



## PLANNING BOARD RECOMMENDATION

Project #: P22-54-CZD

Meeting Date: January 12, 2023

PETITION REQUEST: Conditional Rezoning – Lakewood Apartments

APPLICANT/PETITIONER: Travis Fowler / First Victory, Inc. [Applicant/Developer]  
Group Ventures [Owner]

### PLANNING BOARD ACTION SUMMARY:

The Chairman of the Planning Board initiated the consideration of this item with a 10 minute discussion on the status of the TIA and whether or not there was sufficient information available to the Planning Board to take action on the item. It was determined that, despite concerns from the Board, the item would be considered rather than deferred. Once the course of action was established, staff gave a presentation on the request and reviewed the guidance from the Comprehensive Plan as well as the criteria for considering a rezoning.

As the discussion and consideration of the item moved forward, the overwhelming topic of concern was the impact on transportation. As such, the City's Transportation consultant, Jonathan Guy also provided information and guidance related to the review of the TIA.

The Development team also provided information to the Planning Board. The developer, Travis Fowler, gave an overview of the goals of the development including the appeal of the location and the attempt to balance between providing density and preserving natural resources. The developer's Transportation Consultant, David Hyder of JM Teague, spoke about the details of the TIA and the justification for his recommendations. The developer's site engineer, John Kinnaird of Brooks Engineering, spoke about the site plan details. Lastly, the developer's Legal Counsel, Brian Gulden of the Van Winkle Law Firm, spoke in favor of the development from a legal perspective and provided reference to case law limiting conditions that would require off-site improvements.

In total, the Planning Board considered this item for 2 hours and 45 minutes.

### PUBLIC COMMENT:

Two members of the public spoke and asked questions related to the development:

1. Lynne Williams, Chadwick Ave – concerned about lack of transportation information available, flooding and impact to existing tree canopy loss and to wildlife (6 mins).
2. Ken Fitch, 1046 Patton Street – concern that there will be an irreversible negative environmental impact, concerns about impacts of traffic, specifically to the Post Office Annex (10 mins)

## MOTION:

Tamara Peacock made a motion to approve the petition. The motion was seconded by Peter Hanley. The motion passed unanimously.

## COMPREHENSIVE PLAN CONSISTENCY AND REASONABLENESS STATEMENT:

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 City's 2030 Comprehensive Plan's Goals for the 'Business Center', 'Regional Activity Center' and 'Natural Resource and Agriculture Area' Future Land Uses Designations. Specifically, the proposal is consistent with the Secondary Recommended Land Uses and Development Guidelines under LU-13.*

## REASONABLENESS STATEMENT

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:

### **[Rationale for Approval]**

- 1. The proposed density and housing type are compatible with the surrounding area.*
- 2. The petition proposes to provide additional housing to offset local rental demand.*
- 3. The petition proposes to connect to the City's greenway network*
- 4. The petition proposes to offset tree loss with a net gain of 1 tree*

## PROPOSED CONDITIONS:

In addition to those conditions listed on the Site Plan (with the exception of Developer Proposed Condition #1 below) the following conditions were recommended by the Planning Board:

- 1. Developer to grant public access easement on greenway(s)/sidewalks within the development connecting to public greenway system.*
- 2. Developer to provide 14 parking spaces for trailhead users.*
- 3. Developer to update Site Plan to include all proposed parking spaces. Additional 78 Parking Spaces to be located within proposed Limits of Disturbance as shown on site plan dated 12-23-22*
- 4. Developer to revise TIA to address issues raised in TIA Memo from City Transportation Consultant (dated 1-10-2023) and in accordance with NCDOT Standards before issuance of Final Site Plan. Developer to be responsible for required mitigation.*
- 5. Work with City Staff to provide 10 "Affordable" Housing Units [in the form of a condition prior to City Council].*
- 6. Allow Tree Board to review revegetation plans.*
- 7. Provide a "dark sky compliant" lighting plan*

## CONDITIONS ON SITE PLAN:

### Developer Proposed:

1. *The developer will donate the floodway area of Clear Creek as shown on the site plan. The area will be donated to either the City of Hendersonville for the purposes of constructing a greenway, to a non-profit organization or some combination of the two.*
2. *The developer requests that relief be granted from Section 5-25-2 of the Zoning Code as it relates to Future Land Use Designation of Natural Resource/Agricultural not being listed as a permitted designation for Urban Residential zoning [Developer-initiated – No development proposed in Floodplain]*
3. *Developer request approval of alternative access design to provide fire access to the development [Developer-initiated]*
4. *Developer requests to be allowed a greater parking ratio than the maximum of 1 space per 1 units as encouraged by code in this zoning district [Developer-initiated].*

### City-Initiated:

5. *Developer agrees to remove Bradford Pears and cut and kill stump to prevent growth [Developer Agreed]*
6. *Developer agrees that developed slopes of greater than 10% be planted with appropriate native vegetation (trees, shrubs, and perennial herbaceous plants to stabilize the slopes. No turf grasses can be used. A landscape architect (with wildlife habitat management expertise) will provide and implement a vegetative planting and management plan for this proposed development condition. [Developer Agreed with exception of Tree Board Review]*
7. *The Tree Board also recommends that a landscape architect (with wildlife habitat management expertise) provide and implement a native vegetative planting and management plan for the common open space shown on the site plans with special emphasis on the stream corridor along Clear Creek and maintaining the rest of the area in early successional wildlife habitat. It appears that wetlands could be developed in this area. The area could certainly be utilized by residents through the use of walking trails and greenways. The Tree Board requests the opportunity to review this plan. [Developer Agreed with exception of Tree Board Review]*
8. *All preserved trees must be protected from construction activities as prescribed in the zoning code Section 15-4 regardless of use as tree credits. [Developer Agreed]*

## BOARD ACTION

- **Motion/Second:** Peacock / Hanley
- **Yeas:** Hanley, Brown, Cromar, Peacock, Glassman, Martin, Robertson, Jamison
- **Nays:** N/A
- **Absent:** Blatt, Flores
- **Recused:** N/A