

**Minutes of the Planning Board
Regular Meeting - Electronic
July 12, 2021**

Members Present: Jim Robertson, Chair, Jon Blatt (Vice-Chair), Neil Brown, Robert Hogan, Peter Hanley, Bob Johnson, Candi Guffey, Tamara Peacock, Hunter Jones

Members Absent:

Staff Present: Tyler Morrow, Planner II, 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 4:00 pm. A quorum was established.***
- II Approval of Agenda. Chair stated there has been a change to the agenda. The Board will hear the site plan review application before the light manufacturing presentation. *Mr. Hanley moved for the revised agenda to be approved. The motion was seconded by Mr. Hogan and passed unanimously.***
- III Approval of Minutes for the meeting of June 14, 2021. *Mr. Hanley moved to approve the Planning Board minutes of the meeting of June 14, 2021. The motion was seconded by Mr. Hogan and passed unanimously.***
- IV Old Business - None**
- V(A) Site Plan and Plat Review – Application for a site plan review and major subdivision from David Day and LCV Ventures LLC for the development of nine residential units on a 4.77-acre tract located within the city limits. The applicant is requesting to develop the subject property as a minor PRD, Planned Residential Development on PIN 9568-72-1630 and zoned R-15, Medium Density Residential District. (File #P21-23-SPR). Mr. Morrow gave the following background:**

Mr. Morrow stated this is a site plan review from David Day. The project consists of nine condominium dwelling units which triggers site plan review and major subdivision review by the Planning Board. This is an objective review of the site plan to ensure that it meets the zoning and subdivision ordinance. Conditions cannot be placed on the project unless it is a condition that would ensure compliance with the ordinances.

Mr. Morrow stated the minor PRD option is based on units per acre density rather than lot square footage requirements. The developer must adhere to the requirements of the PRD district but will maintain their underlying zoning district.

The parcel is currently a vacant wooded lot. A significant portion of this property is located within the floodplain or floodway. The applicant is proposing eight duplex units and one single unit. If the preliminary plan is approved by the Planning Board, then the applicant will be required to submit a final site plan to staff. Once staff approves the final site plan the applicant can obtain their zoning permit and they can begin construction.

Existing photos of the site were shown and explained to the Board. Parcels to the north, west and south are zoned R-15, Medium Density Residential and contain residential uses. Parcels to the east are zoned R-20, Low Density Residential, PRD, Planned Residential Development and PCD, Planned Commercial

Development. Most of this area is vacant property due to it being within the floodplain/floodway. The Planned Commercial Development zoned part was never developed.

The subject property is designated as Medium Intensity Neighborhood and Natural Resource/Agricultural on the 2030 Comprehensive Plan's Future Land Use Map. The goals of the Medium Intensity neighborhood are 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 goals of the Natural Resource Agricultural areas are 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.

This area is classified as a Preservation Enhancement Area. A map was shown of the Floodway, 100-year Floodplain and the 500-year Floodplain. Mr. Morrow stated a lot of the property has floodplain on it. The applicant is not proposing any building in the floodplain area.

A site plan was shown of the project. There will be two entry points into the site. Each unit will have two parking spaces. A stormwater retention system is proposed for the site, which is required for projects that are disturbing over an acre. The applicant proposes the removal of 18 trees over 12" in diameter and six trees over 12" in diameter will be preserved. Most of the floodplain/floodway area will remain vegetated.

The developer is reserving a 60-foot sewer/greenway easement at the rear of the property for future greenway/sewer expansion.

The proposed density is 1.88 units per acre. The allowable density is 3.75 units per acre.

Mr. Morrow read the zoning ordinance standards for review into the record:

7-3-3.4 Standards for Review. An application for preliminary site plan approval shall not be approved unless the Planning Board determines that the application and final site plan demonstrate compliance with this ordinance, including the provisions of Section 7-11 below, and other applicable regulations. The Planning Board may impose such reasonable conditions on an approval as will ensure such compliance with this ordinance.

Mr. Morrow stated the developer is here to answer any questions.

Chair asked if there were any questions for staff.

Mr. Hanley asked if there were any plans for the greenway. Mr. Morrow stated yes, there is a plan for the greenway, but no funds have been set aside for it.

Chair asked by right how many units could be built here. Mr. Morrow stated one single-family dwelling unit per 15,000 square feet. He did not know what that math comes out to for four acres. Chair stated roughly nine. Mr. Brown stated that comes out to about 10 or 11 units. Mr. Blatt stated that is if it were single family homes.

There were no further questions for staff.

Michael Lovoy, Advantage Civil Engineering stated this project is low in density as far as what the property will allow. They plan to stay on top of the hill and stay out of the floodplain. It is a simple straight-forward

project. They have worked with NCDOT for the two entrances, and they have also worked with the city on the site plan.

Mr. Hanley asked if NCDOT had any issues with the line of sight. Mr. Lovoy stated they had no issues. Ms. Guffey asked about the encroachment issue at 1034 Kanuga Road, if that has been resolved. Mr. Lovoy stated they are working with the property owners and are working to let them continue to use the drive as access.

Chair stated he would open up the public comment time and wanted the neighbors' concerns to be heard however, this is a site plan review, and the Planning Board is reviewing this for compliance. This is a development by right and if the site plan is in compliance, the Planning Board will most likely approve, they really don't have any other choice.

Chair opened the public comment time and asked that anyone attending come forward to the podium and state your name and address for the record.

Pete Davis stated he lives further down Kanuga Road and has lived there for 25 years. He thought the profile for this land was just ½ an acre of buildable property. The area already floods. There are traffic problems morning and night. Traffic gets jammed on Erkwood and Kanuga. The homes will have no back yard and no front yard. It is too dense. The property is reasonable for one single family or one duplex, but it is too dense for what is proposed.

Donna Dillinger, 312 Huff Street stated she has lived here 12 or 13 years and she has watched the area flood that whole time. It always floods there. This is a wonderful area for hawks, deer and other animals. No one should build in a flood zone. There is no logic to it. When the City approved Publix, it caused the poor German restaurant to get swamped with water. When Ingles was built, they were swamped with more water. She has been stranded during downpours at Ingles. Don't build in a flood zone. Designate the land for the environment. It is ignorant to build in a flood zone. She assumes they will build up high and this will cause more run off for her area. She is not happy about this. It is an encroachment on her sanity, it is ludicrous and insulting and she is not happy.

Carolyn Rutecki, 941 Kanuga Road stated she submitted some information to the Planning Department. Her biggest concern is when she met with planners concerning the widening of Kanuga Road they had proposed a turn lane. She is afraid this development will trigger the proposal of another turn lane. This development is too close to the road and they are not really building on 4.77 acres. They are building on half an acre and that is too dense for this area.

Andrew Perry, 1038 and 1040 Kanuga Road stated the creek gets up to six feet high at times and that happened five times last year. Flooding is an issue here. He received a plan in the mail with only eight units on the property. This is too many units. He is concerned about having two-story buildings right in front of where he lives. The place is grown up with kudzu and they are building right on the road. This causes great concern. Lighting is also an issue and he would like the developer to address whether the lights will shine down. He is concerned about the height of the buildings and the color of the buildings. If the buildings are white that can cause a glare onto his property.

Randy Daniels, 1034 Kanuga Road stated he owns property in front of this parcel. He asked about the retaining wall that was to be built and had concerns about how the property drops off at least 50 feet to the street. He wanted to know how tall the retaining wall would be. He stated the property does not appear to be 4.77 because there is only about .75 acres that could be built on. They could possibly get two or three single-family homes on the lot. There is only about 20 feet from the edge of the building to his property. He stated the Planning Board members would not like having someone looking in their back door either. This is not good for his property value as there will be cars parked 20 feet away from his home. He pointed

out the three condos built across the street and stated they were more in line with the community. Building nine units on this small of an area is like building what his dad called "stack shacks". He hasn't seen what the homes will look like, but the property is just not large enough in the front for nine units. His property value will drop considerably. He wanted to know from the developer how high the retaining wall would be. There are a lot of unanswered questions and he would like to speak with the developer after the meeting to get some more answers.

No one else in attendance spoke.

Zoom: Ken Fitch, 1046 Patton Street spoke about infill development and how previous staff and the previous Chair of the Planning Board had concerns about it. He stated anyone that has traveled down this area knows the character of this neighborhood and there needs to be special attention to protecting the trees in this corridor. Some of the homes in the area are on the National Register of Historic Places and this needs to be considered. This is a questionable enhancement for this area. Residents of this area have a solidarity and integrity and they need to be considered. The goal for the Comp Plan is to maintain and enhance existing neighborhoods and this project does not do that.

No one else spoke via zoom.

Chair read the public comments into the record. The comments were from: Janet Sellers, Colorado, Jim Kirkpatrick, Flat Rock, Jennifer Clary, 1041 Kanuga Road, Samantha Barnes, Kanuga Road, Judith Sheehean, 1034 Kanuga Road and David and Carolyn Rutecki, 941 Kanuga Road.

Chair asked if anyone else attending had any comments.

Barbara Perry, 1038 Kanuga Road stated her biggest concern is her invasion of privacy and if there is anything that the Planning Board can do to protect the residents, she would really appreciate it. Lighting is also a concern. The lights will be shining into her windows at night. Those two buildings need to be taken away and that would make the project less offensive. This will affect the neighbors greatly. If approved she would like to have contact with the Planning Board and the developer about any issues that may arise. She asked about the Planning Board postponing their decision until they can talk with the developer. She talked about the two buildings not being on the plan that she received with the letter. It doesn't specifically state if the trees in the wooded area will be staying or going.

Chair closed the public comment.

Ms. Peacock asked staff to explain the process after the site plan is approved. Mr. Morrow stated once the preliminary site plan is reviewed and approved, the developer will come back with a final site plan for staff approval. The final site plan is more detailed, and all departments will review and sign off for their department before it can proceed to obtaining a zoning permit and starting construction.

Ms. Peacock stated they are not building in the floodplain. Mr. Morrow stated that is correct, there is no building proposed in the floodplain. They could build in the floodplain but then that would have to be reviewed by the City's Floodplain Administrator. It would be required to be built two feet above the Base Flood Elevation. Technically the entire site is buildable. They would have to meet all the flood regulations and permitting. The allowable units could be as much as 17 units and still not require a rezoning. There are building setback lines, but they are allowed more density than what they have proposed.

Mr. Blatt asked about the landscape buffer that would be required. Mr. Morrow stated for residential only one tree and two shrubs are required in the vehicular use area. This is not a conditional rezoning, so it did not go before the Tree Board.

Mr. Blatt stated they would not be allowed to build in the floodway. Mr. Morrow stated they could build in the floodway, but they would need approval from FEMA. Mr. Blatt asked about building no more than 10% in the floodplain. Mr. Morrow stated he did not know about that requirement, that would be a question for the Floodplain Administrator. Mr. Morrow stated they can build in the 500-year floodplain.

Mr. Blatt asked about there being eight duplexes on the first site plan. Mr. Morrow stated when they added the ninth building, that triggered the site plan review and review from the Planning Board. The eight units would not have been brought before the Planning Board.

Mr. Blatt stated the lighting ordinance would only apply to commercial and not residential. Matt Manley, Planning Manager stated they are still working on the lighting ordinance and he plans to give an update at the end of the meeting today.

Mr. Blatt asked if this project met all the public notice requirements. Mr. Morrow stated this project met all legal requirements. They often receive revisions after the fact, but the letters were mailed out 10 to 25 days before the meeting and the site was posted. A public notice was also in the newspaper.

Chair talked about the widening of Kanaga Road and how that was listed as a project pushed to 2040 or further. Mr. Manley stated there is a 25-foot right-of-way dedication and easement along the front of the property. This is for a utility easement.

Mr. Brown asked about meeting the public notice requirements. Lew Holloway, Community Development Director explained the site plan review process and what was required as far as the notifications for the meeting.

Ms. Peacock asked about the trees on the southern side of the buildings and how the buildings sit on top of the trees. Mr. Morrow stated the trees that are less than 12 inches in diameter are not shown on the tree survey. They are not disturbing the whole bottom half of the property.

Mr. Brown asked the developer to speak on the light pollution. Mr. Lovoy stated as far as the lighting is concerned, they do not have any plans for lighting, but they will keep the lighting at a minimum. Buncombe County has a great lighting ordinance and they normally go by their ordinance. They will protect the neighbors. They are looking at the property and know what is going on in the area and have taken that into account. The retaining wall will be seven to eight feet in height, and it is there to protect the units. It is a good seven to eight feet from the Base Flood Elevation and will not cause any flooding. The stormwater will drain from Kanuga onto the site and into the floodplain area and into the creek. This property is less than a ½ mile from town and is perfect for urban infill. They had issues with the setback requirements for the eight units, so they changed the plan and added one small unit to the plan. This is less than a quarter mile from a Shell station. He agrees that it is a beautiful lot, and he is surprised it wasn't scooped up before now, but it is close to town and is an appropriate location for these units. He will use hardie plank siding and he will be sensitive to the neighbors. He is willing to meet with them after the meeting or anytime to discuss their concerns. He is willing to work with them and move things around. He discussed the deck from an adjacent property encroaching on the property and stated they are willing to work with this property owner and even work together to install a privacy fence. NCDOT widening is not a concern and Mr. Owenby is good with everything they have proposed for the two entrances.

Ms. Guffey asked if the lower buildings would use the lower drive. Mr. Lovoy stated yes only those two units will use the lower drive.

Mr. Lovoy stated they could develop the property all the way out, but they are trying to keep the area pristine. The sewer system will be the only disturbance in the flood area.

Chair asked staff if the site plan met the requirements for parking. Mr. Morrow stated yes. Mr. Blatt stated it does meet the requirements of the ordinance. They are not asking for any variances and legally he does not see how they cannot approve this.

Mr. Hanley moved the Planning Board grant site plan approval, based on the requirements of the City of Hendersonville Zoning Ordinance (with primary consideration of sections 5-14 Planned Residential Development and 7-3-3 Review of Preliminary Site Plans) and City of Hendersonville Subdivision Ordinance (with primary consideration of section 2.04 h Major Subdivision), for Kanuga Trails because it is within their right. Mr. Hogan seconded the motion which passed seven in favor and two opposed.

Mr. Morrow stated they will need to state their reasoning for the record for their opposition to not meeting the ordinance.

Mr. Brown stated he believes there are far too many unanswered questions about where the structures will be and what impact they will have on the floodplain and therefore it is an incomplete proposal.

Ms. Guffey stated she echoes what Mr. Brown said and with the addition of the lower buildings it changes the density in a manner that seems uncomfortable with the compatibility.

Mr. Morrow stated this is within the allowable density of the PRD and unlike a rezoning, compatibility is something that is not considered in this review.

V(B) Adding Light Manufacturing to Districts Presentation and Discussion.

Jamie Carpenter, Downtown Manager stated this is for discussion only and no motion is required. She wanted to get feedback on this before it moves forward.

Ms. Carpenter stated there has been some interest in using some of the larger buildings downtown for light industrial uses and the Downtown Advisory Board has discussed this. Currently the C-1 district does not allow any manufacturing or production. There are several large properties that have large square footage and historically had manufacturing uses at one time that would not be permitted today.

Ms. Carpenter gave the current definition of light manufacturing in the zoning ordinance which is the assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed 25% of the floor area of all buildings on the property. She explained the economic development strategies in the Downtown workplan. She explained the primary economic strategy is that downtown has a business mix that supports the needs of locals while providing tourists with an authentic experience. The goal of this strategy is to reduce downtown vacancy with active store fronts and infill housing and office space. The updated zoning would allow for business recruitment and entrepreneurship in a number of niche markets that support the overall economic vitality of Downtown Hendersonville.

Ms. Carpenter stated the recommended update would be to permit light manufacturing in all districts that allow microbreweries. It would be permitted in the C-1, C-2, C-3, CMU, GHMU and HMU with special requirements and would be permitted in the PCDCZD, I-1 and PMDCZD districts.

The special requirements based on microbreweries that would apply are:

- a) Shall include one or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other uses incidental to the brewery and open and accessible to the public
- b) Storage of materials used in the manufacturing, processing and for distribution shall be located entirely within the building.
- c) Shall be designed such that all newly constructed loading and unloading facilities are internal to the site, in service alleys or at the back of the building.

A possible additional special requirement for C-1 and CMU would be to limit industries to better fit the economic goals for downtown.

Ms. Carpenter stated the Downtown Advisory Board liked the idea as long as there is a retail component behind the change. She stated there is no commitment today from the Board, she just wanted to get their feedback on it.

Mr. Blatt stated it was a great idea, but he was concerned about outdoor storage and the 25% of the floor area.

Mr. Hanley was concerned about the parking problem downtown and how this may add to it until the parking deck gets constructed.

Mr. Holloway stated the C-1 district does not have parking requirements except for residential uses. He stated this is to help fill vacant square footage downtown. Many if not all microbreweries opened in buildings that were deteriorating.

Ms. Carpenter stated there is a soap business going in on Main Street that would like to be able to make their soaps at this location. Adding this to the ordinance will help businesses such as this be able to manufacture their product in this location and add to downtown without having a huge impact on neighboring businesses.

Mr. Brown stated he loved this idea.

Ms. Carpenter stated if the Planning Board is interested, they can meet back in a month or two.

Ms. Guffey asked about the specifics and ironing those out and what the necessary details should be. Mr. Holloway stated a way to approach it would be having a narrower window for microbreweries and a wider window for light manufacturing. It could be an allowed use with special requirements and could be staff approved. This could be done as a special use and would then need approval by the Board of Adjustment. Staff thinks that the special requirements and having it staff approved would be best.

Chair was concerned about downtown and the 25% for outdoor storage. Ms. Carpenter stated they may want to permit that requirement outside of the C-1 district.

Mr. Brown discussed industrial kitchens and allowing for those.

VI Other Business. Mr. Manley gave an update concerning the lighting ordinance. No action was taken.

VII Adjournment – *The meeting was adjourned at 6:01 pm.*