**Minutes of the Planning Board**

**Regular Meeting - Electronic**

**April 20, 2020**

**Members Present:** Steve Orr (Chair), John Coker, Neil Brown, Peter Hanley, Jim Robertson, (Vice-Chair), Hunter Jones

**Members Absent:**  Jon Blatt, Robert Hogan, Ben Pace

**Staff Present:** Daniel Heyman, Planner, Tyler Morrow, Planner, Susan Frady, Development Assistance Director and Terri Swann, Administrative Aide

**I Call to Order. *The Chair called the meeting to order at 4:06 pm. A quorum was***

***established.***

***Chair read a statement into the record concerning stay at home orders and electronic***

***meetings. In response to federal, state and municipal state of emergency stay at home orders, Hendersonville City Council, Advisory Boards and City Committees will conduct business via electronic and/or virtual participation. After consultation and guidance by the North Carolina Attorney General’s office and the City of Hendersonville’s Legal Counsel the measures adopted adhere to the North Carolina General State Statutes regarding public meetings and participation. It is the City’s duty and obligation to continue to conduct its business while adhering to this guidance for the safety and well being of the public and city staff. All Council members, Board members, city staff and the public will operate under this guidance until further notice by the North Carolina Attorney General’s office and the Hendersonville City Council.***

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

**III Approval of Minutes for the meeting of March 9, 2020. *Mr. Robertson moved to approve the Planning Board minutes of the meeting of March 9, 2020. The motion was seconded by Mr. Hanley and passed unanimously.***

**IV Zoning Map Amendment - Application from Jeff Justus for a rezoning. The applicant is requesting to rezone subject property PIN 9578-51-0342 and located at 1601 Old Spartanburg Road from R-15, Medium Density Residential, C-3, Highway Business and C-3SU, Highway Business Special Use to C-3, Highway Business. (File #P20-15-Z).** Mr. Morrow gave the following background:

The City is in receipt of an application for a rezoning from Jeff Justus. The applicant is requesting to rezone the subject property, parcel number 9578-51-0342, from R-15 Medium Density Residential, C-3 Highway Business and C-3 SU Highway Business Special Use. The total subject area is approximately 4.17 acres. Photographs of the property can be found on page 9.

The subject property currently contains several residential structures.

On July 8th 1999, City Council rezoned a section of this parcel to C-3 SU for the purpose of allowing the owner to operate an antique retail store from the existing residential structure at 1607 Old Spartanburg Road. The Special Use permit stated that the retail operation would be limited to the existing residential structure and that the only permitted uses for the structure would be dwelling or retailing.

Parcels to the north are zoned R-15 Medium Density Residential. Parcels to the north east are zoned C-4 neighborhood commercial and contain Fitclub Inc. The parcels to the east are zoned R-15 and Community Commercial by Henderson County. Parcels to the south are zoned C-3, Community Commercial, and PRD Planned Residential Development and contain commercial uses and Hillside Commons. Parcels to the south west are zoned C-3 and I-1 industrial and contain Southern Concrete Material and Selee Corporation. Parcels to the west are zone C-3 and I-1. Parcels to the North West are zoned C-3 SU, Highway Business Special Use.

Surrounding land uses and zoning districts are shown on the “Existing Land Use” and “Existing Zoning” maps located on pages 10 and 11 respectively.

The subject area is proposed to be rezoned to C-3 Highway Business zoning district which is designed primarily to encourage the development of recognizable, attractive groupings of facilities to serve persons traveling by automobile and residents. Since these areas are generally located on the major highways, they are subject to the public view. They should provide an appropriate appearance, ample parking, and be designed to minimize traffic congestion.

Listed in Table A is an outline of the dimensional requirements for the C-3 zoning district classification. Table B is an outline of the dimensional requirements for the R-15 zoning district classification. The tables are listed on page 2 of the memo.

The uses that are permitted by right in the C-3 Highway Business Zoning District Classification, provided that they meet all requirements of the ordinance are listed on pages 3 and 4 of the memo. Also listed are the conditional uses for the C-3 zoning district.

The R-15, Medium-Density Residential zoning district is intended for areas in which the principal use of land is for medium-density single-family residences. The permitted and conditional uses for the R-15, Medium Density Residential zoning district are listed on pages 4 and 5 of the memo.

According to N.C.G.S.160A-383, zoning map amendments shall be made in accordance with a comprehensive plan. As shown on the map located on page 12, the 2030 Comprehensive Plan’s Future Land Use Map designates the subject area as Neighborhood activity center and Natural Resource/Agricultural.

The purpose of the Neighborhood Activity Center future land-use category is to “Concentrate retail in dense, walkable, mixed-use nodes located at major intersections in order to promote a sense of community and a range of services that enhance the value of Hendersonville’s neighborhoods.” The primary and secondary recommended land uses for the Neighborhood Activity Center land use category are as follows:

Primary

* Neighborhood retail sales and services

Secondary

* Offices
* Multi-family residential
* Live-work units
* Public and institutional uses
* Pedestrian amenities (plazas, outdoor seating, etc.)
* Mixed uses

The purpose of the Natural Resource/ Agricultural future land-use category is to “Create an interconnected network of green infrastructure that preserves environmentally sensitive areas, protects water resources through low-impact stormwater management, provides floodwater storage, provides community open space and recreational opportunities, and preserves agricultural resources.” The primary and secondary recommended land uses for the Natural Resource/Agricultural land use category are as follows:

Primary

* Open space
* Recreational amenities
* Low-impact stormwater management facilities
* Flood storage
* Agricultural uses

Secondary

* Utilities other than stormwater management
* Single-family attached and detached structures

Cemeteries

Parcels to the north and east are classified as High Intensity Neighborhood and Natural Resource/ Agricultural. Parcels to the south are classified as Neighborhood Activity Center and High Intensity Neighborhood. Parcels to the west are classified as Neighborhood Activity Center and Business Center.

Sections of this parcel are located within the 100-year floodplain designation, as shown on the flood map provided on page 13. Per our zoning ordinance the applicant may fill and/or use for development up to one-half acre or 10% of such property, whichever is greater. Provided, however, in order to develop such lands, the property owner or developer must comply with all applicable regulations of the Federal Emergency Management Administration. Susan Frady is our Certified Floodplain Manager and she would review any development within these areas.

Per Section 11-4 of the City’s Zoning Ordinance, the following factors shall be considered prior to adopting or disapproving an amendment to the City’s Official Zoning Map:

1. **Comprehensive Plan consistency.** Consistency with the Comprehensive Plan and amendments thereto.
2. **Compatibility with surrounding uses.** Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject property.
3. **Changed conditions.** Whether and the extent to which there are changed conditions, trends or facts that require an amendment.
4. **Public interest.** Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern that benefits the surrounding neighborhood, is in the public interest and promotes public health, safety and general welfare.
5. **Public facilities**. Whether and the extent to which adequate public facilities and services such as water supply, wastewater treatment, fire and police protection and transportation are available to support the proposed amendment.
6. **Effect on natural environment.** Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment including but not limited to water, air, noise, storm water management, streams, vegetation, wetlands, and wildlife.

Mr. Morrow stated the suggested motions are on page 7. The applicant Jeff Justus is here to answer any questions.

Mr. Brown had questions about the neighborhood activity center and walkable communities referenced in the Comp Plan. Mr. Morrow stated the city had walkable communities in mind and sidewalks are required now for new development. A lot of Spartanburg Highway has sidewalks and the plan is to have them connect with each new development that is constructed and the existing sidewalks in the area.

Mr. Brown asked if there were any sidewalks going into the residential areas. Mr. Morrow stated not that he is aware of.

Chair stated across Old Spartanburg Road is where the new fire station will be located, and this is part of the redevelopment in this area. Sidewalks will be required for this project as well.

Mr. Brown stated he is struggling with the “walkable neighborhood” term when there are no walkable areas in the residential part. Chair stated when the Planning Board reviewed the Comp Plan 10 years ago, they wanted to promote sidewalks and so they used the term “walkable neighborhoods” and put in the zoning regulations to add sidewalks. The hope is to one day have a walkable community with the addition of new development and new sidewalks connecting to existing sidewalks. Mr. Hanley stated this is a work in progress as new projects are approved.

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

Jeff Justus, applicant stated this is a straightforward rezoning. This area is one of the dirtiest pieces of property in this town. The trash that was on this property was unbelievable. Several residents in the area were very happy to see this property being cleaned up. This is great commercial site. He plans to have a car wash on the corner and maybe a small grocery store or fast food place. He thinks this will be a big improvement to the area and has not received any opposition from the neighbors.

Chair asked if he has taken the measures to bring up the grade in the 100-year floodplain area. Mr. Justus stated yes.

Mr. Hanley asked if he has taken into consideration the stormwater in this area. Mr. Justus stated he plans to do stormwater retention in the flood area.

Chair asked about part of the property currently being zoned C-3 already. Mr. Justus stated the part that is currently zoned C-3 doesn’t even take in 100 feet of the property. It barely takes in the 64-foot right-of-way. He stated this area needs to be improved and this is the start of improvement for the area.

Ms. Frady stated there was no public comment submitted for this project.

Mr. Robertson asked if this project didn’t spark a Neighborhood Compatibility meeting. Ms. Frady stated no, this is a straight rezoning and not a conditional rezoning, so no neighborhood meeting was required.

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

***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 parcel number 9578-51-0342, from R-15 Medium Density Residential, C-3, Highway Business and C-3SU Highway Business Special Use to C-3, Highway Business, finding that the rezoning is consistent with the Comprehensive Plan’s Future Land Use***

***map, and that the rezoning is reasonable and in the public interest for the following reasons: it is compatible with the surrounding uses and is the best use of the property. Mr. Jones seconded the motion which passed unanimously.***

**V Site Plan Review – Application from Windsor Built Homes, LLC for the development of a minor planned residential development (minor PRD) consisting of 45 single-family units on approximately 15.591 acres. The project is located on parcel(s) #9568-18-5388, 9568-17-5727, 9568-18-8043, 9568-18-8429 and 9568-18-9677. The proposed project will have frontage on 5th Avenue and will access the site through 5h Avenue and Westbrook Road. (File #P20-16-SPR).** Mr. Heyman gave the following background:

The City is in receipt of an application from Windsor Built Homes, LLC for the development of a minor planned residential development (minor PRD) consisting of 45 single-family residential units on approximately 15.591 acres. The project is located on Parcel(s) #9568-18-5388, 9568-17-5727, 9568-18-8043, 9568-18-8429, and 9568-18-9677. The proposed project will have frontage on 5th Avenue and will access the site through 5th Avenue and Westbrook Road.

Mr. Heyman read the letter sent April 9, 2020, to the property owners within 400 of the project into the record.

This application is for site plan review and is seeking only approval from the Planning Board. The development contains fewer than 50 units and does not exceed the permitted density in the R-15 Medium-Density Residential zoning district, therefore City Council approval is not required.

The developer previously applied for a conditional rezoning for the development of 74 single-family homes on this property. At your February meeting, the Planning Board voted to recommend City Council deny the application. At the request of the applicant, the application was withdrawn. City Council did not review the application.

The subject property is currently zoned R-15 Medium Density Residential and contains 3 residential structures and several outbuildings.

Parcels to the north, east and south east are zoned R-15 and include residential dwellings and some commercial. Parcels located to the south are zoned C-4 Neighborhood Commercial and PRD, Planned Residential Development and include Appalachian Coffee Company and residential uses. Parcels located to the west are zoned R-20 Low Density Residential and residential uses. Surrounding land uses and zoning districts are shown on the “Existing Land Use Map” and “Zoning Map” on page 5 and 6 respectively.

The subject property is classified as Medium Intensity Neighborhood on the 2030 Comprehensive Plan’s Future Land Use Map. The goal of the Medium Intensity Neighborhood classification is to “Provide a transition between High and Low-Intensity Neighborhood areas while providing a wide range of housing formats and price points. Promote walkable neighborhood design and compatible infill development in new neighborhoods and as a means of preserving and enhancing existing neighborhoods.”

The 2030 Comprehensive Plan’s Future Land Use Map designates parcels located to the north and east as Medium Intensity Neighborhood. The parcels located to the south of the project are classified as High Intensity Neighborhood. The parcels west of the project are classified as low

intensity neighborhood/agricultural. Sections of parcels to the west and south west are also classified as natural resource/ agricultural, these sections are within the floodway.

The 2030 Comprehensive Plan’s Future Land Use Map is located on page 7.

**Buildings**

The site plan shows 45 single-family lots, with an average lot area of approximately 0.2 acres. The preliminary site plan showing the proposed lots is attached to this memo.

**Existing Landscaping**

The site plan shows existing trees to be preserved in various common areas.

**Stormwater/Flood Hazard Area**

The applicant will be providing stormwater management plans to the Engineering Department as part of the final site plan submittal requirements.

**Sidewalks**

Sidewalks are provided along one side of all internal streets and along the property line of Westbrook Road, in accordance with the Zoning Ordinance.

**Density**

The proposed density is approximately 2.89 units per acre. Minor PRDs are permitted by right in the R-15 zoning district when the proposed density is less than 3.75 units per acre and no more than 50 units are proposed.

**Traffic Impact Analysis**

The applicant provided a voluntary Traffic Impact Analysis conducted by J.M. Teague Engineering that studied the proposed development’s impact on the roadway and nearby intersections. The study considered a proposed development of 86 single-family homes, which is greater than shown on the site plan.

Ivy Crossing did not meet the threshold that would require a TIA to be completed. A table prepared by J.M. Teague Engineering, included in the memo shows they do not exceed 100 peak hour trips or 1,000 daily trips.

According to NCDOT, mitigation improvements to the studied roadway network are required if at least one of the following conditions exists when comparing base network conditions to project build-out conditions:

* + - Average intersection or approach delay increases by 25% or greater while maintaining the same LOS
    - LOS degrades by at least one level
    - LOS is F

**US 64 (Brevard Road) @ Westbrook Road**

* “Delay from the proposed development traﬃc impact are relatively low and the operating conditions (LOS C) remain acceptable.”

**5th Avenue @ Westbrook Road**

* “The intersection of 5th Avenue and Westbrook Road which will have stop sign-controlled northbound and southbound approaches is anticipated to operate with acceptable levels of service with LOS ‘B’ in the AM peak hour, and LOS ‘B’ for the PM peak hour.”

The City’s traffic consultant Kimley-Horn reviewed the TIA performed by J.M. Teague and concurred with the recommendations. Kimley-Horn did comment that they had a few discrepancies in the analysis methodology, traffic figures, and results tables. However, none of the results from the submitted traffic study are anticipated to change if the discrepancies were addressed by J.M. Teague. Kimley-Horn’s memo is attached on page 9.

Section 7-3-3.4 of the Zoning Ordinance states, “an application for preliminary site plan approval shall not be approved unless the Planning Board determines that the application and preliminary site plan demonstrate compliance with this ordinance. The Planning Board may impose such reasonable condition on an approval as will ensure such compliance with this ordinance.”

Mr. Heyman stated the suggested motions are on page 4. Will Buie and Scott Street are here to answer any questions.

Mr. Robertson asked if in Mr. Heyman’s opinion does the preliminary site plan meet the zoning ordinance requirements. Mr. Heyman stated yes, it appears to meet the zoning ordinance requirements.

Will Buie, WGLA Engineering stated he saw a lot of opposition to the project in February and that is how they ended up with this new plan. Following the February Planning Board meeting they heard loud and clear what the neighboring property owners’ concerns were. The developer and the property owner met and thought this was a good project and they heard what the Planning Board members said and wanted to make this project work. Staff reviewed the changes and since the changes had significantly changed the project it was determined by staff that the application would not have to go back through the process again. They were not aware at the time that the changes met the criteria for a minor PRD. The minor PRD must meet the requirements of the R-15 zoning district and this proposed plan does meet those requirements.

Mr. Buie stated to compare the February 24th plan with the March 20th plan, they started out with 75 lots and are down to 45 lots. They started with 3 acres of common open space and now have 4.5 acres of common open space. They went from 3,000 feet of road to 1,600 feet of interior road. This plan is under 3 units per acre. The smallest lot is 60’ wide and 120’ deep. They heard the reasons for denial were too much density and the impact to streams and wetlands. The new plan has reduced the density by 40%. The key with this plan is the existing wetlands will be preserved. Mr. Buie pointed out the wetlands and streams that will be preserved on the site plan.

Mr. Buie stated the neighbors wanted preservation of as much buffer as possible and they have taken those concerns into consideration. As for stormwater, it is sized sufficiently to be stormwater wetlands and they have sized the project as such to take advantage of the wetlands. He believes it can function in that location and function well.

Mr. Hanley asked if any peripheral fencing would be included. Mr. Buie stated no fencing is planned at this time. All trees that are 12 inches or greater will be replaced around the edges of the development. The homeowners may have the option of having their back yards fenced but Mr. Street will need to answer that.

Scott Street, Windsor Homes, LLC stated they tried to listen to the public and make changes that would make the public happy and the property owners happy as well. They do plan to offer fencing to the buyers for the rear yard. It will be a uniform fence that will match throughout the development.

Mr. Brown asked what the price point for the homes would be. Mr. Street stated low 300’s and up.

Mr. Brown stated in the original application the HOA would permit 10% of the development to be used as rentals. Is that the same with this application? Mr. Street stated yes, this is typical for the HOA but there will be no short-term rentals. It will be a 12-month lease agreement. The property management company will control the HOA and lease agreements. This was put in place in 2008 and 2009 when the economy had taken a hit and renting became a viable option. They believed 10% was a good number for developments.

Mr. Brown had concerns about real estate brokers coming in and buying up 5 of the homes and using them as rentals. Mr. Street stated that would not be allowed.

Mr. Robertson stated there was some public input about the architecture of the homes, has that changed? Mr. Street stated there are no changes to the architecture. They plan to do hardy plank siding and a rock façade. He believes this development will be a good addition to the community.

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

Mr. Heyman paraphrased the public comments. The complete public comments were distributed to each Planning Board member and are attached to the minutes as part of the record.

Chair asked if there were any questions for the applicants.

Mr. Robertson had concerns about the resident that wanted a fence to be put up and maintained by the developers because of an open field that is part of her property and her concerns about it being protected. Mr. Street stated he has been in contact with this resident and is planning to post the property and put up a buffer of some type. Mr. Robertson asked about Mr. Prudhomme’s concerns about the homes not having frontage on the road itself and facing the new streets instead of the existing streets. Mr. Street stated they have a lot of issues with driveway permits and they have always constructed their homes facing the interior roads.

Mr. Robertson was also concerned about the elderly lady that lives in a home located next to the small triangle. She is in her 90’s and has been parking in that triangle. He believes it might be a grandfathered right-of-way. What are their plans for this? Mr. Street stated they have offered to set up a deeded right-of-way to that so she can still access her property from this section. The Campbells may keep the home that is located there but they will make access for the elderly lady to keep parking there.

Chair asked what are the criteria that staff reviewed as far as plan review and what the Planning Board is charged with or adhering to as this being a development by right. Mr. Heyman stated they outlined the key review criteria in the memo for Planning Board, but staff looks at the requirements of the zoning ordinance and that includes requirements of the zoning district for R-15. A minor planned residential development has to conform to the PRD development regulations, so they look at those regulations as well. They look at things like required parking, landscaping and there are various other things such as site triangles. They are looking at every requirement of the zoning ordinance. Chair asked if this particular development met those criteria. Mr. Heyman stated yes. Chair asked if this was a development by right. Mr. Heyman stated yes. Mr. Brown asked for that to be defined. Mr. Heyman stated it meets the requirements of the current zoning ordinance. The current zoning allows minor planned residential developments. The zoning ordinance states in a section labeled review process in Section 7 that any minor planned residential development of more than 9 units to be processed as preliminary site plan review and preliminary site plan review is done by the Planning Board. The reason being there may be a condition such as a fence that the Planning Board could add. As he stated in the Standards for Review; the Planning Board may impose such reasonable condition on an approval as will ensure such compliance with this ordinance. There is potentially an opportunity there for conditions, but this is a review of a site plan and not a request to rezone property. Mr. Brown asked if that meant that the ordinary zoning ordinance guidelines from Section 11-4 are not in play today. Mr. Heyman stated correct, those shall be considered by City Council prior to adopting or disapproving an amendment to the official zoning map or zoning ordinance. This is not an amendment to the zoning map or zoning ordinance.

Chair asked if anyone had any further questions for the applicant or staff. There were no further questions.

***Mr. Robertson moved the Planning Board grant preliminary site plan approval, based on the requirements of Section 7-3-3.2 of the Zoning Ordinance and other applicable regulations for the project: the project meets the zoning ordinance and is basically development by right. Mr. Coker seconded the motion which passed unanimously.***

**VI Adjournment** - ***The meeting was adjourned at 5:06 pm.***