

**Minutes of the Planning Board
Regular Meeting - Electronic
April 11, 2024**

Members Present: Jim Robertson (Chair), Peter Hanley, Laura Flores, Donna Waters, Barbara Cromar, Dr. Yolanda Robinson, Chauncey Whiting

Members Absent: Tamara Peacock, Beth Robertson

Staff Present: Matthew Manley, Strategic Projects Manager, Lew Holloway, Community Development Director

- I Call to Order. *The Chair called the meeting to order at 4:08 pm. A quorum was established.***
- II Approval of Agenda. *Mr. Hanley moved to approve the agenda. The motion was seconded by Dr. Robinson and passed unanimously.***
- III Approval of Minutes for the meeting of March 14, 2024. *Mr. Hanley moved to approve the Planning Board minutes of the meeting of March 14, 2024. The motion was seconded by Ms. Waters and passed unanimously.***
- IV Old Business**
- V New Business**
- V(A) Zoning Map Amendment – Standard Rezoning – Hope Creek and Powel Street (P24-17-RZO). Mr. Manley gave the following background:**

The City has received an application for a standard rezoning for two parcels. The parcels are located at 60 Hope Creek Lane and 184 Powell Street. The applicant is Pascual Hernandez. The parcels are currently zoned R-15, Medium Density Residential. They are proposing to rezone it to R-6, High Density Residential. The properties in total are 4.68 acres. Any and all permitted uses in R-6 will apply to the property if rezoned. The Future Land Use Designation is High Intensity Neighborhood.

The current land use and zoning map was shown and is included in the presentation and staff report. Mr. Manley stated some of the property is in the 100-year Floodplain.

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

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

The Future Land Use map was shown and is included in the staff report and presentation.

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

General Zoning Standards were discussed and are included in the staff report and presentation.

A draft Planning Board reasonableness statement was discussed and is included in the staff report and presentation.

Mr. Manley stated there was a spot zoning analysis that was an addendum to the staff report and that provided a good bit of information. In the particular case where you have an area that is predominantly zoned R-15 and you have a portion of that area asked to be zoned a different zoning district. Spot zoning is not illegal in North Carolina, but once you have identified if it is spot zoning then you have to justify the rezoning of a property with rationale.

Chair asked if there were any questions for staff.

Mr. Hanley talked about there being a lot of wasted space on this property.

Chair asked if multi-family was once allowed in R-15. Mr. Manley stated yes, in the 90's. Mr. Manley explained the density and stated a zoning text amendment was approved removing the multi-family use from the residential zonings. Chair stated doing the basic math, 3.75 units per acre you come up with 18 units and doing the 8.5 you come up with 39 units, however there are already dwellings on the property and there is some flood area on the property so you have to consider setbacks, the current units and you have to consider the fact that the 1.86 acres can't be developed. Has anyone done the math as to how many additional units can be put on the property. Mr. Manley stated he has not done or seen a site plan. Chair stated after you meet the setbacks and open space he doesn't think there will be more than three to five more units on the property. It is not like going from 18 to 30.

Ms. Waters asked about the floodplain. Mr. Manley stated they would be prevented from filling it or using more than 10% of it. There is a height limit of 35 feet and it cannot be multi-family. He explained town homes and stated they could not stack units up because this is essentially single or two family.

Ms. Cromar asked about sewer. Mr. Manley stated it may have sewer already because there is a sewer line that runs at the bottom of the property. If they were to develop and request more taps, staff would be in a position to require them to annex. Mr. Manley stated there is not sewer in that greater Barker Heights area. There has been failing septic in that area and there has been discussion about this area concerning sewer and extending it and how that would work.

There were no further questions for staff.

The applicant was not in attendance or on zoom.

Chair opened the meeting for public comment.

Ken Fitch, 1046 Patton Street (Zoom) stated the issue is that the property is in the 100-year Floodplain which will impact what the applicant can do on the property. There are some unknowns and questions still. Is the 100-year Floodplain designation based on an updated map? There have been some updated adjustments in the area. Also, is there any 500-year designation on the area? There is extensive flooding in the adjacent stream network. There are issues with the endangered species habitat nearby. The applicant should do further research with the water shed. This might affect what the property owner can do.

Chair closed public comment.

Ms. Cromar discussed the single lane bridge in the area and how it floods. Mr. Holloway stated the most recent data from FEMA is used when considering the floodplain areas.

Chair reopened the public comment.

Chair stated Emanuel Acosta, 16 Partner Drive Hendersonville, NC submitted a comment which stated no rezoning Hope Creek Lane. Let's keep Hendersonville green. Rezone another area. Concerned resident.

Chair closed public comment.

Mr. Hanley moved 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: 9578-36-6473, 9578-36-8361) from R-15 Medium Density Residential to 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 recommended land uses which align with the proposed R-6 zoning. 2. Furthermore, 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. R-6 zoning aligns with and maintains the primary single-family character of the neighborhood. 2. R-6 zoning allows for a more efficient use of land. 3. R-6 zoning is less dense than some existing land uses in proximity of the subject property. Ms. Waters seconded the motion which passed unanimously.

V(B) Conditional Zoning District - Osceola Inn Adaptive Reuse (P23-70-CZD). Mr. Manley gave the following background:

The property is located at 159 Osceola Road and is the site of the historic Osceola Lake Inn. The applicant and owner is Fiona McColley and she has applied for the CZD. She is requesting the property be rezoned from R-15, Medium Density Residential to R-15, Medium Density Residential CZD. The reason for that is what is being proposed falls under the category of an adaptive reuse, which is a permitted use in our zoning code that is only permitted in the R-15 CZD. It has that extra level of review if you want to do an adaptive reuse. The adaptive reuse is not to build anything but to restore and renovate the existing structures on the site to accommodate a 20 room hotel and guest rooms in an inn. The Inn will also have event facilities as well as a café that will be open to the public. The wings that were added on will be renovated to accommodate one and two bedroom multi-family rental units.

The Future Land Use Designation is Medium Activity Center.

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

The site plan was shown and is included in the staff report and presentation. Mr. Manley discussed the site plan including parking and landscaping.

There were no proposed conditions.

A Neighborhood Compatibility meeting was held August 31, 2023. Topics discussed were access to property, impacts from parking, target market for hotel and residential units, impact on property taxes and impacts from noise. The meeting was overall positive.

The Current Land Use and Zoning map was shown and is included in the staff report and presentation.

The Future Land Use map was shown and is included in the staff report and presentation.

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.

A draft reasonableness statement was shown and is included in the staff report.

Chair asked if there were any questions for staff.

Mr. Hanley asked if they do not connect to sewer where will they put the septic system. Mr. Manley stated he does not know much about the current system. Mr. Holloway stated there is a sewer line on Lakeside Drive. There are several properties connected to it that are not in the city. There is a line there and an option for sewer. Mr. Manley stated that would be handled through an availability request and the Water Department would make that determination and the question of annexation would come up after that determination.

Ms. Cromar asked if the apartments or condos would be rented or owned. She also asked about the Comp Plan and affordable housing. Mr. Manley stated we do not dictate if the units are owner occupied or tenant occupied. The applicant has indicated a couple of things, they have no intention of these being short term rentals, they are opposed to that and the impact it has on housing. The applicant also indicated in the NCM that the units could be sold. Mr. Manley stated we do not regulate short term rentals or long term rentals. In terms of affordability we could not create a condition that they could not be owner occupied. Affordability is defined as 80% AMI or less and we do not have any provisions in place currently that require that. Mr. Manley discussed market rate apartments and having smaller units that are needed. He believes this achieves that goal of having market rate housing without being subsidized.

Discussion was made on the 20 guest rooms being short term. Mr. Manley stated the wings, the 26 apartments would be as indicated and the applicant has indicated she does not want short term rentals. We cannot regulate short term rentals because there are not standards for that. She would like for the 26 apartments to be long term rentals. He explained the proposal and the diverse use of the property.

Ms. Flores asked about the city taking over the services. Mr. Manley stated if it were annexed the city would take over services. Ms. Flores asked if they needed sewer it would be annexed. Mr. Manley stated yes. They would start with an availability request to see if it was even feasible. If it is feasible they would have to petition to be annexed and then the city would determine if they even wanted to annex the property. He explained who would provide the services if annexed and who would provide them if they were not annexed.

Mr. Manley stated it would be a satellite annexation.

There were no further questions for staff.

Chair asked if the applicant was here. The applicant was not attendance or on the zoom call. Mr. Manley stated she resides part time in Australia and that is a pretty significant time difference.

Chair stated there is question of whether the apartments would be leased or sold. Mr. Manley stated she had indicated in the NCM that she was interested in these being sold and she also indicated that she did not want them to be short term rentals. From the city's perspective we do not dictate ownership or rental. The city also does not have any provisions for short term or long term rentals. There is really nothing we can do about it if she was here to answer that question.

Chair opened the meeting for public comment.

Ken Fitch, 1046 Patton Street (zoom) stated this project has considerable neighborhood support. The applicant has been interactive with the neighbors. The restoration of this Inn would enhance to historic profile of the city. He asked about the status of the historic designation and understands it may no longer be considered for a national designation. He wondered about the eligibility for a local designation. Clearly the restoration here would be a benefit to the area.

Chair closed public comment.

Discussion was made on the former tennis court.

Ms. Waters 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 (PIN: 9568-31-5964) from R-15 (Medium Density Residential) to R-15 CZD (Medium Density Residential - Conditional Zoning District) based on the site plan and list of conditions submitted by and agreed to by the applicant, [dated February 5, 2024] and presented at this meeting and subject to the following: 1. The development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses: Adaptive Reuse including: Hotel with: 20 Guest Rooms, Event & Conference Space, Café. Residential, Multi-Family, 26 - 1 & 2 Bedroom Units. 2. The petition is found to be consistent with the City of Hendersonville 2030 Comprehensive Plan based on the information from the staff analysis and because: The adaptive reuse of an historic structure aligns with strategies in the 2030 Comprehensive Plan including Strategy CR-1.5. 3.. Furthermore, we find the petition to be inconsistent with the Future Land Use Map based on the following: The Medium Intensity Neighborhood Future Land Use designation does not recommend any commercial uses or multi-family uses on local streets. 4. Therefore we recommend designating the Future Land Use of the parcel as: Neighborhood Activity Center where multi-family residential, pedestrian amenities (plazas, outdoor seating, etc.) and mixed uses are secondary recommended land uses. 5. We find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because: 1.The proposed use satisfies the Supplementary Standards for 'Adaptive Reuse'. 2.The proposed use as a hotel aligns with the original use of the property. 3.The historic structure and its use as an inn predate the surrounding single-family land uses. 4. The scale of the proposed reuse will not negatively impact the surrounding neighborhood. 5.The proposed rezoning will allow for preservation of the historic structure, into which reinvestment is greatly needed. Dr. Robinson seconded the motion which passed unanimously.

Discussion was made on adaptive reuse and the zoning requirements.

V(C) Administrative Review- Preliminary Site Plan – Fakhoury Academy of Taekwondo (A24-15- SPR).
Mr. Manley gave the following background:

Mr. Manley stated preliminary site plan review is required of all developments undergoing Site Plan Review for the following: Addition of more than 30 parking spaces. 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 at 1019 Berkely Road.

Mr. Manley gave a background of the project which is included in the staff report and presentation.

The current Land Use and Zoning map was shown and is included in the staff report.

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

A preliminary site plan was shown and is included in the staff report and presentation.

Based on the review by staff, the submitted preliminary site plan for the Fakhoury Academy of Taekwondo meets the Zoning Ordinance standards established for projects within C-3, Highway Business (5.8) and Preliminary Site Plan Review (Section 7-3-3.2).

Chair asked if there were any questions for staff.

Chair stated the parking spaces required are 40 because it is on an entry corridor and they get a 20% reduction, what is the reasoning behind that? Mr. Manley stated he thinks it is for aesthetics primarily and the amount of access that is available on entry corridor. There is also increased screening requirements. The C-3 zoning has pretty big setback requirements but because it is entry corridor they are allowed to encroach into that setback. They can move the building up and put the parking in the rear. In this case the slope prevents that.

Kevin Fakhoury, property owner, stated he wanted to have one entrance and one exit but NCDOT did not approve that and wanted only one entrance/exit so they made it bigger with one area to pull in and one area to pull out.

Mr. Fakhoury stated presently he has over 100 students and they continue to grow. He needed a bigger building to accommodate. There is no sidewalk currently but they will take it from the corner of Asheville Highway and Berkeley on down and meet the edge of the property. It actually goes up Asheville Highway.

Chair stated public comment is not required for Administrative Review.

Mr. Whiting moved the Planning Board grant preliminary site plan and building design approval, based on the requirements of the City of Hendersonville Zoning Ordinance finding that the Fakhoury Academy of Taekwondo project is compliant with all applicable requirements. Mr. Hanley seconded the motion which passed unanimously.

VI Other Business. Mr. Manley and Mr. Holloway gave an update on the Comp Plan.

VII Adjournment – *The meeting was adjourned at 5:40 pm.*

Jim Robertson, Chair