

**Minutes of the Planning Board
Regular Meeting - Electronic
May 10, 2021**

Members Present: Jim Robertson (Chair), Neil Brown, Tamara Peacock, Peter Hanley, Bob Johnson

Members Absent: Robert Hogan, Jon Blatt, Hunter Jones, Candi Guffey

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

- I** **Call to Order.** *The Chair called the meeting to order at 4:04 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 April 12, 2021.** *Mr. Hanley moved to approve the Planning Board minutes of the meeting of April 12, 2021. Mr. Brown made one noted correction. Mr. Hanley moved to approve the amended Planning Board minutes of the April 12, 2021 meeting. The motion was seconded by Mr. Brown and passed unanimously.*
- IV** **Old Business - None**
- V(A)** **Conditional Zoning District – Application from Troy Lee of TMFL Consultants, Inc., for the development of 30 units (15 Duplexes) on a 5.6-acre tract. The applicant is requesting to rezone the property to PRD CZD, Planned Residential Development Conditional Zoning District. (File #P21-11-CZD).** Mr. Manley gave the following background:

Mr. Manley stated the property is currently vacant and is located at 2201 Old Spartanburg Road. The property is currently zoned R1 by Henderson County. This project required a conditional rezoning due to the PRD Conditional Zoning District requirements. This is a two-family residential development consisting of 30 units and 15 duplexes.

A Neighborhood Compatibility meeting was held April 5, 2021. Several residents from Sharon's Crossing were in attendance and on the zoom call. The concerns were compatibility of the development as it related to ownership/rentals, utilities, security, stormwater, traffic and loss of privacy.

Parcels to the north fronting Upward Road are zoned Community Commercial by Henderson County and contains vacant tracts and a commercial use (Rex's Gun Range). Parcels to the east are zoned R1 Residential by Henderson County and include single-family homes. Parcels to the south are zoned R1 by Henderson County and contain a single-family residential neighborhood (Sharon's Crossing). Parcels to the west are zoned Community Commercial by Henderson County. Further west and fronting on Spartanburg Highway are zoned C-3, Highway Business by the City and contains a car wash.

The property will be annexed. It cannot be rezoned without being annexed. This has been moved to the June City Council meeting. The proposed zoning will remain a residential zoning.

Mr. Manley stated that due to the location of the subject parcel, this parcel and the surrounding parcels are featured in both the City's and the County's Future Land Use Maps. The goals of the two jurisdictions generally align.

Chapter 8 Land Use & Development designates the subject property as Neighborhood Activity Center on the 2030 Land Use Map. The subject property is also located just outside of the Activity Node concentrated around the intersection of Upward Road and Spartanburg Highway and is commercial.

Chapter 2 Population and Housing states while the development is not slated to provide affordable housing, the development of duplexes rather than single family homes doubles the density of the site. Sidewalks and walking trails are proposed for the site.

Photos of the site as it sits today were shown. Mr. Manley pointed out the number of trees to be preserved. He pointed out the location of Rex's Gun Range. There is an area with a spring on site in the wooded area.

The site plan was shown. Mr. Manley pointed out the structures, sidewalks, walking path, stormwater area and the red dots identifying the trees to be preserved. There is a utility easement in the area. Sewer will service this site. Sewer access is across the street on Bell Avenue and is not readily available for this site. The exact location for the sewer connection will be determined in the final site plan.

The developer has proposed to remove 37 trees. They are proposing to save 103 trees most are over 12" in diameter. The Tree Board reviewed this project on April 20, 2021. They added a condition to protect the trees that they have proposed to save in accordance with Section 15-4 (C).

The suggested motions are listed.

Chair asked if there were any questions for staff.

Mr. Johnson asked about the project being approved by the County and what R1 zoning consists of. Mr. Holloway stated the County would allow 12 units per acre. That would be pending the septic approval if built to County standards.

Mr. Johnson asked if there was a requirement to install the nature trail. Mr. Manley stated there is no requirement by the City for a nature trail.

Chair stated the site plan is binding by the CZD.

Mr. Johnson asked about sidewalks being installed and by who. Chair stated the developer would be required to install sidewalks. Mr. Manley stated sidewalks are shown on the front of the property. They are required from property line to property line and the developer would be responsible.

Ms. Peacock asked about there being garages and the parking not being adequate. The houses may need to be pushed back to allow for a deeper driveway. Mr. Manley stated the developer has made the driveway deeper and they can speak to that during their presentation.

Mr. Manley explained the location of the larger trees and how pushing back the units will eliminate more trees.

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

Austin Greenhalge with Pesterfield Civil Engineering, 4005 Asheville Highway was on the zoom call. He stated they made sure the driveways had enough depth that no cars would be hanging out over the

sidewalk. Units 17 and 18 may be able to be moved a bit but Units 11 and 12 are already up against the setback. They messed around with the radius to meet the Fire Code restrictions. The buildings have to be 20 feet apart due to the Fire Code. They feel they have designed enough parking in the driveway. They are only required to do sidewalks on one side but are going to install them on both sides. They also had to meet open space requirements for the site. They had proposed a parking lot but lost that due to the addition of a unit. Their goal was to have 30 units and the developer added the walking trail to make the project nice for the residents.

Mr. Greenhalge stated there is a manhole on Bell Avenue and they may access the sewer from there. That would be the most efficient design and the most functional method. He explained the depth of the driveway and that it is 22 ½ feet to the front of the building. He made sure the area was large enough for the vehicles. The road is 20 feet in width.

Mr. Greenhalge stated in the R1 zoning they would be allowed 12 units per acre and they are proposing less than that. They plan to keep as many trees as possible and some of the trees are over 100 years old. He has talked with some of the neighbors from Sharon's Crossing about beautifying the neighborhood and cleaning up the trash on site.

Mr. Hanley asked if there were homeless people on the site. Mr. Greenhalge stated not his knowledge.

Mr. Johnson asked if each unit would only have one space. Mr. Greenhalge stated the width of each driveway is oversized for multiple cars. It is 20 feet in width. Mr. Manley stated at least two cars could park there easily.

Mr. Johnson asked where the guests will park. Mr. Greenhalge stated there is no guest parking lot, they will have to park in the driveway. Their goal was to have 30 units and the guest will have the ability to park in the driveways.

Chair asked if the units would have garages. Mr. Greenhalge stated no. He stated there will be four bedrooms per unit. Three on the top and one on the bottom floor.

Concerns about mailboxes and parking were made. Mr. Greenhalge stated a cluster box may be required but their goal is to have individual boxes. Chair asked if there was any ability to have a pull off or to widen the pavement for one if they have to use cluster mailboxes.

Bronce Pesterfield with Pesterfield Civil Engineering stated the southside could have an open area for a cluster box with enough room to park about three cars.

Chair asked how much leeway do they have to make needed changes to the site plan. Mr. Holloway explained the difference in a minor modification and a major modification. Increasing the number of units would be a major modification but adding a cluster mailbox area would only be a minor modification.

More discussion was made about the length of the driveways and residents having children that will grow up and want cars also. Mr. Manley explained these are rental units.

Mr. Greenhalge explained the sewer easement and how moving that could help push some of the units back, but it is tighter at the corner and Units 11 and 12 are already next to the setback line. Pushing some of the units back will not work without a variance. They haven't gotten into the major design yet and he is happy to meet in the middle but pushing the units back will pose some setback challenges.

Chair stated he spoke with a resident of Sharon's Crossing and she was concerned about a property manager being on site. Mr. Greenhalge stated there will be a property manager, but he is not sure that he

will be on site. There will be a screening process for the residents. The rent will be \$2,000 to \$2,500 a month. This will be a very nice project.

Chair asked if this developer has done other projects in the area. Mr. Pesterfield stated the owner is Troy Lee and he has done other projects in Miami. He specializes in ocean front properties. This is his first project in Hendersonville. The mountains did appeal to Mr. Lee and he wanted to develop a nice residential project here.

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

Chair opened up the public comment time.

Chair read into the record the comment received from Joan Gera of 141 Sharon's Way. Her concerns related to having a fence installed. Mr. Manley stated a fence is not proposed but a vegetative buffer will be in place.

Ken Meek, 143 Sharon's Way was in attendance and spoke to the Board. He stated he is concerned about a fence or a retaining wall between the properties. He was also concerned about the units having four bedrooms and the residents not having enough parking. He is most concerned about having a fence or a retaining wall in place. He was also concerned about children having to catch the school bus from Old Spartanburg Road.

Troy Lee, developer stated he lives in Miami but also has a home in Hendersonville on Hyder Allen Road. He builds luxury high-end ocean front homes and wanted to do a project here with his brother. This project will be unique for the Hendersonville area. The units will be two stories and each side will be 1,900 sq. ft. They have taken safety into consideration. This will be a family type environment. They did the driveways as best as they could with the road having to be 20 feet wide. It would be possible to park four cars in the driveway bumper to bumper. He would not have a problem with installing a fence.

Paula Meek, 143 Sharon's Way stated each unit is two units with four bedrooms a piece so what will the rent be for these units. Mr. Lee stated \$2,300 to \$2,500. Ms. Meek asked if there would be an office on site. Chair stated it would be managed by a property manager. Chair asked if that would be a local group. Mr. Lee stated David Lee from Keller Williams would be managing the site and yes, they are local. There will not be a site office. They will have someone to ensure maintenance was done and complaints were taken care of.

Terry Hill, 119 Sharon's Way stated on the site plan, the lower area has a drainage basin and 15 acres drain into this basin around the cul-de-sac. This property is very low and if they build up that area it is going to force that water right into Sharon's Crossing. Mr. Manley stated a stormwater plan has to be submitted and approved. Mr. Greenhalge stated they have thought about how to create a diversion for this water with diversion ditches and swells. That will keep the water where it needs to be. He will make sure they protect the residents and the residents of Sharon's Crossing and keep everyone dry. Mr. Hill stated the close proximity to Rex's Gun Range does not make this property an ideal location for apartments.

David Lee, developer explained his platform for property management. He stated Jeffrey Stinger is also a partner from Nashville Tennessee and he has dealt with water drainage issues in Tennessee. They will work diligently with the engineers to solve any water drainage issues and not create any issues.

Ken Fitch, 1046 Patton Street stated the trees are very important. He was concerned with the height of the duplexes and the duplexes being next to single family homes. Units 17 and 18 have no more room for vegetation and that is a concern. The issue of parking is a real concern. What are they doing about garbage collection? There are real problems in the area due to the density. He asked staff if there is a

requirement to protect the spring. Although there is a need for units such as these what happens in 10 years if they sale the property. Could they become affordable housing units? The long-term stability of this project is an issue.

Mr. Manley stated there is nothing on site related to a blue line stream or floodplain. The City does not regulate ownership or price points. They do not have the authority to do this.

Chair asked if elevations of the site were available. Mr. Manley stated that is not required as part of the submittal.

Discussion was made about the school bus stop.

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

Chair closed the public comment.

Ms. Peacock stated she was moving towards approving it with conditions and her conditions are to extend the driveways where possible, increase barriers along the south property line such as fencing, berms and landscaping and to add visitor parking. Mr. Manley stated there may some moving parts with the sewer easement and they may be able to shift some things.

Mr. Holloway noted in the Comp Plan the statics of land uses currently show single family takes up 4,000 acres in the city and 42% of the overall land use. This is from 2009. Two-family makes up 155 acres and is only 1.6% of the land. There is a market demand for this type of housing. We do not have a lot of residential that fits into anything other than single family. Only 4% is multi-family. People make decisions about where they want to live and where they want to buy based on how many cars they have and what sort of lifestyle they want to live and he thinks we get into a little bit of a dangerous place driving everything in a particular direction in terms of the types of infrastructure that supports particular types of residential. He thinks they are going to see continued increases in a variety of residential that we need to address. The affordable housing issues that we have in the community. He would like to color the conversation a little bit. This is obviously a more broad, applicable comment that we do not have a lot of residential that doesn't fit into single family residential mold and we all know that we have affordable housing issues that are tied very directly to that and with construction costs and land costs and land challenges within our community being able to recognize some flexibility in allowing the market dynamic to drive how these developments end up looking. It is going to be an important component to continue to see denser requests.

Mr. Hanley asked what designates pervious and impervious for driveways. Mr. Holloway stated a variety of things. Chair stated they were getting too hung up on the driveways.

Ms. Peacock made the following motion; in considering the proposed Conditional District Rezoning Application Oak Preserve P21-11-CZD, the Planning Board recommends approval of the request from Troy Lee of TMFL Consultants, Inc., for the development of 30 units (15 duplexes) on a 5.6 acre tract based on the following: That the map amendment is consistent with the 2030 Comprehensive Plan, Chapters 2,3,and 8. That the rezoning will conform to the ordinance and be consistent with adjacent development with the following conditions: 1) Trees slated for preservation as shown on the site plan must be protected in accordance with Section 15-4 (c) of the Zoning Code prior to construction. Ms. Peacock added additional conditions: 2) the developer work with staff to extend the driveways to increase parking for each unit, 3) to increase barriers along the south property line to continue fencing where possible, berms or additional landscape, and 4) to add additional visitor parking and cluster mailbox parking. Mr. Hanley seconded the motion which passed unanimously.

V(B) Conditional Rezoning Amendment – Application for a conditional rezoning amendment from Andrew Riddle of Riddle Development, LLC. The applicant is requesting the addition of one garage apartment on the approved site plan. The site was approved for 10 dwelling units (2 quad-plex and 2 garage apartments) at the August 6th, 2020 meeting. The applicant is requesting a total of 11 units (2 quad-plex and 3 garage apartments). (File #P21-24-CZD). Mr. Morrow gave the following background:

The proposed use will be multi-family. The proposed zoning of the site will remain CMU CZD, Central Mixed Use Conditional Zoning District. The site is currently vacant and is 0.57 acres. This is for the addition of one apartment unit in one building for a total of 11 units. He explained that the difference between a major and minor modification is that a major modification is defined as an increase in intensity over 10%. An increase is determined by the number of dwelling units. This is only one dwelling unit, but it makes up 10% of the project. Staff felt the need to be transparent and since there was a lot of interest from the neighbors, staff brought the project back before the Planning Board.

The updated site plan was shown. Parcels to the north are zoned CMU, Central Mixed Use and contain a religious institution and residential uses. Parcels to the east are zoned CMU and include residential and commercial uses. Parcels to the south are zoned R-6 and CMU and include commercial and residential uses. Parcels to the west are zoned R-6 and contain religious and residential uses.

The 2030 Comp Plan classifies parcels to the north and east as Downtown Support and parcels to the south and west as Medium Intensity Neighborhood. Medium Intensity Neighborhood provides 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.

Photos of the site as it exists today were shown.

The zoning ordinance requires in CMU that residential developments have a minimum of one off-street parking space per dwelling unit. Proposed are 11 dwelling units, so 11 parking spaces are required. The applicant has 18 parking spaces, 8 garage spaces and 10 surface parking spaces. All parking is proposed to be in the rear. The site will have a one-way entrance off of First Avenue. It is one way in and one way out per a condition by City Council.

The land disturbance for this project does not exceed an acre therefore a stormwater management system is not required.

A Traffic Impact Analysis was not required.

Staff has no stand-alone conditions.

City Council had conditions placed on the project at their August 2020 meeting. Those still remain and are attached to the project. Those include:

1. The architectural style that will resemble what is depicted in the rendering submitted by the applicant including the coloring of white with black shutters.
2. The property owner will not cause or permit the destruction of trees where the trunk is at least 12 inches in diameter within the 11-foot buffer.
3. The driveway widths shall be 12 feet and not 15 feet. The driveways shall be one-way in and one-way out with the entrance being on the west side, which will subsequently add an 11-foot buffer on the eastern side and will not change the buffer on the west side.

4. The developer will use the outdoor lighting basic guidelines from the International Dark Sky Association.

These four conditions are already included in the motion.

Chair asked if there were any questions for staff.

Ms. Peacock asked if the change in the driveway width would allow room for a trash truck to make that turn. Mr. Morrow stated this was a 15-foot access for the fire access that was reduced to a 12-foot access. The Public Works Director is fine with what is proposed. Ms. Peacock asked if the property would have a dumpster. She was concerned about the letter of objection concerning the 22 trash receptacles and wanted to know if that was being proposed. Mr. Morrow stated that is a question for Mr. Riddle.

Mr. Brown did not agree with the original approved number of units being 10 units. He thought the record should show that the Community Compatibility meeting on January 20 of last year, was talking about 12 units. The Planning Board at their meeting last June approved 8 units and on July 13th the application came back and asked for 10, which they approved and now he is back asking for 11. Mr. Morrow stated to his point, it was approved for 10 units.

Chair stated because this is a 10% increase it is back here again. It is basically the same building with another wall in it.

Mr. Johnson asked about the setback. There is a 12-foot setback from the curb. Mr. Johnson asked if there would be a sidewalk. Mr. Morrow stated yes.

Mr. Johnson asked about required landscaping. Mr. Morrow stated yes, the applicant will be required to provide vehicular use landscaping which is one tree and two shrubs for every 4,000 square feet of VUA. The applicant will also be required to plant a planting strip which is required when a vehicular use area lot is located within 100 feet of an abutting property and no buffer yard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area.

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

Andrew Riddle, applicant thanked the Board. He stated he had first proposed 12 units in one single building that met the needs of workforce housing and would rent for \$800 a month. That was shot down by the neighbors. He then worked with the neighbors and replicated the architecture to match Maple Grove and came back with 8 units that were 1,152 sq. ft. To meet the demand of the market, he came back and asked for two more units. He was approved for 10 units total. He has one chance to do this right and the need for residential units is great. To get what his investors are looking for it has taken almost two years. He decided to split one of the upstairs units and have three units instead of two above the garage.

Ms. Peacock asked about the trash receptacles. Mr. Riddle stated he doesn't know if he will have a dumpster or trash receptacles. He doesn't feel like there needs to be 22 cans there.

Chair asked if adding the unit did not change the parking. He wondered if the north side of First Avenue could be striped for parking. Mr. Hanley stated they have more parking spots than what is needed now. Mr. Riddle stated he has made adjustments and is exceeding the parking requirements by 35%.

Mr. Holloway discussed the parking and the fact that Mr. Riddle is proposing more parking than what is required and there is an excess of seven spaces. He stated the striping on First Avenue would need to be a discussion with Tom Wooten. The conditions on a Conditional Zoning District application must be agreed to by both the applicant and the Board.

There were no further questions for the applicant.

Chair opened up for public comment.

Jo Ann Kay, 336 First Avenue West, stated she has been attending these meetings all along. This development went from 12 units, to 8 units, then it went to 10 and now it is going to 11. She is not sure how in working with the neighborhood or working hand-in-hand with the neighborhood aligns with going back to almost square one. They have two major problems; one is street parking and the other was the garbage corrals. She doesn't know how this can get any better with a 10% increase or in her mind an increase from 8 to 11 from the original plans.

Richard Hill, 403 First Avenue West stated he actually sent a letter but that has not been read. Chair started he was planning on reading that next. Mr. Hill stated he echoed Ms. Kay's concerns. Their concerns were initially parking as well as the congestion and of course the roll outs. As a resident of Hendersonville, he has two roll outs. One for trash and one for recycling. If they allow what is approved now, which is 10 units that would be 20 rollouts. Now they are asking for 22 roll outs in a small corral. They will be rolled out every week. He asks that they consider a dumpster. He talked about the parking and the units having more than one car. They will spill out into the street and First Avenue is already a speedway at this point. He thinks adding striping on the street would be reasonable.

Chair read the public comment from Richard Hill into the record.

Mr. Hanley stated with the extra unit being smaller it would more than likely attract single people. This is a plus to him.

Chair asked Mr. Riddle if the 768 sq. ft. units are single bedroom. Mr. Riddle stated two bedroom and two baths. Mr. Hanley stated it could be a den or office or whatever.

Mr. Riddle stated to Ms. Peacocks point and Mr. Hill, he would be willing to have a condition that they have a dumpster because it is the most efficient way to handle the trash.

Ms. Peacock stated she thinks this is the type of units they are looking for in town. If we want a vibrant downtown, they have to have the density. The new parking garage will be close by.

Mr. Brown discussed having a walkable downtown.

Edward King, 105 Fleming and 109 Fleming Street stated he is opposed to any of the official parking because he has been involved in wrecks with people and children. His youngest brother when he was 18, about 20 years ago cost them \$15,000 because of a wreck involving a bicycle. It was because of someone parking at the church and they came out and wasn't looking and he was on a bike. Ten units is really too much for that small of an area. He loves the design, it is a good design and he thinks he should be satisfied with 10 units; 8 units would be better. He currently owns three cars, and this is just not right for this location to go for more than 10.

Chair closed the public comment for the meeting.

Mr. Hanley stated 20 years ago a kid got hit on a bike but that was 20 years ago. There are more cars, more traffic more aggravation. It is downtown and the density is higher. We need residences closer in town so people can walk.

Mr. Johnson had concerns about the applicant going from 8 to 10 to now 11 units.

Mr. Holloway stated he does understand the issues that have been raised but the application before you is for 11 units. He has been approved for 10 units. If he were to come back with more units, they would review that application. He understands the concerns but to a degree, and he doesn't mean to be disrespectful, but it is irrelevant. The request in front of you is for 11 units. You can refuse to approve that, or you can recommend that it go on. If he were to come back for additional units, it would be again, that same process. He doesn't want to lessen that, but the 10 units is the approved unit count and the 11 units is a request. If he were to request additional units or scrap this project and come back with something completely different the same process would apply. At each of those times you would have the vote authority to turn it down or not. Whether a future project could change on this particular site is not particularly pertinent to whether or not you think 11 units is appropriate for this site or not.

Chair stated if 11 units were approved and there was a request for an additional one that would be less than 10% so that could be approved by staff. Mr. Holloway state that is true, but they have an awareness of this project and the issues and you can include that any future unit changes under 10% or not would need to be reviewed by this Board and City Council.

Mr. Hanley stated he has more than enough parking and is not increasing the footprint so what is the problem.

Chair stated he does appreciate Mr. Riddle and the work he has done.

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 from CMU CZD, Central Mixed Use Conditional Zoning District to CMU Central Mixed Use Conditional Zoning District, based on the site plan submitted by the applicant and subject to the limitations and conditions stipulated on the List of Uses and Conditions, 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: 1. The additional unit will allow for more housing options close to downtown. 2. The proposed development is compatible with the area. 3. The development is in the public interest because it is close to downtown. 4. The site has the needed infrastructure to accommodate the additional unit. 5. The developer work with staff to solve the solid waste issues. Mr. Johnson seconded the motion. The vote was 4 in favor and 1 opposed to the motion. Mr. Brown opposed the motion. Motion passed.

VI Other Business. Mr. Manley gave an update on the Dark Sky Committee. He explained what the Committee has looked at and what the next steps would be. They decided to add another meeting of the Committee.

VII Adjournment – The meeting was adjourned at 6:31 pm.