

**Minutes of the Planning Board  
Regular Meeting - Electronic  
February 8, 2024**

**Members Present:** Jim Robertson (Chair), Peter Hanley, Beth Robertson, Laura Flores, Donna Waters, Tamara Peacock, Yolanda Robinson

**Members Absent:** Barbara Cromar

**Staff Present:** Tyler Morrow, Planner II, Matthew Manley, Strategic Projects Manager, Lew Holloway, Community Development Director

- I Call to Order.** *The Chair called the meeting to order at 4:00 pm. A quorum was established.*
- II Approval of Agenda.** Chair explained that the agenda has changed since it was first published. The agenda items for the definitions and the childcare home have been removed from the agenda since these items were assigned to Ms. Hunt and she is no longer with us as she has taken another position. Chair also added the item of approval of the meeting dates for a sub-committee with a time change for that meeting from 2:30 pm to 3:00 pm. *Mr. Hanley moved to approve the amended agenda. The motion was seconded by Ms. Robinson and passed unanimously.*
- III Approval of Minutes for the meeting of January 11, 2024.** *Ms. Waters moved to approve the Planning Board minutes of the meeting of January 11, 2024. The motion was seconded by Mr. Hanley and passed unanimously.*
- IV Old Business**
- V New Business**
- V(A) Administrative Review- Preliminary Site Plan – Estrada and Sons Expansion (P23-32-SPR).** Mr. Morrow gave the following background:

This is a preliminary site plan approval for the Estrada and Sons Expansion. Since administrative projects do not come before the Board that often Mr. Morrow wanted to explain the process. Mr. Morrow stated this is an administrative review and the term administrative is defined as decisions made in the implementation, administration or enforcement of the Zoning Ordinance that involve the determination of facts and the application of objective standards in the Zoning Ordinance.

Mr. Morrow stated preliminary plan review is required of all development undergoing Site Plan Review for the following: **Any commercial, industrial or institutional development consisting of more than 20,000 square feet of floor area.** Planning Board must administratively review the preliminary site plan to ensure compliance with the zoning ordinance. Approval of a preliminary site plan **shall not** entitle the applicant to the issuance of a zoning compliance permit. The developer will be required to submit final site plan to staff for review.

The property is located 620 Duncan Hill Road with PIN 9579-05-1268. The application was submitted by Salvador Estrada of Estrada and Sons. The existing zoning is C-3, Highway Business and there is an existing wholesale business on this site. The property is approximately 1.82 acres.

The current land use map was shown and is included in the staff report and the presentation.

Site photos were shown and included in the staff report and the presentation.

The preliminary site plan was shown and included in the presentation and the staff report. Mr. Morrow explained the site plan including size, height, landscaping and parking on the site.

Mr. Morrow stated based on the review by staff, the submitted preliminary site plan for the Estrada & Sons Expansion Project meets the Zoning Ordinance standards established for commercial projects within the C-3 Highway Business District and Preliminary Site Plan Review (Section 7-3-3.2).

Chair asked if there were any questions for staff.

There were no questions for staff.

Discussion was made on the buffer at the church. Mr. Morrow stated they would be required to plant along this boundary.

***Ms. Waters moved the Planning Board grant preliminary site plan approval, based on the requirements of the City of Hendersonville Zoning Ordinance (with primary consideration of sections 5-8 C-3 Highway Business and 7-3-3 Review of Preliminary Site Plans) finding that the Estrada and Sons Expansion project is compliant with all applicable requirements. Mr. Hanley seconded the motion which passed unanimously.***

**V(B) Zoning Map Amendment– Standard Rezoning – Upward Road-Spinx (P24-07-RZO).** Mr. Manley gave the following background:

The City of Hendersonville received an annexation application for a group of parcels. The Certificate of Sufficiency was approved at the last City Council meeting and the final approval will come at the March City Council meeting. Whenever property has been annexed into the city, zoning has to be assigned to it. Currently these properties are owned by the Jones family but the Spinx Company is the anticipated owner. It is possible that they took ownership today but Mr. Manley was unsure if that happened. The properties are zoned along Upward Road and Old Spartanburg Road Henderson County Community Commercial. The rear property facing Bell Avenue is zoned by the county as R1. Staff is recommending that the properties along Upward Road and Old Spartanburg Road be CHMU like other properties that have been annexed in the area and the one parcel on Bell Avenue would be zoned R-6. It is designated as High Intensity Neighborhood according to the Future Land Use Map.

The current zoning was discussed and a map is included in the staff report and presentation.

A use comparison table was included in the staff report and presentation.

Site photos of the property were shown and included in the staff report and presentation.

The City's Future Land Use Map was shown and deemed the subject properties as High Intensity Neighborhood. This is included in the staff report and presentation. Discussion was made on the different designations in the area.

Comprehensive Plan Consistency was discussed and is included in the presentation and staff report.

General rezoning standards were discussed and are included in the staff report.

A draft consistency statement is included in the staff report.

Rationale for approval and denial were included in the staff report.

Mr. Manley stated there was a change in the motion. That has been sent to the Board members and that change is also reflected in the presentation.

Chair asked if there were any questions for staff.

Ms. Peacock asked if the new site plan if it is a fairly commercial use will they still be able to use the R-6 parcel for parking, a driveway or put cars there. Mr. Manley stated it would not be able to used for any commercial use. Ms. Peacock asked if a parking lot could go there. Mr. Manley stated a parking lot is a use but it is not a permitted use in the R-6 zoning district.

Mr. Manley explained that an annexation petition has come up and the city is required to zone it, so the question now is what is the most appropriate zoning for the parcels that have been petitioned. That is the extent of the question before the Planning Board. Staff's recommendation is CHMU for the ones that have the frontage and R-6 (a residential district), for the property that fronts Bell Avenue.

Chair stated could a driveway or access go on the R-6 zoned lot. Mr. Manley stated that use would not be permitted on a residential lot. They would have to rezone that property.

Mr. Manley explained that the city is required to zone an annexed property within 60 days of the annexation. He explained that staff is making a recommendation on what the zoning should be and not the applicant for the annexation. The Planning Board can follow that recommendation or make another recommendation to City Council. If the annexation is approved the approved zoning would be applied. Staff made a revision to the rezoning for the one parcel that fronts on Bell Avenue.

Ms. Waters asked if the annexation is approved it would include that single lot. Mr. Manley stated yes, that is what the petition includes and is what they are requesting. They would have to change their petition to remove that single parcel.

Discussion was made about this being a single parcel that juts out from the rest of them. Ms. Peacock thought maybe they wanted to use it for parking. Mr. Manley stated there has been some discussion on that but the question before the Planning Board today is if those six parcels are annexed what would the appropriate zoning be for them.

Chair asked if it was typical for the annexation and rezoning to be concurrent. Mr. Manley stated it was typical.

Chair discussed the annexation and the rezoning and having the text amendment for the Tree Ordinance on the agenda and how all this works out. Because of the timing would they be grandfathered. Lew Holloway, Community Development Director stated you don't get grandfathered until you have entitlements. Zoning is not an entitlement. If they wanted to build something on the parcel, they would have to submit an application once that application has been submitted, then they have an entitlement to proceed under the ordinance and the laws of the city that are in place at the time of their application. There is no application for development associated with this. If we adopt a tree ordinance next month and zone this parcel and it gets annexed and three weeks later they submit an application then they would be subjected to whatever is in our ordinance at that time.

Chair stated he knows when they have a rezoning application they are not to discuss the use but Spinx was mentioned and Spinx has a lot of lighting and there is a neighborhood right behind this property but we have a lighting ordinance, correct? Mr. Manley stated yes. Chair stated they could not bleed more than half a candle foot of light onto a residential area. Mr. Manley stated commercial to residential he believes it is half a foot candle or one foot candle. Mr. Manley stated staff would review that. They would have to submit a lighting plan which would be reviewed by staff for compliance.

Ms. Waters asked if Spinx could make these parcels one single parcel. Mr. Manley stated they could do a recombination. Ms. Waters asked so the parcel facing Bell Avenue would be part of the large parcel and whole parcel would have to have the same zoning. Mr. Manley stated you could have split zoning. Zoning district lines are not parcel lines. Ms. Waters asked so you could have split zoning. Mr. Manley stated yes, they don't like it and it makes things complicated but it is legal technically and it happens. Mr. Manley stated if it was recombined and the property was split zoned, the portion that is zoned residential would still have to abide by the restriction in the residential zoning.

Mr. Holloway stated what Ms. Waters is getting at is how would this apply to the site plan. If most of the parcel is zoned CHMU but there is a part that is R-6 then it would have to come back to the Planning Board for it to be rezoned if they wanted to put a driveway or parking lot there. It doesn't matter that the recombination happens, the zoning ordinance requirements would still stay in place and that portion of the property that fronts Bell Avenue would be regulated as residential.

There were no further questions for staff.

Chair asked if the applicant was here. Mr. Manley stated the city is the applicant on this one.

Chair opened the meeting for public comment.

Jay Marlowe stated he owns the parcel immediately to the northeast on Bell Avenue and he is glad to see that a lot of you share his concerns about the Bell Avenue parcel. He is opposed to the rezoning of that to a commercial use. He is ok with it being rezoned to residential. He did submit public comments and he hopes the Board took time to read those. He thinks for several reasons that lot's highest and best use is residential. He is a real estate agent and appraiser. It is a prime lot for an affordable house in Hendersonville or East Flat Rock which everyone knows the market really needs. He has two affordable rental properties that adjoin this so his concern is anything on that lot that would make his affordable rental units unusable.

Lynne Williams, Chadwick Avenue asked if there would be a NCM on this. Mr. Manley stated no. Chair stated they are not taking questions, this is public comment. She asked for a NCM so that you could allow the neighbors to find out what is going on and ask questions. She stated she saw great value in doing the annexation and then the rezoning and have two separate meetings. She stated she didn't know the differences in R-6 and R1. She expressed the same concern about the vegetative buffer and protecting the trees. Open space is incredibly important. She stated 60% of open space is what this property is to preserve so she looks at it as 60% is protected. What can they do to make sure 60% of this property maintains protection. She mentioned the impacts to Chadwick Avenue and Greenville Highway concerning proposed development. She talked about maintaining the character of the different regions. Upward is one of the areas that has more of a rural vibe. She discussed Bo Thomas standing up and spoke about the widening of Upward Road. She talked about the property that had the donkey on it and was glad this is not the property being rezoned but she is worried that may happen next. She asked what is the character of Upward Road and how do we want it to look as it expands. She stated it was important that this project be under any tree ordinance that passes. She talked about this being a Farm City. She talked about there being nine development proposals according to Mr. Manley and she is worried about nine more. She was concerned about development and how you plan in the Upward Road area. She stated they can put

conditions on this and talked about trees and preserving them and preserving the open space. She asked that they slow this process down while planning for the 2045 Comp Plan. She stated she doesn't think they need another gas station.

Mr. Marlowe stated the bamboo grove on the property is entirely on this property and they could cut it down and the residents would lose their buffer.

Chair closed public comment.

Chair stated a NCM is not required for a rezoning but what kind of notifications are required. Mr. Manley stated letters go out to everyone within 400 feet, a sign is posted on the property and it is published in the newspaper. Discussion was made on neighbors within 400 feet being notified whether they live in the city or county.

Discussion was made on the R1 and R-6 zoning being compatible. Mr. Manley stated the R1 zoning would permit mobile homes and the R-6 zoning would not. Mr. Manley was not sure on the density requirements for the R1 district.

Chair asked what the open space requirement was for the CHMU zoning district. Mr. Holloway stated open space depends in CHMU on whether it is commercial or residential. If it is commercial it is 30% and if it is residential it depends on the density. If it is eight units per acre it is 40%, ten units is 50% and twelve units is 60%. As the density increases the open space requirement increases.

Chair asked if you can place conditions on a rezoning. Mr. Holloway stated no, there is no site plan associated with rezonings.

Chair asked if there were buffering requirements between residential and CHMU. Mr. Holloway stated yes.

The Board had discussion on the rezoning. They discussed buffering and lighting and stormwater.

***Mr. Hanley moved the Planning Board recommend City Council adopt an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property, PINs: 9577-89-7580; 9577-89-6187; 9577-89-6236; 9577-89-5289; 9577-89-6416 from Henderson County CC, Community Commercial to City of Hendersonville CHMU (Commercial Highway Mixed Use) and PIN 9577-89-8138 from County R1, Residential 1 to City R-6, High Density Residential based on the following: 1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The Goals & Strategies of LU-7 "High-Intensity Neighborhood" calls for primary and secondary recommended land uses, locations, and development guidelines which align with the proposed CHMU zoning. 2. We [find] this petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: 1. Commercial Highway Mixed Use is the zoning district established for the Upward Road Planning Area. 2. The Commercial Highway Mixed Use zoning district is well suited to achieve the goals of the Comprehensive Plan for this area. 3. The property is located in an area designated as a "Priority Infill Area" according to the City's Comprehensive Plan. Ms. Flores seconded the motion which passed unanimously.***

**V(C) Zoning Text Amendment – Tree Canopy Preservation and Enhancement (P24-08-ZTA).** Daniel Heyman, Staff Attorney gave the following background:

Mr. Heyman stated the Tree Ordinance Provision Committee was appointed by City Council last April. Mr. Heyman went over the Tree Canopy Preservation Ordinance as proposed. This came from a

recommendation from our Tree Board. The purpose was to study and recommend ordinance provisions related to the preservation of tree canopy within the City of Hendersonville. Mr. Heyman went over the people that were involved in the discussions for this. Mr. Heyman explained the time line.

Mr. Heyman gave a full background and explanation of the proposed Tree Canopy Preservation Ordinance.

Mr. Heyman went over the landscaping requirement that currently exist and the changes that have been made.

Mr. Heyman went over the new requirements.

A copy of the draft ordinance was included in the staff report and presentation.

Mr. Holloway gave a zoning text amendment presentation concerning Tree Canopy Preservation and Enhancement. The petition proposes to establish Tree Canopy Protection Standards for a certain scale of new development and enhances the requirements of the Buffering, Screening and Landscaping Standards of the Zoning Ordinance in favor of enhanced tree planting requirements for certain types of new development.

Mr. Holloway went over the staff recommendations which are included in the staff report and presentation and explained them.

Mr. Holloway stated the Legislative Committee reviewed this on January 16<sup>th</sup>. Three members of the committee reviewed this along with Mr. Manley. There were a number of recommendations or points of discussion that came up during that meeting. Species List should be referred to and staff is also making that recommendation. The three year hold was discussed and Mr. Heyman can clarify that. Clarify language for newly planted "canopy trees", that they will be 50 feet at maturity. The recommendation or request for illustrations for street trees. Requiring street trees between streets and sidewalks. This was discussed with the Public Works staff. He discussed this recommendation for redevelopment and for new development. Mr. Holloway stated the Subdivision Ordinance does not address street trees. They did not talk as much on the rain gardens or water infiltration requirements. All of these recommendations are included in the staff report.

Comp Plan Consistency Goals and Strategies are included in the staff report. Mr. Holloway went over these.

A draft consistency statement is included in the staff report.

Rationale for approval and denial were included in the staff report.

Chair asked if there were any questions for staff.

Ms. Peacock asked if there would be a staff person that would review these plans. Mr. Holloway stated this would be reviewed as a component of current planning. It would be something that the Community Development Division would review. Ms. Peacock asked if there would be a landscape architect or someone qualified to review these. Mr. Holloway stated the way the ordinance is set up we will be using the GIS tool to determine what the canopy of any given parcel is. Using the GIS tool, whether the developer submits a plan or they submit a plan with a tree line and aren't sure what the tree canopy percentage is in which case they would go to the GIS tool and click on that impacted parcel it would tell them 30% of this parcel is covered in tree canopy and staff would use that information to review the proposed project. Ms. Peacock stated she just feels strongly that they should have someone that is qualified in reviewing the plans because if we are asking them to do this as part of their landscape

submittal then the people proposing the development, they are going to have a highly qualified person submitting and if we are not going to have a Tree Board anymore and just staff she wants to make sure whoever is reviewing it is knowledgeable enough to make good comments on it. Not just with the canopy but with the street trees. Mr. Holloway stated that is the work we do in terms of current planning review so the planners in the department whether it is himself, Tyler or Matt or other future planners they may hire, that is what they are doing. They are reviewing the Zoning Ordinance confirming that the plans that have been submitted are meeting the standards of that ordinance and providing assessments and comments on whether or not it is compliant. In terms of the Tree Board piece of that, they have, many of the comments we get are around which trees are we preserving. Staff has worked to make sure the submittals that we are receiving are providing that information. We think by going to the canopy approach, we are going to achieve that goal. He believes that is the belief of the Tree Ordinance Revision Committee. He does feel like staff is qualified to review the plans and with the tool the GIS department has developed he feels they can provide that review level in the community. Currently the Tree Board reviews conditional rezoning and these standards will apply to a much wider variety of site plan review for the city. CZD's are only a portion of staff's time, there are a number of current planning projects that staff is reviewing at any given time and these standards would apply to all of them.

Mr. Holloway stated a big part of the site plan review process is our Development Review Committee, which is staff from throughout the city that with the planning staff, reviews all of the site plans which includes Mike Huffman with stormwater, Brendan Shanahan our Engineer and City Floodplain Manager, Mark Stierwalt who is the Public Works Superintendent, who is the liaison to the Tree Board. He stated it would be nontypical to have a licensed Landscape Architect on staff but it does happen. There is a comprehensive review of site plans which includes planners and beyond.

Chair stated when you enter the city it has a sign that says Tree City USA, does that relate to the canopy. Mr. Holloway stated Glenn can answer that question better than he can. Glenn was on the Tree Revision Committee. Chair asked about the Tree City USA sign and why they get that? Mr. Lange stated the requirements for a Tree City USA are minimal. You have to have a Tree Ordinance (we have one), you have to have an Arbor Day ceremony and they have to have a review of all of the things the city does in terms of planting trees on public properties. They review all of that and the city has gotten several awards from the Tree City group because we keep improving how we are handling trees in the city. Particularly on public property. This is the first round on talking about how our tree canopy might be better preserved and improved on through development conditions. That is primarily what is being proposed here with the code changes that you have seen. It doesn't have a lot to do with Tree City but they could get another award from it. It will help their standing with the Tree City USA folks.

Chair asked if the Tree Board is not going to review CZD's anymore according to the recommendation, what is the role of the Tree Board at that point then. Mr. Holloway stated the Tree Board has a lot of other responsibilities that are established in the Code of Ordinances.

Chair stated 160D, a state statute, does it allow for a penalty of up to three years and if it is willful up to five years, does it allow for it or is it enforceable now without putting it into our ordinance. Mr. Heyman stated there is limited preemption in 160D for us regulating forestry activity and there is some detail to that, what is forestry activity. But you can do that in a city in North Carolina and we can't necessarily regulate it except that we can tell you that you cannot chop down all of your trees and then get a development approval saying I don't have any canopy. We don't have a requirement that you preserve canopy right now so there is nothing to hold up a development approval and that they would meet the requirements if they chopped down all the trees right now. We are authorized to adopt that regulation but they wouldn't be violating anything. They would meet the requirements of getting a permit if they did that today. They can regulate forestry activity in that way we can say that we can delay your development approval for up to three years or five if it is in willful violation of our ordinance. There are other remedies. Cutting down the trees may be a violation that you might be liable for civil penalties and we might take you to court and get an injunction

for an order for you to plant new trees. There is all kinds of things that we might be able to do. In his experience it would be very atypical for a developer to purchase property and hold on to it for three years so they don't have to preserve canopy. He doesn't know that anyone wants to tie up their capital. Chair felt like it needs to be in our ordinance because it is not covered by a state statute. Mr. Heyman stated sometimes they do not want to repeat state law but sometimes it makes sense to draw people's attention to things like that so that it is obvious to them. He tried to make it clear in the draft that it is in addition to any other remedy that we have available.

Chair opened public comment and stated it would be limited to three minutes.

Ken Fitch (Zoom), 1046 Patton Street stated he thinks the elimination of the Tree Board from the process is disastrous. He thinks it is a rejection of all the work they have been doing because they consider the ecosystem issues in a project, what are the appropriate trees to plant where and they will provide the information that is biological and also cultural because sometimes you talk about important trees that are meaningful to a site. To take them out of it you have danger of having uninformed decisions based upon what looks good on a map but not in terms of the character of the site. The character of the landscape is a very important consideration. The idea of heritage trees has been part of this. You have this provision of a fee in lieu by the City Manager and that is not fair or sensible because sometimes there are certain things that have to do with the relationship of the trees and the environment and the ecosystem. What about bamboo? We have seen two projects that bamboo was there. If you took the bamboo out then what would you have? And what would replace it? That is a very dense buffer. You would end up with a buffer that is not as effective. You have decisions that the Tree Board would make like what is functional on a site that needs to be saved. He was concerned about street trees and what can be planted in the area between the sidewalk and the street. It is a complex question. There are all kinds of questions and you need people with the experience and understanding to say this is the way you should do it. He discussed infill and managing those sites. He thinks it is a disastrous thing.

Lynne Williams, Chadwick Avenue stated she needed some flexibility as she is speaking for another person that is at work and on the zoom call but cannot speak. She has been working on a tree ordinance and asking for one since 2020. We have seen the loss of trees, 350 at the Greenville Highway that is going to happen, the Duncan Hill is going to happen, over at the Thomas farm that is going to happen and this is too late. It was needed 20 years ago. She wanted to mention there was no public comment allowed through the entire process. So this the first time they have been able to speak on it at all and so three minutes is very challenging. She did go to the meetings but they were unable to comment. She stated one of the members had told her specifically that they were against the tree ordinance. She did not understand putting people that were against the ordinance on the committee. The new ordinance does not apply to tracts under two acres and that is a huge concern for her. Just on Chadwick they have multiple places that are less than two acres. The need for the tree study with the species and size is incredibly important. She talked about having a tree inventory and how we aren't looking at every bird and every squirrel and we are completing disassociating from that. The Tree Board are really the first people on site to take a look and say what do we have here that is worth saving. She appreciates the buffer for the higher residential, from the higher residential to the lower. That is super important. The landscaping for common space is also incredibly important. The street trees for the sidewalks is really important for us. We need to be really thoughtful about how to conserve the trees. That is another reason the Tree Board could be very helpful here, we need that guidance. The tier one must conserve 20% of the space and when she first came to the meeting she thought they proposed 50%. They went back from 50% to 20% and she asked if this Board could push 25% and if we could go to 35% that would be great. She is concerned about the no fee in lieu of. There will be no public feedback when that happens or oversight. Especially when we leave it to the City Manager for an administrative review. This type of stuff leads to economic and environmental injustice for low income areas, less trees. She thinks it is important to keep the Tree Board in the CZD process. Exemptions for the one acre or less or the total tree canopy of 7/8<sup>th</sup> of an acre, that is not good enough. They need it completely across the board for every piece of property. She had concerns about subdividing



properties. She discussed the climate change, butterflies in Mexico and what is happening to the environment. Longer than a three year hold is required. When you look at lots like 1202 Greenville Highway, it was fully wooded and already what we approved there fit within the ordinance but this wouldn't have changed anything or saved anything. She thinks it is important for us to look at lots that have no trees compared to lots that have lots of trees and maybe rate the level of naturalness and decide how we will regulate that. Culturally it is important for our community to have trees. This allows for developers to come from out of town and destroy our canopy. She is 100% for the tree ordinance it needs more teeth and more oversight. She was concerned about some of the conflict of interest on the Boards. She stated there was one comment that there was no tree arborist on the committee. She talked about having access to the GIS overlay.

Glenn Lange 623 Ferncliff stated he is on the Tree Board and we initiated this process and are really fortunate that the Council created the Tree Ordinance Revision Committee. We impressed on them the need for protecting more trees, improving the tree canopy, increase planting where we can, and they are appreciative of allowing this process to get to this point. Things went pretty smoothly on the Tree Ordinance Committee. We did have representation from builders. They had three on the committee to represent business interest. The proposed changes that you see were largely consensus driven on this Tree Ordinance Committee. There wasn't a lot of dissention. What you see here is largely by consensus from this group. It wasn't just the Tree Board talking about tree canopy. He wanted to talk about the concern they have and the fact that we are losing tree canopy. The tree assessment that you will hear something about or get more involved with once it is presented to the Council and there will be a lot of information that you can go through to look at tree canopy by zoning district and a lot of other formulations you can use such as the GIS system to determine tree canopy. Keep in mind that even with our tree preservation protections we are still going to lose if the site is completely wooded, we are going to continue to lose 70% right off the bat. This is good, this is a great start and we will protect more trees this way but it will not by itself improve our tree canopy. The tree assessment is 2% lower than what it was the last time the assessment was done. That only includes up until the beginning of 2022. Just look at all the development that you guys have been involved with and all the tree canopy that has been removed since that time. Even though the tree assessment showed 144 acres or about 30,000 trees that's been removed. And so just since the beginning of a year and half ago we calculate just reviewing the CZD permits that the Tree Board gets to look at, we lost another 40 acres. Going down the pike with more and more development we will continue to lose tree canopy. He encourages you to support what we have because he feels it is a start with the new plantings for sites that do not have trees. There will be additional tree planting requirements for developments developing in an open field. The Tree Board and probably the staff probably diverge in terms of the review process that the Tree Board has the ability to do currently with CZD permits. We would like to maintain that. Because there are a lot of situations when talking to developers that we can make some impact on realizing they are just suggestions and recommendations. And it is recommendations to the Planning Board that you see from the Tree Board and we have been able to somewhat adjust their landscape plans to make it more beneficial to save more trees or protect some wildlife habitat and protect corridors for wildlife habitat. They would like to maintain that review and continue to be included in that review process. That is their addition from what you have heard tonight from staff.

Susan Frady, 330 Hart Road stated she thinks what Glenn said was true. She thinks Lew's change to two acres if it makes it more compatible concerning enforcement, it is a good change. She thinks it will make it easier on the staff. As far as reviewing the plans, a landscape architect likely on most projects is going to prepare that plan. As far as some of the things Ken said about what type trees (right tree, right place), a landscape architect is going to know that. When she was doing this job, for developers and the review process, if the staff can review that it is going to make it a better process because right now going to the Tree Board adds another layer of process and it doesn't really change the ordinance requirements. You are enforcing what the ordinance says so if it meets the requirements of the ordinance then they have complied. The Tree Board just really adds another level of review, it adds more time to the process but not

a lot of outcome from that. You can only enforce the ordinance that you adopt. You can't enforce anything that is not in that ordinance.

Ms. Flores asked about the Tree Board's role if you flush that out. Mr. Holloway stated right now in the Zoning Ordinance as part of the development review has a reference in the CZD review process, it's one line that says the Tree Board may review planting plants and over time that has developed into, we worked with the Tree Board to integrate that into the CZD review process. We have a deadline with requirements for the CZD submittal and once we receive that submittal it gets packaged with the plantings and sent to the Tree Board and they review that as part of their review process. Staff is reviewing those site plans to make sure it meets the standards of the Zoning Ordinance. Conditional zoning does allow a little bit more freedom in the sense that a condition can be proposed but as you know any condition has to be agreed upon by the developer and the city. What staff is doing now is formalizing some of the regular requests that the conditional zoning process and the Tree Board review has generated. The Tree Board does have other things they do but the Tree Ordinance Revision Committee was put in place to come up with standards to adopt and put in place. The proposal, and this was discussed in the Tree Revision Committee, the discussion of the Tree Board no longer being part of the CZD process, it would just remove that review from the CZD process but all the standards that would be adopted as part of the tree ordinance would be enforced. Glenn has expressed wanting to continue to be involved in some level of review. For us, and he is being straightforward, that layer of process and that layer of review that goes into the CZD process is a challenging administrative task. It just takes a lot of time and energy, there is a lot of time to make sure we have our staff reports ready to go and it takes away time from other things. Adopt new standards and staff will make sure that those standards do apply. He has talked about doing a review with the Tree Board on a regular basis and there are other things they can do. He feels the Tree Board is interested in providing comments and feedback on the CZD's. One of the major impacts to the ordinance adoption that is not being touched at all right now is that CZD's are a portion of the development that we review. It is currently the only review that the Tree Board provides. The ordinance adoption will apply these new standards for development across the board and not just CZD's. It is a significant change in terms of the requirements in the city and a couple of the things like removing the Tree Board process, the canopy measure instead of requiring a survey with dbh relieves a little pressure from the development community in exchange for requiring more plantings and more tree preservation. Those are some of the tradeoffs that has been discussed and massaged to the point that you are seeing them today. Ms. Flores asked so the Tree Board is not going away. Mr. Holloway stated no, not at all.

Lynne Williams stated she does hear that it is going to make it easier for staff but on behalf of the public and the Tree Board she wants to say please keep the Tree Board on because the Tree Board helps us negotiate on the CZD's because a lot of the time developers come in and want a lot of stuff and we do get a little bit of negotiation there. To Ms. Frady's point about the oversight well if you get rid of all of that and have the requirements for all parcels then it will get rid of any oversight.

Mary Davis, 317 N. Justice Street stated she is on the Tree Board and the Tree Ordinance Committee. She stated the Tree Board is in charge of designating heritage trees, they do the neighborhood program, and have planted hundreds of trees, they are starting in May a Bradford Pear bounty so if you have a Bradford Pear and have to cut it down they will give you a free tree. She wanted to make a comment about the canopy loss which looks like it is 2% which is 2% but depending on areas it is more. She would encourage you to look at that study and see where we have lost trees to help in the planning process going forward. We really need a planting strategy and we really need a goal of canopy percentage in Hendersonville and for City Council to make a goal of the percentage and put that in writing. She would like to see us increase our canopy here by at least 20% in so many years. She talked about being part of Tree Charlotte and discussed their program and how they generated trees. The planting requirement is very important.

Janet Thew, 6 Ridgebourne in Flat Rock stated she was a member of the Tree Board and is currently the Chair. She was not involved with the tree ordinance but she was a Planning Commissioner for 10 years. She did help write a tree ordinance with an arborist so she is disappointed that an arborist was not on this committee. She feels that would have been very helpful. In her experience developers do not want any regulations and they want no restrictions. So it is up to you and the City Council to place the welfare of the community in the forefront rather than giving the developers what they demand. She hopes they will stand strong for a really good tree ordinance with teeth. She is disappointed in the small acreage exemption. She is guessing that a large number of parcels are on the smaller side and with an exemption of all single family to her that is a pretty big loophole. She thinks quite a bit of canopy will be lost just with that. If everything else can remain strong and actually preserve as much as possible and with the plantings that will maybe inch it up but she is afraid they are never going to get to a high percentage.

Chair closed public comment.

Ms. Peacock stated she feels like the landscape architect the development companies bring in are not necessarily working in the community interest. A lot of them are good hearted people and they try to straddle it but at the end of the day they are being paid by the developer. She thinks we need to be serious about the review of what they bring in because she has been on many job sites where she gets told "oh there are none of those trees available, they have some disease and we can't get those, we can only get these trees." And it is not even truthful. Or some will stack construction stuff around trees and they will die and they will say there were those big black ants in that tree, when they probably went and got the ants and put them in there. She just feels like if we go forward with this we need to put a person reviewing it and she does appreciate what the Tree Board does but when we are trying to get these big developments approved time is everything and when you have the hold up of another board meeting it is really costly to the developer. She thinks it is efficient to have staff review it and she thinks running by you guys is probably going to be great. You can always get feedback even though it is not a formal meeting. What she sees happening in other cities because she works in all parts of the country is that sometimes the developer can pay an extra fee when they do their site plan application to have a private reviewer so you can contract with a landscape architect that maybe owns his own business in town and then the drawings go to him or her for review and you get the comments back super-fast and the developer could actually pay for that landscape architect to review it. She is thinking that if we could introduce that window to people as an option because then you get really educated comments that are about specific species and that person would have the ability to interpret the code for that specific site. She is for the tree ordinance.

Chair stated he sees three things that they need to make some kind of decision on tonight. Whether the CZD review process is going to continue happening by the Tree Board, whether we are going to change the two acre overall to one acre of disturbance, the three year/five year thing he thinks needs to be in our ordinance. He knows it is a state statute. He feels like just because the state allows for it that if we put it in our ordinance then we will have it there. He does like the option of the developer getting a professional to review it. Ms. Peacock stated it would need to be a professional they contract with the city to do private plan review. Because it is a lot of work for staff and you do not really have a staff person here to do it. By drafting this ordinance you are going to have more plans to look at than you ever had before.

Mr. Holloway stated concerning the private reviewer, he has heard of that before, we are not backed up so far in terms of site plan review that we get a lot of "hey I would pay a fee if you could expediate this", We turn individual standard site plan review as a standard operating procedure for the office we turn around in 12 business days, so we are pretty quick. We could certainly look into that. He would want to look into how that works in North Carolina a little bit more before commenting on it. It is not something we have considered. He doesn't know what kind of contract we would have to have. It is an interesting concept but there is more to research on it. He knows the Tree Board is advocating for a city arborist. We do have the DRC and there was a discussion about sustainability earlier. Kaitlin is on the DRC review list and if the city

were to hire an arborist they would be included as well. DRC reviews any site plan that comes through. All of those projects get that level of review.

More discussion was made on a consultant.

Ms. Water discussed her neighborhood and having to get a community permit for the neighborhood along with the building permit.

Mr. Holloway discussed the tree survey that is required currently.

Mr. Holloway also discussed subdivisions and the canopy preservation standards.

Ivy Crossing was also discussed.

The Board discussed the Tree Board being part of the CZD review process. Most of the Board members were in favor of keeping the Tree Board as part of the CZD review process. Ms. Peacock stated she would take the Tree Board out of it. Discussion was made on having an arborist on staff verses having the Tree Board review. The Board also discussed the three/five regulation and being more restrictive than the state is.

***Ms. Peacock moved the Planning Board recommend City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article VII, Sections 7-3-3 and 7-3-4 and Article XV, Sections 15-4, 15-5, 15-6, 15-9 and to add the new Section 15-14 and 15-15 to establish additional requirements for the provision and protection of trees: 1. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The petition aligns with the Comprehensive Plan's Strategies; NR-2.3. Promote preservation of woodlands. Mature trees and wooded areas are significant community-defining natural features that contribute to Hendersonville's identity, LU-3.5. Minimize negative impacts from growth and land use changes on existing land uses and LU-3.6. Update the Zoning Code to ensure conformance with the Comprehensive Plan. 2. We find this petition, in conjunction with the recommendations presented by staff, to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: 1. The proposed text amendment seeks to promote compatibility between new development on sites with surrounding existing development, by reducing the removal of existing site vegetation and tree canopy and enhancing the integration of new plantings in required open space. 2. The proposed text amendment aligns with the public interest in that it seeks to offset some of the impacts of large scale development on adjacent properties and on existing natural resources. 3. The proposed text amendment will offset a portion of the ongoing impacts of new development on the natural environment within the City. Also to insert one staff recommendation relating to the one acre of disturbance and to not include the staff recommendation of removing the Tree Board from the CZD review process. Concerning the exemption standard alignment and recommendation, to remove the word "recommended" planting list and include "approved" planting list. Mr. Hanley seconded the motion which passed unanimously.***

VI Other Business.

VII Adjournment – *The meeting was adjourned at 6:41 pm.*

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Jim Robertson, Chair