

**Minutes of the Planning Board  
Regular Meeting - Electronic  
May 9, 2022**

**Members Present:** Jim Robertson, Chair, Neil Brown, Tamara Peacock, Barbara Cromar, Frederick Nace, Peter Hanley, Jon Blatt (Vice-Chair)

**Members Absent:** Stuart Glassman

**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. *Ms. Peacock asked that Item D be moved to Item C on the agenda. Mr. Brown moved for the revised agenda to be approved. The motion was seconded by Mr. Hanley and passed unanimously.***
- III Approval of Minutes for the meeting of April 11, 2022. *Mr. Hanley moved to approve the Planning Board minutes of the meeting of April 11, 2022. The motion was seconded by Mr. Nace and passed unanimously.***
- IV Old Business**
- V New Business**
- V(A) Conditional Zoning District – Washburn Tract (P22-19-CZD).** Mr. Manley gave the following background:

The city is in receipt of an application for a Conditional Zoning District from Mike Washburn, applicant. The applicant is requesting to rezone the subject property, PIN 9579-11-8417 and 9578-39-5229 and located off of Tracy Grove Road from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District for the construction of a multi-family/single-family development consisting of 300 apartment units and 160 single family homes on approximately 162 acres with a density of 208 units per acre.

Mr. Manley gave the rezoning history of the project which is listed in the staff report. He pointed out the changes on the site plan from the previous application. Wilmont will be widened and improved and the access for the property has changed.

The current zoning along with the current land use and zoning were discussed and is included in the staff report.

Site photos were shown. This was a former agricultural site used as farmland.

The Future Land Use Designation is Medium Intensity Neighborhood and Natural Resource/Agriculture. The uses surrounding the property were discussed and are included in the staff report.

Mr. Manley gave an overview of the conditions from city staff. These conditions are included in the staff report. The Floodplain Administrator's two conditions were agreed to by the developer.

A TIA was done which shows 3,244 daily trips. There are some outstanding comments on the TIA. The comments from Kimley-Horn were discussed and are included in the staff report. It was stated that the engineer felt like traffic would use the Wilmont Drive access. A right turn lane was discussed off of Tracy Grove Road at the intersection at Dana Road. There are three mitigation measures that the developer has agreed to, and one they did not agree to. That condition would need to be added to the motion.

Comprehensive Plan Consistency was discussed. Each chapter is included in the staff report.

General Rezoning Standards were discussed from the staff report. The wetlands were discussed.

A draft of the Comprehensive Plan Consistency Statement was shown in the presentation and staff report along with the Rezoning Reasonableness Statement.

Staff analysis and conditions were presented in the presentation and included in the staff report.

The Tree Board conditions were read and are included in the staff report.

Discussion was made on the widening of Wilmont Drive and the 70' right-of-way with sidewalks.

The apartments and single family lots are unchanged.

A Neighborhood Compatibility meeting was held on March 18<sup>th</sup>. Issues raised were traffic and existing road conditions along with the previous agricultural use of the property and flooding.

Mr. Manley explained the Bowen Study and the need for affordable housing and the housing gap in Henderson County.

Mr. Blatt asked about the TIA and if the information was just projections of what the traffic would be. Mr. Manley stated yes, it is just a forecast from the study. They project that 80% of the traffic will use the access that is labeled #1 on the site plan. Some percentage will use the Wilmont access.

Discussion was made concerning the second access and the distribution of traffic. The right-of-way was discussed and stated that NCDOT would approve any right-of-way on Tracy Grove Road. There was discussion on the traffic pattern and the right turn lane. Existing right-of-way for a turn lane will need to be determined by NCDOT. A left turn lane was also pointed out.

Mr. Manley stated future and approved projects were taken into account for the TIA. Duncan Hill, 7<sup>th</sup> Avenue, 64 were all taken into consideration on the TIA. The improvements that may be needed were not placed on this project. If traffic is already a problem at these intersections, it is not from this development because the traffic is already currently an issue. The intersection improvements at Tracy Grove and Dana Road are reliant on existing right-of-way or they would have to acquire additional right-of-way so any of these improvements that are a DOT right-of-way are something that will have to be explored and figured out and if they are part of the conditions of any approval they would have to be done and if they can't be done the project would be coming back through the process as a modification to the approved site plan.

Chair asked if the city has seen a memorandum of understanding between the developer and Conserving Carolina. Mr. Manley stated no but a representative of Conserving Carolina is here.

There were no further questions for staff.

Mike Washburn, applicant stated the response back that the request in the TIA was an unreasonable request is actually due to the timing of it. It was 4:30 in the afternoon this past Friday and their traffic engineer could not respond fast enough for this meeting to be able to answer any questions. This was one of the regards on the updating of the TIA. It had been submitted a couple of times and on this past Friday at 4:30 they needed more updates and that was one of the issues. Chair stated so they are willing to redistribute that, but they would not have it ready for this meeting. Mr. Washburn stated correct.

David Hyder, Engineer for the project explained the traffic pattern and the accesses. He stated the timing of the request was unreasonable. Mr. Hyder clarified they are talking about whether to redistribute the traffic or to re-do the whole thing all together. He stated they began the process in December and worked with staff and DOT through the process. This draft went to staff in the middle of April. This was off-putting to him, coming back needing more on a Friday afternoon.

Discussion was made on how long it would take to re-do the TIA. Mr. Hyder stated mid-June. The Board discussed the traffic pattern and turn lane. Chair stated he did not understand why 80% of the traffic is directed at one access and only 20% at the other. Mr. Hyder stated at the time it made sense and it went through your staff, NCDOT and the traffic consultant. Someone should have caught it earlier in the process.

John Kinnard stated Wilmont will be a bit wider at 26 feet and the narrow access will be 20 feet. Mr. Blatt asked if they own the land or is it an easement. Mr. Kinnard stated they own it, but it is a small sliver of land. Mr. Blatt asked if he read correctly that is going to be a condition or a variance to what is required for a road normally. Mr. Holloway stated that is correct. Our subdivision standards require a particular right-of-way width and then street profiles. The right-of-way width is 45 feet, and the street profile is 11-foot lanes. The condition is to allow for the construction of the street as proposed within the right-of-way that they have. Mr. Kinnard stated Wilmont is a little less than 20 feet currently.

Ms. Cromar stated they are widening Wilmont to 26 feet and the other access will be two-way at 20 feet, correct? Mr. Kinnard stated that is correct. They agreed to do 22 feet.

Discussion was made on the height of the buildings. There is a mix between two and three stories. The dumpster areas were shown and stated there will be two dumpster units. Single homes will have their own garbage cans.

Chair stated on February 14<sup>th</sup>, a Monday this project was brought before this Board and discussed for almost two hours and when Mr. Washburn didn't like how it was going, he withdrew the application. Now it is two months later, and he has brought the same application back to them again. Can he explain this? Mr. Washburn stated Mr. Brown was going to offer a motion to deny it because of traffic, environment and affordable housing and they did not have a good grasp on this. They did not have anyone here to speak on the environment and the traffic was still up in the air. They needed time for the improvements on traffic and now they have someone from Conserving Carolina here and they are also addressing the affordable housing. It should have been deferred and not withdrawn to get those answer for you.

Tom Fanslow, Land Protection Director for Conserving Carolina passed out a site plan they had. He talked about the floodplain on the tract and this being a great opportunity for them. He discussed the ditches in the floodplain and the bogs in the area. They had been interested in this tract since the late 1990's. A state rare plant conservation is conserved on the site. He discussed mountain bogs and the wetlands in the mountains. He stated this area can be owned by a private party if they put permanent conservation restrictions on the land and if the conservancy will hold those restrictions on the land. Greg Jennings did the site plan and showed on the plan the areas they are interested in restoring. They may restore the bog habitat, but it will require a lot of study. He discussed bringing back the habitat that was lost and that is

called enhancement of the resources that are there. They have a grant pending on this. He discussed having a pollinator habitat on the upland area. This is an area that would be mowed every one to five years keeping a rich array of wildflowers for pollination.

Mr. Brown stated regarding the unique organisms that are already there, what specific monitoring will be done during construction, who will be doing it and what happens if excess silt or chemicals start filtering into this endangered area. He stated Greg Jennings only looked at the stormwater mitigation measures from their point of view which is protecting those heritage values that you just addressed. Based on his findings they do not believe the stormwater coming off this development will impact the plant conservation preserve habitat where the rare bog is or that area adjacent to it on the Thomas property. Mr. Brown did not find a lot of comfort in that. Mr. Fanslow stated that was noted but stated both the state and federal agencies have been in contact with them on other projects they have done. They monitor the properties at least once a year and for rare habitats which are monitored more than once a year. Mr. Brown asked what specific things he is monitoring and how are they monitoring them. What are they testing? What does he intend to test and measure here to make sure it is not going downhill as an accidental result of the construction? Mr. Fanslow stated he could not answer that question, Greg Jennings would have to answer that.

Discussion was made on the swamp and why it is not being talked about. Mr. Fanslow stated it is not in the blue area and does not need to be touched. They will make sure there are no alterations to it. It is already doing a good job just how it is.

Mr. Blatt asked if this swamp area is part of the open space calculations. Mr. Holloway stated yes, it is. Mr. Blatt asked if they have enough open space without the use of the swamp. Is there some way this swamp land could be conveyed to Conserving Carolina? Mr. Fanslow stated they are putting the property being developed in the hands of staff and the Planning Board to make sure it is built the way it should be. Conserving Carolina is only interested in the conservation area, and they have been interested in this area for 20 years. They would be thrilled to take any title of land that was available in the floodway.

Discussion was made on what they can do to protect the floodplain from silt and other materials. Mr. Fanslow stated they are not at that point of having the engineers discuss this yet. Greg Jennings would answer any questions the Board may have.

Mr. Fanslow stated there are other eyes from the state and federal level that will be looking at the site.

Mr. Manley stated if the swamp was taken out of the open space calculations you would still have 70% open space and they are at 86% now which is well over the 60% requirement for open space. Mr. Blatt stated he felt like donating this swamp area to Conserving Carolina would be the right thing to do if this moves forward.

Mr. Washburn stated Ashlynn McCoy was on the line concerning affordable housing if they have anything to ask.

Affordable housing was discussed. Mr. Washburn stated they are planning to sell Housing Assistance some lots at a deep discount so that they can build affordable housing and Ashlynn McCoy is on the zoom call. They have a certain price they can pay for affordable housing and be able to meet the price point. They are willing to do that and are structuring a deal with them. Mr. Brown asked how many lots and what are the price points on the lots. Mr. Washburn stated the price points on the lots would be \$40,000 and there would be six lots. Mr. Washburn stated he is fully agreeable to this, and it could be made a condition.

Brian Gulden, Attorney in Asheville stated he is assisting Mr. Washburn in this application. He discussed planning and the laws as it relates to zoning and conditional rezoning. The statutes are contained in 160D

Chapter 703 and 160D 604 of the North Carolina General Statutes. He handed out documents that came out of Hendersonville's Long Range Comprehensive Plan. The 2030 Comprehensive Plan. He stated the Comprehensive Plan is a good guide. It is not legislative, and it is not enforceable. It is a suggestion on where this town wants to grow up until 2030. It is to be used by city staff, the developers and the citizens as a guide. He discussed this area being Medium Intensity Neighborhood and this area has been deemed an area of opportunity for development. This area is slated for development and should be a Medium Intensity Neighborhood. He discussed what the Medium Intensity Neighborhood is described as in the Comp Plan. He discussed the property being on a major or minor throughfare as the zoning ordinance states. The zoning ordinance is by law and must be followed. He discussed Tracy Grove Road being a minor throughfare. The Subdivision Ordinance talks about access and the Comp Plan talks about location. The Subdivision Ordinance regulates the street access. He pointed out that it states in cases where a tract of land abutting an expressway or a boulevard street is proposed for a subdivision, all the lots created shall maintain sufficient frontage on a different street either pre-existing or created as part of the subdivision so that direct access to lots need not be provided by the expressway or boulevard street. They want the multi-family development to have ease of access onto the boulevard but not direct access. This is done for safety and this development provides that. They may have to run a new site plan if the Board wants it. They have changed this plan and modified it and satisfied the conditions and the goals of the Land Use Plan. He discussed Chapter 7 and land use development. It was this city's idea to have this type of development in this location. They ask for a favorable recommendation. He talked about the improvements they are planning to make.

Chair asked Mr. Washburn that after two hours on the 14<sup>th</sup> he brought this gentleman in to explain to them a document that they use all the time. Where is the access to Four Seasons Boulevard from their development? Mr. Washburn stated there is no access from Four Seasons Boulevard. Chair asked Mr. Gulden to read the primary use of a Medium Intensity Neighborhood. Mr. Gulden stated the Subdivision Ordinance does not allow them to have access from Four Seasons Boulevard. Mr. Gulden stated the access is off of Tracy Grove Road, which is a minor throughfare, which the Zoning Ordinance specifically says access to this type of multi-family development has to be off a major or minor throughfare. Chair stated he asked for the primary use of a medium intensity neighborhood. Mr. Gulden stated it is going to say single family, detached. Chair stated this Board utilizes this document all the time. Mr. Gulden stated the Subdivision Ordinance does not allow access onto Four Seasons Boulevard. He stated they have to abide by the law and the law says they are prohibited from having access straight off that boulevard and it sends them to Tracy Grove Road for the access by declaring that a minor throughfare. That is required in the Zoning Ordinance.

Chair asked staff if widening Wilmont makes it a minor throughfare. Mr. Holloway stated the standards in the Subdivision Ordinance that they are using are for a minor throughfare. Minor throughfares are established by the Comprehensive Plan and if there is a conflict in the Comp Plan and an ordinance or change the Council adopts, it by default amends the Comprehensive Plan. The short answer is yes, by making the change and adopting the ordinance and approving the plan the Comp Plan would be amended.

Mr. Nace asked for clarification on the entrance to the subdivision. Mr. Holloway stated both will be public streets. The entrance into that subdivision would be at the intersection of Wilmont. Mr. Manley stated as well as the access from Tracy Grove Road.

Clarification of parking was made. They are in excess of the minimum parking requirements. They left a tree and removed a parking space. Mr. Kinnard stated the requirement was for 465 spaces, they were providing 515 but it is closer to around 500 now.

Chair asked if there were questions for the applicants. There were no further questions.

Chair opened the meeting for public comment.

Janet Moore, 305 Dellford Court had concerns about this proposal not being acceptable as the developer has not made any changes from the previous submittals. She was concerned about the widening of Wilmont and the traffic issues. Four Seasons, Dana and Tracy Grove are already overcrowded. Having 460 units will cause a major back-up. She asked the Board to consider the number of vehicles this would place on the already overcrowded roads.

Mary Alt, 209 E. Dogwood Lane had concerns about the inconsistencies with the 70-foot right-of-way. Mr. Holloway explained the right-of-way to her. She also had concerns about the traffic. She understands the need for housing, but this is not the location for it. This is a unique area with bogs, and she feels like single-family would be more appropriate and not a large apartment building.

Mary West, 444 and 446 Tracy Grove Road had concerns about the traffic issues and the cars already backing up at the intersection of Tracy Grove and Dana Road. She talked about other developments causing more traffic already in this area.

Zoom:

Ken Fitch, 1046 Patton Street had concerns about the site plan being dysfunctional and having major impacts on the existing neighborhoods. The connection to Tracy Grove Road is dangerous. He was concerned about the National Wildlife Refuge. Protecting the bogs are important.

Lynne Williams, Chadwick Avenue was concerned about the residents being worn out after 30 hours of public meetings. She felt this development is too dense. Traffic is an issue. Multi-family on minor thoroughfares cause issues. She had concerns about flooding. The Board should consider what would be best for this land.

Dr. Voegelé, 218 Tracy Grove Road had concerns about the amount of pollution from the traffic this will generate. She also had concerns about firewalls on attached buildings. Mr. Holloway stated that is building code requirement. She had concerns about the large amount of people in this small area and also had concerns about a recession and more people moving in with family members.

Chair closed the public comment when no one else spoke.

Chair asked Mr. Washburn about other family members being allowed to move in. Mr. Washburn stated that would be regulated.

Discussion was centered around the traffic and if the Board had the authority to base their recommendation centered around the traffic if the developer meets all the TIA requirements. If all requirements are being met by the Zoning Ordinance, then other issues are secondary. The access is critical. 2.8 units per acre is quite low and they are allowed to use the sloping land. Is this a project that is in the public interest? It is a good piece of land, and they are doing what they need to do on the environmental issues. The environmental issues did concern some Board members. The lighting was also a concern. Monitoring silt levels was also a concern. Mr. Brown would like to see the Conserving Carolina plan for the critical areas.

Ms. Peacock stated the City Attorney advised her to recuse herself as she rents office space from the Thomas family.

Chair had concerns about the traffic on Wilmont Drive and the access on Tracy Grove Road. He was concerned about the number of units and the access proposed. Mr. Holloway explained Kimley-Horn recommending only one access from Tracy Grove. They felt like having two accesses from Tracy Grove

was not safe and would not be feasible. Tracy Grove having no shoulder and safety concerns about the access were discussed.

**Mr. Brown moved the Planning Board recommend City Council deny an ordinance amending the official zoning map of the City of Hendersonville changing the zoning designation of the subject property (PIN 9578-39-5229 & 9579-11-8417) from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District 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 because: The Medium Intensity Neighborhood designation calls for Planned Residential Developments as a secondary recommended land use and the proposed site plan aligns with development guidelines under strategy LU 6.4. 2. We do not find this petition to be reasonable and in the public interest based on the information from the staff analysis, public hearing and because: The Comprehensive Plan's Future Land Use designation of Medium Intensity Neighborhood does not recommend multi-family on minor throughfares. Therefore, Tracy Grove Road's classification as a minor throughfare does not support dense residential development and there is no clear and specific plan to monitor any potential environmental degradation in an environmentally sensitive area nor is there any specific plan to prevent any degradation from recurring as the construction continues. Chair seconded the motion.**

Chair stated he would like to remove the environmental. He wants to base it on the fact we are doing multi-family on a minor thoroughfare because it is vague. Mr. Brown stated the point of the environmental is because the environmental approach is vague. Chair understood and it is an environmentally sensitive area but denying the development based on the fact no one will be monitoring that environmentally sensitive area, he just doesn't know that is true. It could be, but Conserving Carolina might hire an expert to be down there every day. Mr. Brown stated what his second point is calling for was for that specific plan however they are going to be doing it. Chair stated it is a little cut and dry, but he would second it if he removes the environmental part. Mr. Brown asked for thoughts from the Board if Chair will allow it. Chair allowed. Ms. Cromar stated she would take the second part and massage it until it hit about a sentence because it is an important part of it for the denial unless you go to pass it and then it is a condition. Chair stated it was a little ambiguous. Ms. Cromar stated it is a condition for passing. Mr. Blatt stated they have had many projects over the years that had streams through them, and this question has never come up that he can recall, that anyone wanted to turn it down because they weren't clear on the environmental part. The city has a strong stream setback ordinance and there are all kinds of environmental rules any developer has to follow. He knows the Army Corp of Engineers is always involved with waterways. This one has a little more environmentally sensitive areas, but he doesn't think anything has ever been turned down here before over the question of the second part of your motion. Mr. Nace stated they have seen a lot here lately and a couple of times City Council has not gone with the Planning Board's recommendation and there is one reason for that because they are making recommendations for denial or approval based on the preferences as opposed to ordinances. He thinks the applicant's interpretation of the ordinance is correct and this is on a major throughfare, and the ordinance does say the entrance shall not attach to that major throughfare. It is in the black and white of the ordinance. He thinks when City Council looks at it and we give that as a reason, they are just providing them the need to go against their recommendation. He has the same concerns on the environmental aspect of it but they have to look at Conserving Carolina, Fish and Wildlife and the fact that it is a National Refuge now so who is monitoring it today. Are we going to hold developers to a higher standard than the Federal Government? He doesn't really think they can. If you want to move for denial on this the only reason, he can see is the traffic analysis. That's the only black and white objective reason they could use and that is not even one of the reasons in this motion. Mr. Brown stated based on those comments and against his wishes he accepts the Chair's friendly amendment to his motion for denial.

**Mr. Brown amended his motion to exclude the second reason concerning the environment from his motion. Chair seconded the motion. The vote was three in favor and three opposed. Motion failed.**

**Mr. Blatt 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 9578-39-5229 & 9579-11-8417) from PRD CZD, Planned Residential Development Conditional Zoning District to PRD CZD, Planned Residential Development Conditional Zoning District based on the site plan and list of conditions submitted by the applicant dated March 2, 2022 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, Residential dwelling – single family and Residential dwellings – multi-family. 2. Permitted uses and applicable conditions presented on the site plan shall be amended, he believes the site plan does need to be amended for several reasons based on the proposed site trip distribution a right turn land may be warranted at the intersection of Tracy Grove Road and Wilmont Drive. TIA should be revised based on the comments from Kimley-Horn dated May 5<sup>th</sup> 2022. 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 Medium Intensity Neighborhood designation calls for Planned Residential Developments as a secondary recommended land use and the proposed site plan aligns with development guidelines under strategy LU 6.4. 4. 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 because: The development is near US Highway 64 commercial corridor, an area of the city experiencing on-going development and redevelopment. The addition of multi-family and single-family residential addresses an ongoing supply need and is in keeping with the surrounding land uses which is single family homes and multi-family is approved all the time in the city. 3. There is a proposal to conserve by Conserving Carolina, a conservation easement, the flood plain area on the site, including efforts to restore the ecological function of this important area is a general public good for the community. 4. The site plan clusters development impacts away from the Natural Resource/Agriculture designated portions of the site, aligning with guidance from the Natural & Environmental Resource Chapter of the Comprehensive Plan. 5.. Greenway construction and ROW dedication adds to existing greenway network and aligns with specific goals established for greenways.**

Mr. Manley noted there was an amended staff report that was sent later and there are two bullets that reference the Bowen Study that can be used at their discretion. Mr. Blatt did not modify the motion.

**Mr. Nace seconded the motion. The vote was four in favor of and two opposed (Chair, Brown). Motion passed.**

The Board took a five-minute recess at 6:25 pm reconvening at 6:30 pm. Chair stated public comment would be limited to three minutes and the developer's presentation to 10 minutes.

**V(B) Conditional Zoning District – Duncan Terrace (P21-79-CZD).** Mr. Manley gave the following background:

The city is in receipt of an application for a Conditional Zoning District from Leah Bergman of Lee Ray Bergman LLC. The applicant is requesting to rezone the subject property PIN's 9569-95-7758, 9569-95-5941 and 9569-96-4013 and located between Duncan Hill Road and Signal Hill Road from PRD CZD, Planned Residential Development Condition Zoning District to PRD CZD, Planned Residential Development Condition Zoning District for the construction of a multi-family development consisting of 132 apartment units on approximately 8.66 acres. This equates to a density of 15.24 units per acre.



The site plan shows six three-story multi-family structures, a club house and a pool. This includes 12 three-bedroom units, 72 two-bedroom units and 48 one-bedroom units.

There are two proposed conditions from the Community Development Department, and both have been agreed to by the developer. Those are included in the staff report. Mr. Manley explained the sidewalk proposed at Baldwin Hill Road and why it was going in that location.

The numbers from the TIA were discussed and are included in the staff report. All the TIA requests have been agreed to by the developer. There is some data excluded from the TIA. The city's engineer has requested this be addressed.

There were two developer proposed conditions and those are included in the staff report. Mr. Manley stated the private lift station is under review.

The Tree Board conditions were shown and are included in the staff report. All were agreed to by the developer except one that was countered with the developer agreeing to plant 87 trees from the recommended species list on site.

A Neighborhood Compatibility meeting was held December 9, 2021. Concerns were related to the amount of development in the area, traffic, future NCDOT improvements, impact on environment and density.

Site photos of the property were shown.

The Future Land Use is High Intensity Neighborhood.

Comprehensive Plan Consistency was discussed. Each chapter with the goals and strategies were listed in the staff report.

The General Rezoning Standards were discussed and are listed in the staff report.

The Bowen Study was discussed. The housing gap was discussed. 25% of these units will target that gap.

A draft Planning Board Comprehensive Plan Consistency Statement was shown in the presentation. A draft Planning Board Reasonableness Statement was also shown.

The developer has agreed to revise the TIA.

Mr. Blatt wanted clarification on the density. Mr. Manley stated 84 units is what the current zoning would allow. This was from the previous development approval.

Mr. Brown wanted clarification on 25% of the units being affordable housing, his calculations show more like 35%. Mr. Brown stated it would be 33 units and not 45.

The Palisades project was discussed, and Mr. Manley stated a site plan and NCM was held but staff has not heard anything further from the developer.

Chair asked for clarification on the TIA. Mr. Holloway stated in the staff report you will find the full comments from Jonathan at Kimley-Horn. He has identified some inaccuracies and therefore he made some suggested mitigation measures which the developer had agreed to in addition to a revised TIA.

Sight distance was discussed, and Mr. Manley stated NCDOT would have to sign off on any sight distance or triangles.

Discussion was made on drive aisles and turn arounds.

Mr. Nace asked for clarification on affordable housing and conditions. Mr. Holloway stated they do not have a standard as a city that allows them to stand on and require affordable housing. The developer has proposed the affordable housing condition, it was not suggested by city staff. It is for a 10-year period of time and be enforced by an annual report from the property manager. It is not a low-income housing tax credit project. It does not have an outside entity enforcing the income standards. The city has a similar relationship with the Grey Mill that submits an annual report sharing the units they have been rented to low- or moderate-income individuals.

There were no further questions for staff.

Leah Bergman, developer and managing member of Lee Ray Bergman LLC introduced the team. She gave a brief presentation of the project and stated this is a 132-unit, multi-family development of luxury affordable workforce housing. Market rate in Hendersonville is very strong. She discussed her development in Rutherfordton. She showed the exterior design and the interior finishes. The amenities were also shown. She presented a site plan. She discussed the lift station and stated it would be private until sewer was available. There will be an on-site maintenance and a property manager on site. They would like to start in late summer and have residents in the units by this time next year.

Ms. Bergman read a letter addressed to Mr. Holloway from the Town Manager of Rutherfordton, a copy is on file.

Mr. Holloway clarified the 2,100 linear feet is gravity, there is existing sewer that would require the pump station basically at the southwestern corner of the property. It's not 2,100 feet away and so the condition that the developer is requesting is that they be allowed to use the pump station to do the project which is something this Board could recommend for approval and the Council could consider or not. The conversations Ms. Bergman has been having is with Water and Sewer who prefer to avoid pump stations at all costs, mostly because of ongoing maintenance. We do have pump stations but they try to avoid them but there is a cost and ability concern by the developer.

Chair asked what happens to the affordable housing units after 10 years. Ms. Bergman stated the affordability will drop off by vacancy. They will not kick anyone out and they can stay affordable as long as the approved tenant is living there.

Mr. Brown stated they have precedent with Grey Mill to do 15 years, would she be willing to for 15? Ms. Bergman stated she believes so. Mr. Brown asked if this could be done as a condition. Ms. Bergman was agreeable to that. Mr. Brown stated under the previous zoning for 84 units one of the acceptable conditions was external site lighting in accordance with International Dark Sky recommendations subject to ADA and housing financing requirements. Would she be willing to accept that condition as well? Ms. Bergman stated yes.

There will be no storage units as they have run out of space.

Ms. Peacock talked about pushing and pulling the building a bit and the northwest corner and the units at the bottom of the site don't have much parking so she anticipates people will cross from one to another to get to their unit and there is no sidewalk to connect it to the other parking lot. Ms. Bergman stated they have not done a final grading plan and they will work with staff on this issue.

Chair asked if the apartments that are 25% affordable, will they have use of the same amenities. Ms. Bergman stated yes.

Chair opened the public comment.

Glenn Lange, 623 Ferncliff stated he is a member of the Hendersonville Tree Board. He stated they are concerned about this property because it is one of the only remaining wooded tracts left in Hendersonville. They are not against development but believe this development could incorporate additional tree planting for all the trees that are going to be removed. There are 322 trees on this property. The majority of those are going to be removed. The recent plans show they will preserve only 50 trees. He is here from the Tree Board to request that the Board add a condition of their own in the motion assuming they approve the project to support their proposal of planting an additional 75 trees. He discussed the grass planting for the site and how they could plant additional trees in that location. They prefer they be large or medium caliper trees.

Lynn Clark, 343 Yon Hill Road stated her concerns were all the new development in her area and the trees no longer there and being removed. She does not believe this apartment building is the best fit. Traffic is also an issue. She understands the housing needs, but they are losing trees and grass and this is just not the best fit. Is this start of one apartment building after another? The housing situation is not unique to Hendersonville. Housing needs are everywhere.

Ester Padula, 167 Brevard Knoll Drive stated her concerns were beautiful trees being taken out. She moved here a year ago and didn't know this area was already zoned for apartments. She also had concerns about the wildlife. Once the housing is built the damage is done.

Zoom:

Lynne Williams, Chadwick Avenue had concerns about the blind hill on Signal Hill and the access to the development not being safe. She had concerns about the traffic, the habitat and the character of the area.

Ken Fitch, 1046 Patton Street had concerns about the already hazardous intersection. This is a huge impact on the existing neighborhood with the increase in the number of units. This is a problematic traffic node. He discussed the future NCDOT plans for a roundabout. He was concerned about the compatibility of the character in the area if all these developments are built. Traffic is already an issue.

Chair closed the public comment.

Discussion was centered around the trees and the Tree Board condition, the increase in the number of units from the previously approved rezoning and the sewer pump station.

***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 (PIN: 9569-95-7758; 9569-95-5941; and 9569-96-4013) from PRD-CZD (Planned Residential Development-Conditional Zoning District) to PRD-CZD (Planned Residential Development – Conditional Zoning District) based on the site plan submitted by the applicant and the conditions listed therein, [dated May 3, 2022] and presented at this meeting and subject to the following: 1. The development shall be consistent with the site plan, including the list of permitted uses and applicable conditions as presented on the site plan. 2. Permitted uses and applicable conditions presented on the site plan shall be amended to include: exterior site lighting should be in accordance with the International Dark Sky Association's recommendations subject to any ADA requirements and 15 years instead of 10 years for the affordable housing maintenance term or 25% of the housing and people in the residences will be grandfathered in until they leave and will not be evicted. 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 High***

***Intensity Neighborhood designation calls for multi-family residential, Planned Residential Developments and open space as primary recommended land uses. The proposed project satisfies a majority of design guidelines under LU-7.4. 4. 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: The development would provide 33 “affordable” rental units (for 15 years) for those with household incomes at 80% AMI or less. These units would help to fill the need for affordable housing which currently has a projected gap (shortage) of approximately 700 units in Henderson County according to the 2021 Housing Needs Assessment (Bowen Study). The development would provide 99 “market-rate” rental units. These units would help reduce the rental housing gap estimated 500 units needed within Henderson County to satisfy demand according to the 2021 Housing Needs Assessment (Bowen Study). The applicant is dedicating +/- 0.59 Acres of right of way at the intersection of Signal Hill and Duncan Hill Road to facilitate future NCDOT road improvements. The area in proximity to the subject property includes similar and comparable development, including multi-family residential within 0.25 miles of the project. This development would serve as a transition between the US-64 commercial corridor and the lower density residential northeast of Signal Hill Rd / Berkeley Rd. Mr. Blatt seconded the motion which passed unanimously.***

**V(C) Conditional Zoning District – Upward Road Restaurant (P22-15-CZD).** Mr. Manley gave the following background:

The city is in receipt of an application for a Conditional Zoning District from Dennis Terry and NC Hendersonville Upward Road, LLC. The applicants are requesting to rezone the subject property PIN 9588-20-6649 and located on Upward Road, from PCD, Planned Commercial Development to CHMU CZD, Commercial Highway Mixed Use Conditional Zoning District for the construction of a 950 square foot drive in restaurant on approximately 0.75 acres. The CHMU zoning permits drive-in restaurants.

A brief history of the rezoning was given and is included in the staff report.

The current land use and zoning were shown in the presentation and included in the staff report.

Site photos were shown.

This will be a drive-thru restaurant with a walk-up window.

The Future Land Use is Regional Activity Center.

All comments from city staff have been addressed and have been resolved or will be resolved by final site plan.

This project did not trigger a TIA,

The developer had eight proposed conditions which are listed in the staff report. Mr. Manley read each one.

The developer has agreed to all of the Tree Board conditions. These are all included on the site plan.

This is part of the Upward Road Planning Area. This zoning district requested was specifically for this area.

A Neighborhood Compatibility meeting was held March 1, 2022 and was lightly attended.

The Comprehensive Plan Consistency chapters were shown and discussed and are included in the staff report.

General Rezoning Standards were shown and discussed and are included in the staff report.

A draft Comprehensive Plan Consistency Statement was shown.

They are planning to receive tree credits for this project.

Chair asked if there were any question for staff.

Mr. Blatt asked for clarification on the trees. Are they planning to do what is required and no more? Mr. Manley stated yes. Their type B buffer is very narrow, and they are proposing a condition that they would plant the required number of trees elsewhere on the site. That is reflected on their current site plan.

There were no further questions for staff.

Dan Soder stated he is representing the developer who should also be on the Zoom call. He cannot say what the restaurant will be, but it is a national coffee chain. He gave a brief presentation and pointed out the tree plantings on the site plan. He explained the drive access. He stated the existing stormwater is sized appropriately to accommodate Bojangles and this site.

There were no questions for the applicant.

Chair opened for public comment.

Chair closed the public comment portion of the meeting when no spoke.

***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 (PIN: 9588-20-6649) from PCD (Planned Commercial Development-Conditional Zoning District) to CHMU-CZD (Commercial Highway Mixed Use – Conditional Zoning District) based on the site plan submitted by the applicant, [dated May 9, 2022] 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: Restaurant. 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 Future Land Use designation of Regional Activity Center recommends restaurant as a primary land use and the location and site design of the project align with the goals and strategies of LU-9. 3. 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: The Upward Road corridor is classified as a Boulevard and is appropriate for drive-in restaurants. The development will provide additional food options for residents and visitors. The subject property is consistent with the interstate interchange-oriented development occurring in this area. The subject property is located in a Priority Growth Area. Mr. Nace seconded the motion which passed unanimously.***

Mr. Blatt left at 8:15 pm.

Ms. Peacock recused herself as she is the applicant for the next application.

The Board took a quick recess and reconvened at 8:20 pm.

**V(D) Zoning Text Amendment – Supplementary Standards for Day Centers (P22-29-ZTA).**

Mr. Holloway gave the following background.

The City of Hendersonville is in receipt of an application for a Zoning Text Amendment from Tamara Peacock Company Architects and Morgan Marks for the revision of the Supplementary Standards for Day Centers. Section 16-4-12. The applicant is proposing the following revisions to the text:

- a) The parcel on which a day center is situated shall not be closer than 1,500 feet to any parcel on which another day center is situated.
- b) The parcel on which a day center is situated shall not be adjacent to a residential use. A day center may be adjacent to a residential use in cases in which a buffer is implemented. A buffer must consist of twenty-five feet (25') of landscaped separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height. For purposes of this paragraph, parcels situated across a street right-of-way from a proposed day center shall be deemed to be adjacent.
- c) The parcel on which a day center is situated shall not be within 200 feet of a residential district unless a buffer consisting of twenty-five feet (25') of landscaped separation or fifteen feet (15') of separation with a vertical barrier of a least six feet (6') in height is implemented.
- d) Permissible hours of operations shall be limited to the hours between 6:00 a.m. and 6:00 p.m.

The Legislative Committee met April 19<sup>th</sup>, 2022. Discussions centered around proposed buffer requirements compared to buffer requirements triggered when C-2, C-3, I-1 and CMU are adjacent to a residential use or district (Section 15-6 Buffer yards). No motions were made, only discussion.

Staff had some recommended changes which are included in the staff report.

A permitted zoning district map was shown.

A draft Comprehensive Plan Consistency Statement was shown.

Discussion was made on the I-1 zoning and that standards for Day Centers in that district. Mr. Holloway stated Susan Frady was in attendance and had a lot of knowledge on this and she let him know that originally Council wanted these to come back to them.

Chair opened the meeting for public comment.

One member of the public, Dennis Bro with Tamara Peacock Architects, spoke in favor of the text amendment.

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

***Mr. Nace moved the Planning Board recommend City Council adopt an ordinance amending the official City of Hendersonville Zoning Ordinance, Article XVI – Supplementary Standards for Certain Uses, Section 16-4-12 Day center, based on the following: 1. The 2030 Comprehensive Plan Land Use and Development Chapter calls for the City to consider short- and long-term impacts on compatibility with existing development and further recommends the consideration be given to determine if an application demonstrates a clear public purpose. 2. We find the petition to be reasonable and in the public interest based on the information from the staff analysis and the public hearing, and because: The petition addresses the provisions of services for the needy, homeless and transient population within the City of Hendersonville's zoning jurisdiction. The text amendment addresses separation of day centers from residential uses through the provision of buffers that exceed standard commercial / residential buffers. Mr. Brown seconded the motion which passed unanimously.***

**VI Other Business.** None.

**VII Adjournment – *The meeting was adjourned at 8:37 pm.***

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Jim Robertson, Chair

DRAFT