela S. Beeker, City Attorney

With their signatures below, the undersigned applicant(s) and property owner(s) consent to and agree to all conditions imposed pursuant to the terms of this Ordinance.

IN RE:            Parcel Number:            9579-48-2415 & 9579-48-6832  
                      Addresses:                102 Francis Rd & 228 Mastermind Ln  
                      Cottages at Mastermind        (File # P22-55-CZD)

Applicant/Developer: Elam Hall, DHIC, LLC.

Property Owner: The Hammond Family Trust

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

~~Applicant/Developer: Tom Martinson~~

Property Owner: John & Betty Hammond

~~Signature: \_\_\_\_\_~~

Signature: \_\_\_\_\_

~~Printed Name: \_\_\_\_\_~~

Printed Name: \_\_\_\_\_

~~Title: \_\_\_\_\_~~

Signature: \_\_\_\_\_

~~Date: \_\_\_\_\_~~

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

