**Minutes of the Planning Board**

**Regular Meeting - Electronic**

**August 10, 2020**

**Members Present:** Steve Orr (Chair), Neil Brown, Jon Blatt, Peter Hanley, Hunter Jones

**Members Absent:**  John Coker, Robert Hogan, Ben Pace, Jim Robertson

**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 4:00 pm. A quorum was***

***established.***

**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 July 13, 2020. *Mr. Brown moved to approve the Planning Board minutes of the meeting of July 13, 2020. The motion was seconded by Mr. Hanley and passed unanimously.***

**IV Conditional Zoning District – Application for a conditional rezoning from James Noble. The applicant is requesting to rezone the subject property PIN 9568-93-6593 and located on 303 Chadwick Avenue, from C-3 SU, Highway Business Special Use to C-3 CZD, Highway Business Conditional Zoning District for the purpose of constructing a minor planned residential development consisting of 4 single family dwellings. (File #P20-28-CZD).** Mr. Heyman gave the following background:

The City is in receipt of a Conditional Rezoning application from James Noble for the development of four single family dwellings on a 0.71-acre lot. The subject property is identified as parcel number 9568-93-6593 and is currently vacant. The applicant is requesting to rezone the subject property from C-3 SU, Highway Business Special Use to C-3 CZD, Highway Business Conditional Zoning District.

On May 14th, 1998, City Council at its regular meeting rezoned the subject property from R-15 Medium Density Residential to C-3 SU to allow the property owner to operate a florist shop out of the existing single-family structure. The rezoning was approved with the following conditions: 1) The operation would be housing in the existing residential structure. 2) no additional structures could be added to the property. 3) advertising would be limited to 1 sign 12 square feet in area.

Mr. Noble started the conditional rezoning process in October of 2019. His original plan had 6 single family homes on the subject property. Following the neighborhood compatibility meeting held on November 13th, 2019, Mr. Noble postponed his application. The minutes from the November 13th neighborhood compatibility meeting are on page 11 of your memo. A new Neighborhood Compatibility meeting was required by the City for this project.

The subject property is currently zoned C-3 SU, Highway Business Special Use and is currently vacant.

Parcels to the north are zoned R-15 Medium Density Residential and C-3 Highway business and contain residential and commercial uses. Parcels to the east and south are zoned R-15 and include residential uses. Parcels to the west are zoned R-15 Medium Density Residential and C-3 Highway business. Surrounding land uses and zoning districts are shown on the “Existing Land Use Map” and “Existing Zoning Map” on page 14 and 15.

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 recommended primary and secondary land use in High intensity Neighborhood are as follows:

Recommended Primary Land Uses:

* Single-family attached and detached residential
* Open space

Recommended Secondary Land Uses:

* Limited multi-family residential along roadways designated as Boulevards or Major Thoroughfares on the Future Land Use Map
* Planned Residential Developments
* Local public and institutional uses
* Recreational amenities

High Intensity Neighborhood Development Guidelines:

* Two to eight units per gross acre
* At least 60% open space in new developments on three or more acres
* Architectural guidelines to encourage compatibility when different housing types abut one another (e.g. similar building height, massing, roof pitch, and rhythm of windows and façade detailing)
* Encouragement of walkable neighborhood design, as described under Goal PH-3 in Chapter 2

The 2030 Comprehensive Plan’s Future Land Use Map designates parcels to the north as Neighborhood Activity Center and Medium Intensity Neighborhood. Parcels to the east are designated as Medium Intensity Neighborhood. Parcels to the south are designated as Medium Intensity Neighborhood. Parcels to the west are designated Neighborhood Activity Center.

The 2030 Comprehensive Plan’s Future Land Use Map is located on page 16.

**Buildings**

The site contains a 4 single family structures. The building envelop for these structures are 1,380 Square Feet.

**Lot Size**

The average lot size shown on the site plan is 7,691 Square feet.

**Entrance**

Three of the homes would access their driveways off of Chadwick Ave. One house would access their drive from Narva Road.

**Sidewalks**

Sidewalks will be provided on the subject property’s frontage on Narva Road and Chadwick Ave.

Due to the length of time between the November Neighborhood Compatibility meeting and the plan being updated, the City required the applicant to go through the neighborhood compatibility meeting process again. This meeting was held on July 27th, 2020. Notice was provided by U.S. mail to the owners of record of all property situated within 400 feet of the subject property as required by the Zoning Ordinance.

Several people representing the public attended the meeting in person as well as virtually. They had questions concerning density, traffic, stormwater runoff and flooding. A copy of the neighborhood compatibility report accompanies this memorandum on page 7.

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. Heyman stated the suggested motions are on page 4. The applicant Jim Noble is here to answer any questions. Written comments were received by staff and can be read into the record.

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

Chair asked if Mr. Noble would like to speak. Mr. Noble thanked the Board and stated his surveyor, David Hill had worked on the site plan and came up with the plan in their packets. It meets all the guidelines of the zoning ordinance. He has changed the plan since they first went to a neighborhood meeting. Because of concerns from the residents he has changed the plan from six homes to four homes. Mr. Noble is a lifelong resident of Hendersonville and has been here for 52 years. He plans to live in the corner home with his daughter. He understands the safety concerns and plans to work with the city on any issues that may arise.

Chair asked if anyone had any questions for Mr. Noble. There were no questions for the applicant. Chair asked the attendees to come forward one at a time to speak to the Board.

David Drake, 1006 Carousel Lane stated his concerns were safety concerns. Chadwick Avenue is a very narrow street and the sharp curve is even more narrow. Cars taking the curve at a faster speed usually come over into the other lane making this a bad spot. The egress from the single-family homes is also a concern. The residents will have to back out onto Chadwick Avenue from the three proposed driveways and this is a huge safety concern. He is also concerned about the sidewalk being built on the edge of the road, making this an even more narrow avenue. Kids walking on this sidewalk will be in danger of getting hit. You can see the scuff marks on the sidewalk at the doctor’s office on Balsam Road and it is built just like this one that is being proposed. This does not promote a safe neighborhood for children. He feels that four homes are just too much on this size lot. It is only .71 acres. Traffic is a big concern in this area also. Flooding is an issue. These homes will only be 8 feet from the property line. He is opposed to four homes being built.

Lynne Williams, 309 Chadwick Avenue stated the site plan is still incorrect and shows the zoning wrong for their property. Her property is zoned R-15. Ms. Williams showed photos to the Board of flooding from May 2020 and July 2020. She stated there is a massive amount of water from the flooding. Ms. Williams stated she had talked with Mike Huffman from the city concerning the stormwater and he had stated it is very important to manage the flow of water through this area. Ms. Williams showed the Board a video from this past weekend that her father had taken showing the amount of water that came through the area during a heavy rain. She stated after the removal of a large tree on Mr. Noble’s property the flooding has gotten worse. Once this becomes an impervious surface it will only get worse. Her family has lived here 70 years, and this is very important to them. They do not want to see the increase in flooding from this construction. There is also a wildlife habitat in the area with bears, possums and turtles. The wildlife utilizes the waterway. She had previously spoke with a long-term maintenance man for this property and he had stated it was more like a wetland. She has also talked with Chad Freeman the Public Works Assistant Director and he had stated how important it is to maintain the culvert. She is very concerned about the entire street being blocked off when the flooding occurs. She had a traffic study done when they were trying to get the 35-mph speed limit reduced. The study showed there are 2,000 cars each day (1,000 each way). She is concerned for the safety of the residents and backing out into the street will be very dangerous. She did her own study while it was raining and there were 100 cars that came through this area during that rainfall. She also stated when the old home was torn down at 303 Chadwick Avenue it had caused 14 cracks in the floor and walls of her home when the backhoe was being used. She is worried this will only get worse with the new construction and for that reason she feels a condition should be added for a construction impact study to be done. She also believes an environmental impact study should be done. The original zoning did allow for a small house to be a flower shop but to go from one small house to four houses is just too large of an impact on their quality of life. It needs to be zoned residential and she wants her rights protected. This area, known as Forest Knolls, was developed in 1905 and she feels it should be a historic district. She would like to speak on behalf of her parents concerning the vegetative buffer. They do not want to see this buffer destroyed as it was planted by her grandfather. They would also like for the alley to remain closed and to maintain the residential R-15 zoning for the neighborhood.

Jim Kane, 1050 Carousel Lane stated he has lived here for 20 years and this whole area is too narrow. He explained that the sidewalk and the picket fence on the other side of the street makes the sidewalk very hazardous. If sidewalks are put in front of these proposed houses it will make the road narrower and more dangerous. This road is used as a cut-thru for traffic and there is 10 times the amount of traffic on this street as was in the past. The neighborhood lot lines were established in 1965 and trying to divide two lots into four lots will not work. That is too much density for this area.

Chair stated the Board will now hear from any callers that would like to speak.

Joseph Williams, 309 Chadwick Avenue stated he lives next door to 303 Chadwick Avenue. He sent the video to the Board so they could recognize the water run-off and what happens in under an hour during heavy rains. He has lived in this house since the mid 70’s and has watched how it has changed over the years. It went from a quiet residential area to some commercial. They have been able to tolerate the commercial in the area because it still maintains the quiet character of the neighborhood. The auto shop across the street was a mistake the zoning board made, and it is very disappointing because it looks like a used car lot. He prefers to keep the R-15 zoning and the quiet character of the neighborhood. This is more density than what should be allowed. He asks that the Board please think about the issues before granting this.

Sandra Williams, 309 Chadwick Avenue stated she feels the same as her husband and daughter do. Four houses would change the whole neighborhood. She would like to see it stay R-15 and have only two homes on the lot. Chadwick is a very busy street and backing out into the street is not safe and will create a major disaster. Noise, traffic and flooding are all huge concerns. She enjoys living there and it has always been peaceful.

Chair asked if anyone else would like to speak.

Mr. Noble stated he wanted to find a way to bring affordable housing to Hendersonville. He is also concerned about the safety as he will be living on the property. This is a substantial investment for him. He will do whatever he can to help slow traffic down in the area. He is trying to work with the neighbors and would like to improve the lot. He will do what needs to be done to control the water and he will work with the city on this. He wants to keep the homes affordable and add value to the area. He does not want to take away from the area.

Lynne Williams stated the current plat shows the homes being 8 feet from the property line and going from an open field with a creek to a home is a huge change. The median income for Hendersonville is $48,000 and affordable housing is considered to be in the $180,000 range. These homes are above the $200,000 range.

Chair asked if there any further comments. There were none. Chair asked if the Board had any questions.

Jon Blatt asked what the minimum lot size requirement in C-3 zoning was for residential and commercial are. Mr. Heyman stated for residential the minimum lot is 6,000 square feet and for commercial it is 8,000.

Mr. Hanley asked if there was any way Mr. Noble could move the houses back. Mr. Noble stated it was possible to modify the homes. He could also put the driveways in the rear of the property. David Hill designed the plans with the zoning requirements in mind. He thought this was the best way to place the homes. He will do everything possible to keep the buffer that the Williams family is concerned about. He would like to clean it up a bit and maintain it. He would also like to maintain the culvert and keep it open. He feels this will help with the flooding issue.

Chair asked staff to explain the process for obtaining a driveway permit. Mr. Heyman stated Chadwick Avenue is a city street and the Public Works Department would evaluate the driveway before they could do a driveway cut. Chair asked if the standards would be like NCDOT standards. Mr. Heyman stated yes.

Chair stated this property is not zoned R-15. The zoning was changed back in 1998 from R-15 to C-3 SU. It has not been R-15 since 1998.

Chair asked staff to explain stormwater requirements. Mr. Heyman stated there is no stormwater review for anything under an acre. If they are not disturbing over an acre then there is no stormwater review. This property is only .71 acres.

Chair stated the Board has to deal with conditions based on the law and current practice. They cannot force an individual to do something that is not enforceable by the ordinance. They cannot just impose random conditions on an application. Ms. Frady will explain this after the meeting.

Mr. Blatt stated he has a lot of concerns about this project. The zoning changed 20 years ago to allow a special use that was to be a flower shop. He is concerned about the density. This would not meet the density requirements for R-15 and that is not fair considering everything surrounding this lot is zoned R-15. He is leaning towards the density for R-15 and he feels like four units are too much on this side of the street.

Mr. Brown stated he cannot support this project. Having the cars back into the street is very unsafe. When the Publix market was built, this added flooding to the area. To now allow this development, the flooding will become worse. He cannot support this.

Mr. Hanley stated he travels Chadwick Avenue all the time and there is a lot of traffic in this area.

Chair asked if there were any further comments. There were no further comments.

***Mr. Blatt moved the Planning Board recommend City Council not adopt an ordinance rezoning the subject property for the following reasons: traffic concerns, density issues and additional flooding issues. Mr. Brown seconded the motion which passed with a 3 (Blatt, Brown, Hanley) to 2 (Chair, Jones) vote. The application was denied.***

**V Staff Comments.** Chair discussed conditional use zoning and adding conditions to the applications. Ms. Frady stated concerning the Dark Sky regulations for lighting, in order to enforce those requirements, the zoning ordinance would need to be amended concerning the lighting regulations. All of the Dark Sky regulations cannot be incorporated into the zoning ordinance, but staff can study the revisions of lighting standards and bring it back to the Planning Board for approval. Instead of using the national standards staff can amend the ordinance with better standards in place than what is there now. The Board cannot create conditions that are not enforceable.

**VI Adjournment** - ***The meeting was adjourned at 4:58 pm.***