



PLANNING BOARD RECOMMENDATION
HALF MOON HEIGHTS PHASE II(P24-41-CZD)
MEETING DATE: JANUARY 9TH, 2025

PETITION REQUEST: Rezoning: Planned Residential Development- Conditional Zoning District (PRD-CZD)

APPLICANT/PETITIONER: Tricia Chassen, Forestar USA Real Estate Group, Inc [Applicant] & Gregory Albea, Julianne Albea, Joseph Taylor and Laura Taylor [Owners]

PLANNING BOARD ACTION SUMMARY:

The Planning Board voted 6-1 to recommend **approval** of this petition and adopted the following motion:

PLANNING BOARD MOTION:

Ms. Peacock 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: 9579-98-0375, 9579-98-3527, 9579-99-4115, 9579-99-8724) from Henderson County Residential Two Rural to PRD-CZD, Planned Residential Development Conditional Zoning District, for the construction of 59 detached single-family units based on the master site plan and list of conditions submitted by and agreed to by the applicant, [dated 12-30-24] 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
 - a. Permitted Uses:
 - i. Residential Dwellings, Single-Family
2. Permitted uses and applicable conditions presented on the site plan shall be amended to include:
 - a. Proposed left turn lane on Howard Gap Road (SR-1006) onto Old Sunset Hill Road (SR-1744) will be constructed per the City's request if feasible within the existing right of way and if found necessary and/or acceptable by NCDOT. If the existing right of way is inadequate to accommodate the left hand turn lane, additional right of way acquisition will not be required and a fee in lieu of the turn lane shall be paid. The fee in lieu will reflect the actual cost of construction of the turn lane. The construction cost estimate shall be submitted by the developer's engineer and reviewed by the City of Hendersonville and NCDOT.
 - b. Regarding the wetlands, preserve the 30 foot buffer in all undisturbed areas.
 - c. Discharge stormwater at a rate equal to or less than the pre development discharge rate for both the two-year, 24 hour storm, and the 10 year, 24 hour storm with the ability to pass the 25-year, 24 hour storm.
 - d. 4. All driveways shall be a minimum of 20' from the back of curb and/or sidewalk.

PLANNING BOARD MOTION CONTINUED:

3. The petition is found to be consistent with the City of Hendersonville Gen H 2045 Comprehensive Plan based on the information from the staff analysis and the public hearing, and because: The petition is consistent with the Future Land Use and Conservation Map Designations of Multi-Generational Living and is located in a focused intensity node within chapter 4 of the Gen H Comprehensive Plan.
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:
 - a. The petition proposes to provide additional housing to offset local demand.
 - b. The proposed development establishes a valuable new roadway connection between US 64 and Old Sunset Hill Road/Howard Gap Road. This type of street interconnectivity aligns with the goals outlined in the Gen H Comprehensive Plan.
 - c. The proposed density is consistent with other nearby developments.

OVERVIEW OF BOARD DISCUSSION FROM MEETING MINUTES:

The Planning Board convened on this project for **1 hour and 12 minutes**.

Ms. Gilgis asked why they would not mitigate the wetlands and put that as a condition. Ms. Chassen stated there are three parts to the condition and the first was a 30-foot buffer and they could not comply with that because they do plan to fill in a portion of the wetlands on the lots to raise them up above the wetlands so there is no worry about flooding from the water backing up in the wetlands. They plan to raise the back of the lots a little, so in a portion of the wetlands which will be approved by the Army Corp they cannot provide the 30-foot buffer because they are already working into the wetlands. Based on their final grading plan, they can designate buffers in other areas where they are not impacting them but the way the condition was stated it was just not feasible for them to put the 30-foot buffer around the entire wetlands. Monitoring and Reporting, this is one they are willing to do if the Planning Board feels it is necessary for them to do.

Ms. Peacock stated when they counter proposed on the turn lane, she is talking about the left turn lane and if there wasn't enough right-of-way and if it became not feasible to fit it in that little triangle area, would they object to a fee in lieu of the cost to do it because the road is getting more impacted. Ms. Chassen stated the main reason for the counter was if they couldn't fit it and with the cost already due to the conditions it just would not be feasible for this project to purchase right-of-way. They could do a cost estimate for the fee in lieu to see what the cost would be if they had to get right-of-way and could not build it themselves. That is something they could work with the city on.

Chair stated if they did not have to comply with a buffer, with a 30-foot setback from the wetlands, if they could go right up to them would that be feasible? Ms. Chassen stated they were going to have to fill in some of the wetlands and the lots to the north. There is a little strip of wetlands on those lots that will get filled in and then they have at their road crossings and for sewer installation around the edge and they will have to disturb some of the wetlands to put that in. Once they finalize the grading plan, they do not plan to grade a lot of that southern middle section and they could dedicate that as buffer and they wouldn't be to do a contiguous buffer around the whole of the wetlands. Chair stated but if there was no buffer and you were told to stay out of them it still would not accommodate what you are trying to do. Ms. Chassen stated they would lose some lots. Chair discussed the flooding we had here recently and stated he did not feel filling in the wetlands would go over very well after the storm.

OVERVIEW OF BOARD DISCUSSION FROM MINUTES:

Ms. Chassen pointed out the wetlands that are remaining and she pointed out the portion that was being filled which was only a small sliver. And that is to protect the homes when the wetland does fill up with water. She stated 85% to 90% of the wetlands would remain and be undisturbed with a natural buffer remaining around it. Chair asked if they would have to raise the elevation where the road crosses. Ms. Chassen explained the installation of cross pipes under the road and how that would drain into the creek. She discussed the wetland being mostly spring fed.

Chair started there was a condition on Phase I where they asked that a stormwater system engineered for a 25 year flood rather than a 10 year flood and he can't imagine why the same condition wouldn't be imposed on Phase II. It is because the way water flows in that area and ends up down on Chimney Rock Road. Chair asked if this is something they can agree to.

Jared DeRidder, WGLA stated it is important to note that Phase I and Phase II flow in two different directions. He was not a part of Phase I but being the engineer for Phase II, if you have a city ordinance that outlines the requirements of two and ten, why would it be necessary to impose something stricter than the ordinance. Chair stated because the maps are out of date, water from the Gulf of Mexico is coming here all the time and we get thunderstorms and heavy periods of rain where we never had that before, rain that was over five inches in one day and of course we had 22 inches in September. So rain is different now than it was when the ordinance was written and that is why he is asking. Mr. DeRidder stated they can commit to passing the 25 year storm but in terms of creating the 25 year storm he is not sure that really accomplishes much. If you are interested in the intensity of the storm and the damage it is going to cause, he thinks passing the 25 year storm is a reasonable commitment and exceeds the ordinance standards. Mr. DeRidder explained passing the 25 year storm and the storm tech systems. If they commit to passing the 25 year storm or being able to handle the 25 year storm in their infrastructure, that to him seems like a reasonable commitment as opposed to trying to treat and control that. They would control the two and ten but would be able to pass the 25. Chair stated and that is a condition you would agree to. Mr. DeRidder stated yes.

Chair stated concerning Mike Huffman's condition, he is the Floodplain Administrator and on staff with the city and is acting in the best interests of the residents of our city. He proposed a condition. Mr. DeRidder stated he would like to explain this a little more and give his perspective on it. Mr. DeRidder discussed the stream buffer requirements and he pointed out the untouched area on the site plan around that stream. If they do that same buffering for the wetlands, they essentially lose lots and this project goes away. They had mentioned that wetlands are intended for flooding purposes, this parcel is not in the 100-year Floodplain. In his professional opinion and time and duration of his practice, he has never seen a buffer for a wetland, ever. The Army Corp doesn't require it, the federal government doesn't require it, the state doesn't require it and your local ordinance doesn't require it. This comment came out of somewhere that he has never heard of. He has not seen it in the federal or state guidelines. Chair stated a lot of things are going to change around here after September. Mr. DeRidder stated if it was a written ordinance that is great and they could abide by that but when they lay something out and it is not written it is really hard to agree to things that are not written out in ordinances that aren't standards. In this case, they have a lot of time and money and energy invested in laying out a project that works and then submit it to the city and they want a buffer on wetlands and he is not sure where that comment came from. Chair stated it is called conditional zoning.

PUBLIC COMMENTS:

Glenn Lange, 623 Ferncliff Lane stated he would like to propose that the Planning Board adopt the city's proposed wetland protection buffer as written by our Stormwater Coordinator, Mike Huffman. Wetland areas are being eliminated and/or being degraded throughout North Carolina. At least in this area the wetland is being set aside and not eliminated. Unfortunately also wetlands are being negatively impacted by sedimentation and pollution and toxic chemicals. He was concerned about the planting at the wetlands being turf or lawn grasses. He discussed lots backing up to the wetland areas and the management of these areas using fertilizers and pesticides and herbicides which will pollute the wetland areas with stormwater runoff. He felt the condition imposed by the city will help protect the wetlands from pollution. He discussed removing evasive plants and utilizing native trees and shrubs. It would improve wildlife habitat. He hopes they adopt the city's proposed development condition. He discussed having proper vegetation in the areas that are disturbed. He hopes the Planning Board will adopt what they are working on here and add some improvements.

Lynne Williams, Chadwick Avenue was concerned about the condition and has asked Mike Huffman if he could join the meeting. She stated she did speak up for the first phase and so did the neighbors and they did oppose the development. The floods did come and that storage place down below lost everything and that is the reality of the people who live here. The 25 year storm system makes sense that they would ask for it again. She felt like it needed to be more, like a 100 year system. They should look at what Helene has been categorized as. That should be what type of storm system that it holds. That is the standard they should be held to and anything less than that is really just a slap in the face. She asked that they be a leader for the community and set an example and not wait for laws to be passed. She was concerned about all the trees being gone in Phase I. She was concerned about the site plan and this extending from the barren area where the trees were removed. She wanted the tree canopy to be protected. The rule is you can't build in the Floodway. She felt like buffers to protect the wetlands make total sense. She was concerned about parcels below and near being in the 100 year Floodplain. They are asking them to be a good neighbor.

Ken Fitch, 1046 Patton Street (zoom) stated the new name was not revealed at the NCM and now it is associated with a very controversial project. He felt like the project has two flags with the proposed conditions from Mike Huffman and the city traffic consultant that underscore the concern with wetlands on site and area traffic impacts. He stated the recent hurricane event as brought focus to the wetlands and flooding. These were terrible storm impacts which Mike Huffman has seen firsthand. The document states there is no Floodplain issue but on the 2008 FEMA maps the local state and federal authorities note these maps are out of date. He asked if we know what happened on this site after the storm. He was concerned about the development being proposed in close proximity to the wetlands. The engineer stated he has never seen a buffer for wetlands, ever but we never saw what happened with this storm ever before. We had a 100 year storm here. He was concerned about the removal of a large number of trees and paying a fee in lieu of. He was concerned about the removal of trees causing a greater risk of flooding in this area. Traffic has been cited as a growing issue in this area. Connectivity is a big deal. The issue here is safety and when the traffic consultant does weigh in we need to listen. Safety is another issue with the connection to Half Moon Heights. He asked about on street parking being permissible. He discussed a neighbor's issues that were brought up at the NCM.

BOARD ACTION:

Motion:

- Tamara Peacock (Vice Chair)

Second:

- Kyle Gilgis

Yeas:

- Tamara Peacock (Vice Chair), Laura Flores, Bob Johnson, Donna Waters, Kyle Gilgis, David McKinley

Nays:

- Jim Robertson (Chair),

Absent: Peter Hanley, Chauncy Whiting

Recused: None