

**Minutes of the Planning Board
Regular Meeting - Electronic
August 8, 2022**

Members Present: Stuart Glassman, Neil Brown, Tamara Peacock, Frederick Nace, Jim Robertson (Chair), Peter Hanley, Barbara Cromar, Laura Flores, Jon Blatt, (Vice-Chair), Andrea Martin

Members Absent:

Staff Present: Matthew Manley, Planning Manager, Tyler Morrow, Planner II, Lew Holloway, Community Development Director and Terri Swann, Administrative Assistant III

I Call to Order. *The Chair called the meeting to order at 4:00 pm. A quorum was established.*

II Approval of Agenda. *Mr. Hanley moved for the agenda to be approved. The motion was seconded by Ms. Cromar and passed unanimously.*

III Approval of Minutes for the meeting of July 11, 2022. *Mr. Glassman moved to approve the Planning Board minutes of the meeting of July 11, 2022. The motion was seconded by Mr. Nace and passed unanimously.*

IV Old Business

V Other Business

V(A) Analysis of Impediments to Fair Housing – Discussion

Mary Roderick, Regional Planner from the Land of Sky Regional Council gave a presentation to the Board concerning fair housing. She wanted feedback from the Board. She gave an overview of seven protected classes and had discussion on four points to review which was listed in her presentation. The Planning Board was in favor of looking at all lot sizes in the City of Hendersonville residential zoning districts and to look at manufactured housing as well.

V(B) Planning Board Committee Assignments. Mr. Manley gave a brief overview of the Committees for the new members. Chair stated the new members could discuss the appointments with him after the meeting. Discussion was made about meeting remotely and how this will no longer be an option for now.

V(C) Discussion on Zoning Reform. No discussion was made.

VI New Business

VI(A) Zoning Text Amendment – Multi-Family and Dimensional Standards in the MIC District (P22-64-ZTA)
Mr. Manley gave the following background:

This is a city-initiated amendment to the list of Permitted Uses and Dimensional Standards in the MIC zoning district. This amendment would allow multi-family in the MIC district and also reduce the setback requirements for the MIC zoning district. The maximum density would be 12 units per acre. The setbacks would be reduced from 30' on the front setback to 10' on local streets and reduced to 0' on major and minor

throughfares, which would only include 6th Avenue (US 64), 5th Avenue and N. Justice Street. As well as to reduce the minimum lot size and side and rear setbacks. Amendments to this section would include a provision to locate parking to the side and rear of a lot and to set residential density based on the amount of open space provided by a proposed development. Section 15-4-7 would also be amended to strike Minor PRD in the MIC district as this would be made obsolete with the reduction of setbacks and inclusion of multi-family residential as a permitted use in MIC.

The Planning Board Legislative Committee met in July and had support for the proposal.

The staff recommended changes are listed in the staff report. A map was shown of the MIC zoning district.

Mr. Manley explained the timeline for the MIC zoning district which first included multi-family as a permitted use. He stated that was later removed. This was also included in the staff report. He explained open space and zoning reform and discussed the reasoning behind the text amendment. The zero-setback requirement would only be for minor or major throughfares.

A draft Comprehensive Plan Consistency Statement was shown along with a reasonableness statement which is included in the staff report.

Mr. Blatt stated he has a problem with allowing parking only in the rear or side and not the front.

Ms. Cromar thought bringing the building closer to the street would look better but she had concerns about landscaping. Mr. Manley stated the city has landscaping requirements for parking lots and any new development would have to meet those requirements.

The Board discussed the right-of-way and having street trees. Mr. Blatt referred to the Entry Corridor Overlay District which requires street trees. Mr. Holloway stated that would be addressed during the site plan review process. Mr. Blatt stated lovely trees were shown on the site plan for the Pardee Science building, but they are not there now. He has a problem with allowing a zero- or five-foot front setback. He also stated they need clarification on the Entry Corridor Overlay District.

Mr. Holloway stated a lot of the mixed-use districts have a zero setback. This is to allow the developer to optimize the site. The zero setback would only be for properties on N. Justice and 6th Avenue.

Ms. Martin had concerns about design standards and felt like those should be added. Mr. Manley stated this is an older area of town and they could discuss adding design standards. He explained the design standards in the GHMU zoning district.

Chair asked if there were any questions for staff. There were no questions.

Chair opened the meeting for public comment.

Ken Fitch, 1046 Patton Street discussed in-fill development and issues in an area like this with increased density. There could be issues with parking and trees. There is a need for adequate parking and there is also an impact on traffic with more development. Removal of existing trees would also be an issue.

When no one else spoke, Chair closed the public comment.

The Board discussed adjacent properties being zoned residential and asking for a rezoning so that they could have multi-family as a permitted use. This would allow multi-family by right and would not have to be reviewed by the Tree Board. Mr. Blatt stated he has managed buildings that were up next to the road and those buildings have been hit by cars causing major damage. He was concerned about the zero-setback

requirement. He was also against parking being only on the side or rear of a building. Mr. Glassman also had concerns about this. The Board discussed setbacks and parking. Mr. Blatt stated having parking only in the rear would require two accesses. Mr. Glassman stated parking in the front was never an issue with his building. Ms. Peacock stated this would also require ADA parking to be in the back.

Staff discussed making recommendations of what they are in favor of concerning this text amendment and moving it forward to City Council. Mr. Holloway explained this was a staff-initiated amendment and he was nervous about adding design standards and felt like that needed to be discussed further. Mr. Manley stated the MIC zoning district was a relatively small area and included the hospital and surrounding areas.

The Board discussed design standards and removing the part concerning parking on the side and rear. Most of the Board members felt this should be tabled and revisited by staff.

Mr. Blatt moved the Planning Board to table the text amendment for further review by staff. Mr. Nace seconded the motion which passed eight in favor and two against (Robertson, Peacock). Motion approved.

VI(B) Conditional Zoning District – Cottages at Mastermind (P22-55-CZD). Mr. Manley gave the following background:

The City of Hendersonville is in receipt of an application for a Conditional Zoning District from Tom Martinson and Elam Hall of DHI Communities, applicants and John and Betty Hammond, property owners. The applicant is requesting to rezone subject property PIN 9579-48-2415 and 9579-48-6832 and located off of Francis Road and Mastermind Lane from C-2, Secondary Business and R-40, Low Density Residential to PRD CZD, Planned Residential Development Conditional Zoning District for the construction of 99 units, which include 49 duplex units and one single family.

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

A Blueline stream was removed from the property by the Corp of Engineers and the buffer requirements would no longer apply.

The proposed conditions that have been agreed to were shown and are in the staff report. A TIA was not required but will be performed by the developer after the rezoning. Any mitigations will be the developer's responsibility.

The conditions reducing standards are as follows: 1. The developer requests relief from the 75' requirement for parking space distance from the residential units [Developer-initiated] 2. Developer to be granted relief from second fire/emergency access requirement [Developer-initiated] 3. Any developer-provided aerial stream crossing shall be elevated above the 100-Year Floodway/NEZ and permitted under applicable codes [Staff-initiated – Counter]. Mr. Manley stated the condition for relief from the second emergency fire access is no longer needed as this is no longer a requirement.

Proposed conditions that exceed the standards were shown in the presentation and were included in the staff report. The Tree Board had one concerning a vegetative planting plan which was not agreed to by the developer. The Floodplain Administrator and the Water & Sewer Department had the following condition: *The developer agrees to connect to existing gravity sewer on the south side of Allen Branch west of the subject property so long as it is feasible. If a connection is not currently feasible, then the developer shall use best efforts to obtain a sufficient utility easement from affected property owners for connection. In this instance, best efforts include an offer to purchase a utility easement on the affected land at market value as determined by a certified MAI appraisal. If the developer is unable to obtain a utility easement from the*

affected property owners, then the developer may request that the City of Hendersonville obtain the needed utility 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 may be permitted to install subsurface gravity sewer crossing the stream with adequate cover as determined by the City for sewer connection across Allen Branch Creek. If, upon review by City Staff, subsurface gravity sewer stream crossing is not feasible, the developer may be permitted to install a stream crossing without adequate cover after performing a flood study, at the developer's expense, showing no impact to flooding will occur. The aerial crossing is subject to the review by City Staff and shall be as near to the stream bottom as possible to reduce the amount of exposed pipe. This was not agreed to by the developer.

A map showing the sewer locations and options was shown and is included in the presentation. The manhole location was shown along with three options for sewer. The preferred option for the stream crossing was explained and shown. Also included was the proposed Greenway extension. Option one does not require a flood study. Crossing the creek will require a flood study.

A Neighborhood Compatibility meeting was held June 3, 2022 and was lightly attended.

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

The Future Land Use map was shown indicating the surrounding areas as Regional Activity Center and Natural Resource/Agricultural. This is included in the staff report.

The General Rezoning Standards and Comprehensive Plan Consistency goals were shown and discussed. These are included in the staff report.

A draft Comprehensive Consistency Statement was shown and is included in the staff report. A draft Reasonableness statement was shown and included in the staff report for both approval and denial.

Mr. Manley asked if there were any questions for staff. Mr. Glassman asked if these would be rentals or for sale condos. Mr. Manley stated he is not sure, but the applicant is here and can answer that.

Chair stated once the TIA is done and if mitigation is needed, that will have to be done by the developer at their cost. Mr. Manley stated yes, and they would be required to complete any mitigation before the final CO would be released.

Chair stated he thinks the idea of an elevated sewer line is horrific. Would this be the city's responsibility once completed? Mr. Manley stated yes.

There were no further questions for staff.

Warren Sugg, Civil Design Concepts stated he is the engineer for the project. Also attending are Tom Martinson and Elam Hall of DHI Communities. Mr. Sugg stated they have gone through several processes with staff such as the Tree Board and the Neighborhood Compatibility meeting. This development is for 99 units, which includes 49 duplexes and one single family home.

Mr. Sugg showed a site plan and pointed out the pool, clubhouse and the entry way road. He also pointed out the stormwater area and Allen Branch creek. He stated they would like relief from the 75-foot requirement for parking space distance from the residential units because it would be difficult to produce this. DHI has reached out to the adjacent property owner, and they are not willing to negotiate on a sewer easement onto their property. They have talked with Walmart and Sam's Club and going across Allen

Branch is an option. They just received the information about the greenway connection on Friday and their concern with that is the timing. They are not sure how long the condemnation process will take, and time is money lost. The developers would like to move forward as soon as possible.

Mr. Hanley asked if Walmart was agreeable to an easement on their property. Mr. Sugg stated yes, however there is a public line that is at a lower slope, and he is just not sure of the slope there. They believe option number two may be the best option for the sewer, but they are still in discussion and only received this information on Friday.

Mr. Sugg stated these units are one and two stories and will be rentals.

Mr. Blatt asked if a collection system with a pump could be an option. Mr. Sugg stated it could be possible, but he is not sure if city staff would want a pump with a gravity system. Chair stated he did not think the city would be in favor of a pump station.

Mr. Brown asked about having a cut-through to Highland Square Drive. Mr. Sugg stated it would be very difficult to do because of the large retaining wall that is there. Mr. Brown asked if the developer is willing to shield the lighting and have zero impact to the adjacent properties concerning the lighting. Mr. Sugg stated most likely the only lighting will be in the parking area and maybe some outside the units. Mr. Brown asked if he is willing to have the lights downward facing and be fully shielded. Chair stated site lighting needs to be shielded so that it does not bleed onto adjacent properties. Mr. Martinson stated yes, they can shield the lighting. Lighting on the sidewalk was discussed. Those lights would be small and only for pedestrians to see using the sidewalk. There would be no glare from these lights. It would be secure lighting in the pathways and would be shielded.

Stormwater controls were discussed and how the water would be detained, treated and released.

Mr. Blatt asked about fencing around the stormwater pond. Mr. Sugg stated for safety reasons they will provide fencing from any permanent pond.

Chair opened public comment. No one in the room spoke.

Ken Fitch (Zoom), 1046 Patton Street asked if the grass paved areas would be for all emergency vehicles to access. Mr. Sugg stated yes, all emergency vehicles could access those spots.

Chair closed the public comment.

The Board discussed the stream and the sewer connection. They did not feel the elevated access was an option. Mr. Holloway stated everyone would have to agree to the conditions. Staff will continue talking with the developer concerning the condemnation and the timeline for that. The Board can convey any desire to not include a condition.

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 9579-48-2415 and 9579-48-6832 from R-40, Low Density Residential and C-2, Secondary Business to PRD CZD, Planned Residential Development Conditional Zoning District based on the site plan and list of conditions submitted and agreed to by the applicant, dated July 29, 2022, and presented at this meeting and subject to the following: Mr. Manley stated the list of conditions that were submitted by the applicant includes a condition that they be granted the aerial stream crossing as long as it is above the Base Flood Elevation. You would need to say except for that condition and then under number 2 Permitted uses and applicable conditions presented on the site plan shall be amended to include, and then include the condition that was read earlier in the staff report. **1. The**

development shall be consistent with the site plan, including the list of applicable conditions contained therein, and the following permitted uses 1. Two-Family Residential 2. Single-Family Residential. 2. Permitted uses and applicable conditions presented on the site plan shall be amended to exclude the aerial sewer connection and include the condition read by staff. 3. 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 subject property is located in an area designated as a 'development opportunity' and 'priority growth area' according to the City's 2030 Comprehensive Plan. Furthermore, the Regional Activity Center Future Land Use designation recommends densities exceeding those proposed for this development. 4. Furthermore, 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 development of two-family residential dwellings will provide a needed housing type. 2. The development would provide housing in close proximity to shopping and employment opportunities. Mr. Blatt seconded the motion. Chair stated they did not mention the lighting. Mr. Brown asked if they would accept an amendment to the motion. Mr. Hanley stated yes. Mr. Brown included a condition that within the requirements of the American's with Disabilities Act and per safety regulations, lighting shall be downward facing and fully shielded. Sidewalks away from the parking areas will use pedestrian height lighting as negotiated with city staff. Mr. Hanley included this amendment in the motion. Mr. Sugg stated he thinks they are on the same path on the lighting thing, but he will need a little time and go back to the condition as read by staff. The second condition read is the one they got Friday, and they will continue to work with staff, but they do not have it as a condition on the plans, it is not something they have agreed to at this moment. Mr. Holloway stated what will come from Planning Board and what they asked Planning Board to do is to review and make a recommendation and then when it goes to City Council there will be a clear list of what they have agreed to and any discussion of those things that you have not, and Council will review accordingly. Mr. Sugg asked if they could amend the condition on the lighting to say they would work with staff on the lighting. He heard a very specific code in the condition. Mr. Brown stated he referred to ADA which is a standard federal regulation and pertinent safety regulations which city staff knows more about than anyone up here. Mr. Manley discussed the lighting being safe and shielded. Mr. Sugg stated they would construct the lighting facing downward with shields. Mr. Brown seconded the motion with the included amendment. The motion passed unanimously.

VII Adjournment – The meeting was adjourned at 6:48 pm.

Jim Robertson, Chair