

**Minutes of the Planning Board
Regular Meeting - Electronic
November 14, 2022**

Members Present: Neil Brown, Frederick Nace, Jim Robertson (Chair), Peter Hanley, Laura Flores, Andrea Martin, Stuart Glassman, Jon Blatt, (Vice-Chair), Tamara Peacock

Members Absent: Barbara Cromar

Staff Present: Matthew Manley, Planning Manager, Lew Holloway, Community Development Director and Tyler Morrow, Planner, Alexandra Hunt, Planner

- 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 to approve the agenda. The motion was seconded by Mr. Nace and passed unanimously.*
- III** **Approval of Minutes for the meeting of October 10, 2022.** *Mr. Brown moved to approve the Planning Board minutes of the meeting of October 10, 2022. The motion was seconded by Mr. Glassman and passed unanimously.*
- IV** **Old Business**
- V** **New Business**
- V(A)** **Administrative Review – Preliminary Site Plan and Preliminary Plat – Townes at Martha Kate (A22-76-SPR), (A22-89-MAJ SUB).** Mr. Morrow gave the following background:

The city has received an application for preliminary site plan review and major subdivision review. These are two separate applications, but he has combined them into one presentation. However, the Planning Board will make two separate motions.

Mr. Morrow discussed the process for the Board concerning Administrative Review applications. He stated the ordinance defines the Administrative Review as decisions made in the implementation, administration, or enforcement of the Zoning and Subdivision Ordinances that involve the determination of facts and the application of objective standards set forth in the Zoning and Subdivision Ordinances. The Planning Board's administrative review of this project is to ensure that the preliminary site plan and plat meet all applicable requirements for projects at this stage of the process. If the project meets all the applicable requirements, then the Planning Board must grant approval. There are three outcomes the Planning Board can come to: 1. Approve the preliminary site plan and plat as submitted. 2. Approval of the site plan and preliminary plat with conditions (this option is what staff has laid out in the motion). 3. The Planning Board can deny the application but must provide reasoning for the denial and state specifically which section of the ordinances are not being met.

Minor Planned Residential Developments (PRD) that consist of nine units or more must be reviewed by the Planning Board. Unlike most developments the Planning Board reviews that require a rezoning, a minor PRD is a by right permitted use in R-20 and does not require a rezoning.

Mr. Morrow explained the section on minor PRD's along with the preliminary plat standards or review and the major subdivision. This is included in the presentation and the staff report.

A project background was given and is included in the staff report.

The current land use and zoning was included in the presentation and the staff report.

Site photos of the property were shown and are included in the presentation and staff report.

The preliminary site plan was shown and is included in the staff report.

The tree survey is provided in the staff report.

The applicant is proposing 26 detached town home units. Units 1-10 will be approximately 884 sq. ft. Units 11-26 will be approximately 1,485 sq. ft. The proposed height of the units will be 30 feet. The density proposed is 1.96 units per acre. By right in the R-20 zoning district they are allowed 2.5 units per acre.

According to the 2007 FEMA maps the property contains floodway, 100-year floodplain and 500-year floodplain. There are also wetlands on the property and Mr. Morrow pointed that section out on the site plan. The developer is proposing to fill 0.45 acres of the floodplain and according to the ordinance they are allowed to fill 0.70 acres of the floodplain. No structures are proposed to be placed in the fill area or floodplain. The development will be required to have a stormwater control measure. This area has been reviewed by the Stormwater Administrator and the Floodplain Administrator and was approved.

Parking requirements are being met with a garage and a parking area in the driveway. Sidewalks are being provided on all internal streets.

They are asking for city water and sewer and in order to get sewer they must go through the annexation process.

The development is required to have a 12x40 loading/unloading space. Potentially in front of the cluster mailbox. This requirement has been made a condition of approval in the motion. Final design can be addressed during final site plan review.

Sidewalks are required along the property frontage to the southwest on North Main Street (towards the bridge). The applicant advised that sidewalks in this area cannot be accomplished due to existing NCDOT guardrails in this area. City staff prefers that sidewalks be constructed in this area and could coordinate with NCDOT about the reconfiguration of the guardrail (in front of the sidewalk). However, the applicant has the ability to request a fee-in-lieu of the sidewalk or agree to build the required length of sidewalk off-site at a location determined by the City Manager. The fee-in-lieu request must be approved by the City Manager. The details for sidewalks need not be finalized at this stage and can be worked through with staff during the Final Site Plan review. This requirement has been made a condition of approval in the motion.

The Development Review Committee reviewed the site plan and had no other comments.

The preliminary plat was shown and is included in the staff report. The Development Review Committee also reviewed this plat, and no other department had any comments on the plat.

Preliminary plat comments were made and are included in the staff report.

On October 11, 2022 the Board of Adjustment granted this development a variance from the requirement that dwellings and accessory structures abutting a street intended to serve more than 32 dwelling units or intended to be dedicated as a public street must be set back a minimum of 35 feet from the center line of such street. Due to the floodplain and topographic constraints on the site, the Board of Adjustment granted this variance which allowed a 27-foot setback from the center line for units 1-10 as shown on the preliminary site plan.

Preliminary Site Plan: Based on the review by staff, the submitted preliminary site plan for the Townes at Martha Kate Project meets the Zoning Ordinance standards established for Minor Planned Residential Developments (Section 5-14) and Preliminary Site Plan Review (Section 7-3-3.2) with the conditions included in the motion.

Preliminary Plat: Based on the review by staff, the submitted preliminary plat for the Townes at Martha Kate Project meets the Subdivision Ordinance standards established for Major Subdivisions (Section 2.04 H) with the condition included in the motion.

Chair asked if there were any questions for staff.

Mr. Blatt stated he was confused on why this went to the Board of Adjustment first. Does this Board have the authority to grant setback variances? Mr. Morrow stated this Board cannot grant a variance from the ordinance. Mr. Blatt asked if that has ever occurred in the past. Mr. Morrow stated no. The Planning Board could place conditions to make the site plan compliant, but he does not believe they would have the ability to relax requirements.

Chair asked Mr. Morrow to give them an update on this process. Mr. Morrow explained legislative and administrative reviews and the difference in both. He stated staff will review the final site plan and staff will make sure all requirements and any conditions are met.

Chair asked if there had been any feedback to the city from the residents. Mr. Morrow stated staff has not received any pre-submitted comments for this project. They do send out letters for the subdivision and the site plan review and the site is posted with signs concerning both. This is done according to the NC General Statutes and the local code.

Chair stated normally this Board hears what the Tree Board had to say about projects of this nature, and he asked if the Tree Board was involved. He stated there are some majestic older trees on the property. Mr. Morrow stated no, the Tree Board did not review this project. Their role is not specified for this type of project.

There were no further questions for staff.

Chair asked if the developer had any comments for the Board. Mr. Moore had no comments. Chair asked if anyone had any questions for the developer. Chair asked if any of the big oak trees would be saved. Mr. Moore stated that has not been determined yet and won't be until they get everything laid out, but they will try to save as many trees as possible.

Chair stated normally they do not take public input on this type of project but if anyone wanted to speak, they can. However, this is not a legislative type of review.

Justin Mullen, Oklawaha Drive stated he is not concerned about the presence of the apartments, he feels it will be good to have more neighbors. His concern was the intersection of Queen Street and North Main Street and the blind spot there. People come in and out of town doing over the 35-mph speed limit and with increased density in this area it might cause some accidents. He wanted to make the Board aware of

that and maybe consider a four-way stop there. Chair stated there is a proposed crosswalk there. Mr. Morrow stated anything proposed there would have to be approved by NCDOT. Lew Holloway, Community Development Director stated any improvement in the roadway would have to be approved by NCDOT. He knows they had concerns about a crosswalk at that location, but staff has only had preliminary conversations about it because of the sight distance issues. Mr. Glassman asked if they pass this do they pass it with recommendations. Mr. Holloway stated there is no legal condition as to the crosswalk. The standard of the Zoning Ordinance is that the sidewalk has to be installed, the Planning Board can give staff their thoughts or feedback, but the legal requirement is the sidewalk and there is a fee in lieu process for them as well. They can use the Board's feedback in determining how to proceed in the fee in lieu of assessment. It cannot be a condition of the approval.

Mr. Brown had concerns about the cluster mailboxes and asked staff if they had concerns about cars parking there illegally and causing accidents. Mr. Morrow stated potentially that is a concern. The way the ordinance is written they currently meet the requirements as far as providing that pedestrian infrastructure. But from a planning and more practical standpoint he thinks providing more parking spaces in that area would be a potential good thing. Staff will continue to try and advocate for that.

Ken Fitch 1046 Patton Street was concerned about the location of this project being located off Queen Street and in a floodplain. How will this project function in more severe flood events? He was concerned about the fill also. He was also concerned about the mature trees and the replacement planting of any removal of those. What is the plan for the parcel across the street? He was concerned about the streets and the one-lane road. Parking is also an issue. He discussed a private trail and the greenway. Traffic is a concern on North Main Street already.

Lynne Williams, Chadwick Avenue stated she understands it is about compliance, but her concern is the building in the 100-year floodplain, and they cannot build in it and also the filling of the wetlands.

Mr. Morrow stated the fill to the floodplain is allowed and they are filling less than what they are allowed to fill. He also stated there is no requirement for street trees or landscaping. If they do cluster mailbox parking over six spaces, then landscaping would be required.

Ms. Peacock moved the Planning Board to grant preliminary 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) for the Townes at Martha Kate project subject to the following conditions: Development shall provide a 12' x 40' loading/unloading space for the development at a location approved by staff. Sidewalks or fee-in-lieu of sidewalks shall be provided along the property frontage to the southwest of Queen Street on North Main Street. Mr. Hanley seconded the motion which passed unanimously.

Mr. Nace moved the Planning Board grant preliminary plat approval based on the requirements of the City of Hendersonville Subdivision Ordinance (with primary consideration of section 2.04 h Major Subdivision), for the Townes at Martha Kate project subject to the following condition: The of configuration of utility easements is subject to change. Final configuration will be reviewed and approved by City staff prior to recordation of the final plat. Mr. Hanley seconded the motion which passed unanimously.

VI Other Business

- VI(A) Comprehensive Plan Update.** Mr. Holloway stated Council did approve the recommendation for Bolton & Menk. They have reached out to the lead designer on the project, the project manager to initiate the contract negotiation. They will be working on that over the next 15 to 20 days. Council will approve a final

contract. They are looking forward to starting this process and he will keep the Planning Board updated with the community meeting dates and the process.

Chair stated going back to Old Business, they had a discussion on allowing virtual meetings for committees at the last meeting. Mr. Manley stated City Council passed an ordinance at their last meeting. Chapter 2 Article V was on the consent agenda, and they really did not discuss it. With the passing of that ordinance by City Council, it put in the Code or Ordinances the ability and the structure for how electronic or virtual meetings can be held. The City Attorney sent her thoughts on how the Planning Board can put this in their Rules of Procedure to outline how these virtual meetings can be conducted. It can be outlined in the Rules of Procedure or the Code of Ordinances can be referenced. Mr. Blatt stated in Section IV of the Rules of Procedure it states a majority of members shall constitute a quorum. He thinks that means a majority of the ten members regardless if eight members signed at that time. It is not members that are at the meeting, it is always going to be ten. Whether there are really ten members or not. Mr. Manley stated it is his understanding that it is appointed members and if there are vacancies, if there are ten slots and only seven appointed, the majority is four. It is appointed members.

Mr. Glassman made a motion to amend the Rules of Procedure by referencing Chapter 2 Article V of the City of Hendersonville Code or Ordinances that pertains to conducting virtual meetings for subcommittees. Mr. Hanley seconded the motion which passed unanimously.

Craig Franks, 1033 Justice Street stated him, and his sister Andrea Straus are here for a proposed staff adjustment to the R-15 Medium Density Residential description of the types of housing that can be included in that district. Currently it reads single-family residence or dual family residence. They own a property at 1033 Justice Street, it is a tri-plex and they were in the process of selling it and the prospective buyer was unable to purchase it because as their lender drilled down on the zoning it only read for single residence and dual residence. They are stuck with a property that they essentially cannot sell until that language is included. There is more detail to that in terms of lot size but if that was being proposed in this meeting, they wanted to voice their support for that. They believe the inclusion of multi-family in this zoning district would also support the city's initiative for a higher density walkable downtown. The two tenants in the tri-plex currently don't have cars but are able to enjoy downtown because they can walk to amenities. Current zoning would require that this building be rebuilt as a single-family residence were it to burn or otherwise be destroyed. This would decrease housing density and require two city residents to seek living arrangements elsewhere. For these reasons they are in favor of the text change to include multi-family. Mr. Blatt asked if he was not grandfathered in now. Mr. Manley stated the property is nonconforming and staff discussed this at length. Mr. Holloway stated the issue was that the lender was issuing on a three-bedroom home and the income associated with it and that was how they were making those numbers work and a three-unit complex, a tri-plex could not be rebuilt if it were damaged beyond 50% under the current zoning code. So, it is legally established, we are not going to go in there and make it go away but if it burns down, it can't be rebuilt under the current zoning. So, it could only be done as a duplex which apparently was an issue for the lender. Mr. Manley stated it could not be duplex either because it doesn't meet the minimum lot size requirement for a duplex. Mr. Manley stated some of the text amendments for multi-family were set to come before the Board at this meeting, but staff pulled that from the agenda to have further discussion and look at the design standards. Staff felt it needed further discussion. He explained rezoning this particular property that would not work either. The only thing is to either take the entire block and rezone it or make significant changes to the R-15 zoning district. He discussed the MIC district and multi-family not being permitted in that district. This property may have the potential of being rezoned to MIC if the multi-family text amendment in the MIC district were approved.

Mr. Manley discussed shifting the Planning Board meetings from Mondays to Thursdays. Right now it is the second Monday of each month. How that second Monday relates to City Council is inconsistent. The idea of moving it to a Thursday at the same time of 4:00 pm is the proposal. It could be some other time or day. The idea behind that is that it will always follow City Council. City Council meets on the first

Thursday of each month and Planning Board would meet on the second Thursday of each month. There would be some consistency and it would add some separation. He explained the difficulty with staff with the late meetings and deadlines for other meetings. Adding separation between the meetings and more consistent deadlines while shifting the meeting away from Mondays would be a big benefit to staff. He does not know how that would affect the Board members and wanted to get their opinion before taking it to the City Manager or City Council. The Board members felt this makes sense and were in favor of the change. Mr. Manley felt they could do a Special Called meeting and try out the change to see if it works. They will come back to the Board if they need a motion.

VII Adjournment – *The meeting was adjourned at 5:04 pm.*



Jim Robertson, Chair