

MINUTES
HENDERSONVILLE REGIONAL PLANNING COMMISSION
TUESDAY, APRIL 5, 2016
6:30 P.M. – CITY HALL MEETING ROOM

Chairman Bob Freudenthal called the meeting to order at 6:30 p.m. in the City Hall Meeting Room, 101 Maple Drive North, Hendersonville, TN.

ROLL CALL:

Present: Don Ames, Lori Atchley, Mark Bristol, Kee Bryant-McCormick, Bob Freudenthal, David Jenkins, Charles Lea, Bryant Millsaps, Frank Pinson and Darlene Stringfellow. Also present: Fred D. Rogers, Jr., Planning Director; Will Hager, Senior Planner; Sarah Young, Assistant City Engineer; Shelley Burwell, Fire Inspector; and Georgie Mathis, Administrative Secretary.

PUBLIC HEARINGS:

Public Hearing to hear comments on a request by Lawrence IL Holdings to add Special Personal and Group Care Facilities, including assisted living and senior housing/retirement facility as a permitted use to Indian Lake Village, Phase 1, Area 2.

Public Hearing was closed because it was withdrawn by the applicant.

REQUEST FOR INFORMATION AND ASSISTANCE: None

ADDITIONS TO AGENDA:

Fred Rogers announced amendments to the agenda to include Indian Lake Village, Phase 1, Area 2 – FDP Addition of Uses (Assisted Living Facility & Independent Living Facility) being withdrawn by applicant and Millstone PD, Phase 12 Preliminary Plat being deferred for one month by applicant.

MINUTES:

MOTION BY Millsaps, seconded by Pinson, to approve the Hendersonville Regional Planning Commission Minutes of March 1, 2016. Ames, Bryant-McCormick, Jenkins, Lea, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: None. Abstain: Atchley, Bristol and Freudenthal. Motion carried.

CONSENT AGENDA ITEMS: None

FINAL PLATS: None

PRELIMINARY AND FINAL DEVELOPMENT PLANS:

16-021-001: INDIAN LAKE VILLAGE, PHASE 1, AREA 2 – FDP ADDITION OF USES (ASSISTED LIVING FACILITY & INDEPENDENT LIVING FACILITY):

Indian Lake Village, Phase 1, Area 2 – FDP Addition of Uses (Assisted Living Facility & Independent Living Facility) was withdrawn by the applicant. The applicant requested this item to be placed on the next available work session (April 19) for further discussion with the Planning Commission.

SITE PLANS:

16-035-001: SITE PLAN, ARROWHEAD PARK PARKING LOT: MOTION BY Ames, seconded by Millsaps, to approve Site Plan, Arrowhead Park Parking Lot, with all staff comments as listed below. Ames, Atchley, Bristol, Bryant-McCormick, Freudenthal, Jenkins, Lea, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: None. Motion carried.

STAFF REPORT

As you may have read in the newspaper, the City Parks Department is moving forward with plans to build a park on Drakes Creek Road at the entrance to Knox Doss Middle and Burrus

Elementary Schools. The first phase will include some soccer fields along with parking. The Site Plan for this parking lot is included in your folder for your review and approval.

They will need to add a couple of landscape islands. Otherwise it looks good.

You will receive plans for the concession and storage building once the plans are complete.

STAFF COMMENTS

None

Submitted by Fred Rogers, Director of Planning (April 1, 2016)

SKETCH PLATS: None

PRELIMINARY PLATS:

16-015-001: MILLSTONE PD, PHASE 12 PRELIMINARY PLAT:

Millstone PD, Phase 12 Preliminary Plat was deferred for one month by the applicant.

REZONING REQUEST: None

STAFF APPROVED PROJECTS:

15-028-002: INDIAN LAKE VILLAGE, INETCO – SITE PLAN REVISION: The Hendersonville Regional Planning Commission acknowledged staff approval of Indian Lake Village, INETCO – Site Plan Revision.

16-018-001: WATERVIEW APARTMENT UPGRADES – SITE PLAN REVISION: The Hendersonville Regional Planning Commission acknowledged staff approval of Waterview Apartment Upgrades – Site Plan Revision.

16-019-001: WATERFORD CROSSING, PHASE 3, SECTION 1 – FINAL PLAT

REVISION: The Hendersonville Regional Planning Commission acknowledged staff approval of Waterford Crossing, Phase 3, Section 1 – Final Plat Revision.

16-020-001: WATERFORD CROSSING, PHASE 3, SECTION 2 – FINAL PLAT

REVISION: The Hendersonville Regional Planning Commission acknowledged staff approval of Waterford Crossing, Phase 3, Section 2 – Final Plat Revision.

16-024-001: 209 CAMPUS DRIVE – EXTERIOR COLOR CHANGE – SITE PLAN: The Hendersonville Regional Planning Commission acknowledged staff approval of 209 Campus Drive – Exterior Color Change – Site Plan.

16-022-001: BURGER KING – EXTERIOR MODIFICATIONS – SITE PLAN: The Hendersonville Regional Planning Commission acknowledged staff approval of Burger King – Exterior Color Change – Site Plan.

16-026-001: INDIAN LAKE FOREST SWIM & TENNIS CLUB ADDITION – SITE PLAN: The Hendersonville Regional Planning Commission acknowledged staff approval of Indian Lake Forest Swim & Tennis Club Addition – Site Plan.

OTHER:

MILLSTONE: SAUNDERSVILLE ROAD IMPROVEMENTS

Fred Rogers showed a presentation of a plat and aerial overlays of Saundersville Road and explained the different sections related to Millstone along with the current and proposed improvements for Saundersville Road.

The Planning Commission has been given a report on Millstone: Saundersville Road Improvements which the developer will be required to make to Saundersville Road.

Fred Rogers summarized the report. The first part of the report tells what the subdivision regulations and the Transportation Plan requires – basically improvements to the entire frontage but just their side of the road. The next part of the report tells what the traffic study requires and basically all we will ever need is four lanes up to Innsbrooke. Four lanes will not be needed north of Innsbrooke. If the Jenkins Farm property develops, then they will be required to do a traffic study and it's possible the traffic study would require further improvements to Saundersville Road, then the City could impose some Durham-like fees, for example \$250 a lot plus \$900 a lot which would go toward providing further improvements, maybe even curb and gutter or widening if the traffic study dictates the need. The City would start pursuing some federal funds to make further improvements. Again, if and when warranted.

Lynn Ealey, RESG Representative for the developer for Millstone, noted not being clear on the Phase 1 and Phase 2 improvement requirements as it's phased on the plans right now. It would be hard to speculate if, by the end of 2017, as stated in the proposed conditions of approval is adequate for the development of the community beyond Phase 1. To rope the entire length of the Millstone development into a deadline of 2017 would be a challenge for us. The original traffic study that was accepted by BOMA says the work will be done as the accesses are improved along Saundersville Road. Construction plans were drawn in a way to actually phase it into two lump projects and divide into a complete scope of work that makes good sense for the project not being done by one deadline.

Bryant Millsaps asked if it would be possible, as we go through this next 21 months to the end of 2017, to get a status report on the project, like on a quarterly basis, to keep the Planning Commission informed about the community?

Mr. Ealey thinks this can be satisfied naturally without having to make special provisions in putting a deadline on this work for Phase 1. We're adding that deadline as a condition of approval, we would be obligated to follow these improvement plans with every plat that comes in with frontage along Saundersville Road. As a plat is submitted for Planning Commission approval, that plat is going to have a condition to do the frontage for the next section down, so that will be an update – not only on the frontage of Saundersville Road but every other phase that goes on within Millstone – they all come before the Planning Commission.

Fred Rogers suggested they would be committed to complete the improvements up to Dayflower by the end of 2017, and then decide at a later date as to what the deadline would be from there on north and when a plat is submitted in that area, bring it up for discussion and then try to tie down that date.

Mr. Ealey said there's only one more connection further north and that will naturally be the time to plat those lots and make that connection and complete the rest of the work.

MOTION BY Stringfellow, seconded by Ames, to approve Millstone: Saundersville Road Improvements which the developer will be required to make to Saundersville Road by December, 2017, from SR-386 to Dayflower with the exception of other improvements north of that boundary to be determined at a later date and with Staff Report as listed below. Ames, Atchley, Bristol, Bryant-McCormick, Freudenthal, Jenkins, Lea, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: None. Motion carried.

STAFF REPORT

The purpose of this agenda item is to obtain Planning Commission approval of the improvements which the developer will be required to make to Saundersville Road.

The cross section for Saundersville Road, as it exists today, varies from one end of the road to the other. Adjacent to Millstone, it is mostly a divided two-lane road. A description of this road is attached along with a map.

Section 3-103.5 of the Hendersonville Subdivision Regulations read, in part:

“Whenever a proposed subdivision borders... the route of any street in the Major Thoroughfare Plan, the developer... shall be required to dedicate right-of-way and to construct said street to the standards specified by the Major Thoroughfare Plan and these regulations. If the route borders the proposed subdivision only on one side, the developer shall be required to dedicate and construct only that side....”

The Transportation Plan, as amended January 3, 2013, designates Saundersville Road as a major thoroughfare. As per Table 5-2 Roadway Improvements, this street is to be improved to four lanes. It is to have a median, curb and gutter and a bike trail (in-lieu-of sidewalk). Thus, the developer of Millstone, Real Estate Solutions Group, in partnership with Goodall, is required to improve their side of their frontage on Saundersville Road. Their frontage is Sections 2, 3, 4 and 5 as described in the attachment. These improvements would include adding a lane, median improvements, curb and gutter and bike trail. But, the developer is not required by 3-103.5 as quoted above to improve the opposite side of the street. The developers of the opposite side of the street would be required to make those improvements. But 3-103.5 did not exist at the time the property on the other side was developed. Nevertheless, the City partnered with the developers to construct the existing divided two-lane roadway. I think the intent was to further improve/widen the road when the volume of traffic warranted improvements.

In addition to Section 3-103.5 of the Subdivision Regulations which require improvements specified by the Transportation Plan, there is also Section 3-103.206 which requires improvements specified by the traffic study. The Millstone Traffic Study calculates the actual improvements necessary to accommodate the traffic which will be generated by Millstone.

The Millstone Traffic Study calculated that four lanes would be needed from 386 to Innsbrooke (Sections 1, 2 and 3). This would involve adding one northbound lane and one southbound lane to the existing two-lane cross section of section 3. It would also involve partial widening of Sections 1 and 2. Furthermore, the developer will provide a traffic signal at Innsbrooke if and when warranted. The traffic study did not warrant the need to widen Saundersville Road north of Innsbrooke.

The construction plans for the Saundersville Road improvements were completed and approved in August, 2014 (under the direction of the former Public Works Director). These construction plans specify improvements to Saundersville Road in accordance with the traffic study only and not the Transportation Plan. But other improvements, not required by either, are also to be provided – namely, the repaving of the existing two lanes of Saundersville Road. This will be done in conjunction with the construction of two additional lanes from Tamaras Way to Innsbrooke Avenue. But there would be no curb and gutter for this section up to Innsbrooke and no additional northbound lane and curb and gutter north of Innsbrooke Avenue.

Staff has been working with Goodall and Real Estate Solutions Group to determine timing, surety and other details for the completion of the improvements to Saundersville Road.

Previously approved staff comments from Public Works have been reviewed. A couple of these comments appear to contradict each other:

“Saundersville Road shall be upgraded to a four-lane cross section as determined by the Public Works Director. Improvements are to be made from State Route 386 to Myrtlewood (Innsbrooke).”

“Add a note stating the developer is required to provide engineered infrastructure improvements to Saundersville Road for the Major Thoroughfare Plan requirements.”

And then there is a third Public Works staff comment which states:

“The developer is responsible for presenting to the Planning Commission a proposal for all infrastructure improvements along Saundersville Road.”

So, the purpose of presenting the Saundersville Road Construction Plans to the Planning Commission at this time is to satisfy the above Public Works comment as well as to obtain the Planning Commission’s approval of the associated deviations from the requirements of the Transportation Plan.

The main Transportation Plan requirement being waived is an additional northbound lane from Innsbrooke to Millstone’s north line (Sections 4 and 5; 2,830 feet). Also being waived is the Transportation Plan requirement for curb and gutter from 386 to Millstone’s north line.

In place of these waived improvements the developer will be providing another southbound lane from Tamaras Way to Innsbrooke (Section 3; 1,100 feet). Plus, the two existing lanes from Tamaras Way to Innsbrooke will be repaved in conjunction with the construction of the two new lanes. Goodall has already completed the four-laning of both sides of Section 1. And this is off-site. The result will be a full four-lane roadway from 386 to Innsbrooke.

If four lanes are ever needed north of Innsbrooke, the City would be in a position to require the developer of Jenkins Farm to pay off-site improvement fees like Durham paid. These fees would hopefully not only pay to extend four lanes from Innsbrooke to Jenkins Farm if needed but would also cover curb and gutter and storm sewer all the way to 386. Another funding possibility is federal funds.

The developer shall complete the required improvements to Saundersville Road by the end of 2017.

STAFF COMMENTS

None

Submitted by Fred Rogers, Director of Planning (April 1, 2016)

WORK SESSION: APRIL 19, 2016

Fred Rogers said the Indian Lake Village – the item that was withdrawn – requested a work session with the Planning Commission at the next work session date which would be in two weeks. That meeting would need to be well attended because of the magnitude of the discussion.

David Jenkins said with this particular subject matter the Planning Commission would need to have a detailed agenda or talking points with a game plan of what is going to be presented so the Commission would have a brief period of time to study the request including the plan.

Mr. Rogers noted assuming their request is going to remain the same and that is for Planning Commission approval to add assisted living and an independent living facility which takes up about 54% of the Power Center area so it pretty well negates that plan. So, I'm assuming that's still going to be their request as I have alluded to in the report which was given to the Planning Commission. They have a concept plan prepared by Ragan-Smith – whether or not that will be what they want to show at the work session or whether or not they will have a different version is not known at this time. Staff has a great deal of concern about utilizing that prime location proposed for future retail.

Chairman Freudenthal said there will be a work session in two weeks which is April 19th at 6:30 and Indian Lake Village, Phase 1, Area 2 – FDP Addition of Uses (Assisted Living Facility and Independent Living Facility) will be the item on the agenda. Staff should advise them the Planning Commission needs to see something beforehand.

VACATION RENTALS

Fred Rogers presented an update on vacation rentals. The Planning Commission has not talked about this since inserting it in the new zoning ordinance and it's really coming to a head right now. The BZA was up here last night for 2 hours and 15 minutes; had a room full of angry citizens and applicants for four vacation rentals. The old ordinance did not address vacation rentals. Vacation rentals have been around for a long time but as far as municipalities getting involved and regulating those, that's kind of a new and evolving thing. We had found out there were a number operating in the City because of some complaints so we felt like we needed to have some specific provisions for them but, at that point in time, all we had to go on was the definitions of single-family dwelling and residence. If you look at the definitions of family, dwelling and residence, you would find that a vacation rental would not be a residence and would not meet the definition of a residence because of one person staying there for two days or two weeks, different people staying there every two days to two weeks but that's not their residence. Their residence is elsewhere. Their clothes and all their belongings are elsewhere so it was our position that those homes being used as vacation rentals did not meet the definition of a residence. So the staff looked around and tried to find what other cities are doing. Metro is very lenient, and on the other end of the spectrum, we looked at what Brentwood is doing. It's evolving – there is no case law to go on right now. Metro, even with their very lenient ordinance, is being challenged in court – don't know when that decision will come out, so the

provision adopted would be that if you rent out your home for less than 30 days more than twice a year, you would have to go to the BZA and get a conditional use permit and with any conditional use, you have to show that you meet certain criteria for the granting of that conditional use, namely they would not, in summary, adversely impact surrounding property or cause safety issues. After the ordinance was adopted by the Planning Commission and the Board, we went back online to the vacation rental website and the Airbnb website and got a list of all the ones who were currently advertising vacation rentals and sent them letters, told them this is illegal and either discontinue this operation, rent for more than a month at a time, or see about getting a conditional use. We had one who has already come before the Board of Zoning Appeals with substantial opposition – it was denied and they have not yet appealed. We had four last night. We have two more that will come up at the next meeting and I think that will be about it. Some of the others have changed, they have stopped, I think some of them were not having very good luck renting them out so they have stopped or they're just going to do two a year or they'll start renting them out a month or better at a time. So, I think six or eight is going to be about all we have at this present time but this is new to the BZA, it's new to us, it's new to most all cities and they are really not knowing which way to go on this and they are thinking that we need to amend the ordinance and have more guidance, more specific standards; they are trying to figure out under what terms do we deny one and approve another or is it just based on opposition. For example, last night we had substantial opposition on two and no opposition on the other two, but you can't base it on opposition necessarily, and the two that had the substantial opposition were represented by George Dean, a land use and zoning lawyer in Nashville. The neighbors though are likewise to a lesser degree represented, perhaps, by legal counsel. As was said in the beginning when these provisions were adopted that we'd revisit this after we get an idea of how it's going to shake out, work itself out over a period of time. One staff member is at the APA Conference this week and there's two sessions at the APA Conference on this subject so we hope she is going to bring back some good information and we have had substantial discussion with the City Attorney; he is really going to be put on the spot as to how we move forward on vacation rentals.

Bob Freudenthal said the issue is not isolated to Hendersonville, Sumner County or the State of Tennessee. It is a nationwide trend but there's a lot of it that has not been through the legal process at all.

Fred Rogers said the BZA members are just concerned and trying to understand this – they've talked to some of the aldermen and there may be a request to put this back on the Planning Commission agenda fairly soon and begin to try to figure out whether or not this is the way we want to leave the regulations or whether or not we want to adjust the regulations one way or the other.

Mr. Rogers noted a very detailed staff report for the next BZA meeting in a month could even provide and hopefully summarize all of the evidence and testimony that's been given. There's conflicting testimony and we will obviously be looking for guidance from the City Attorney as to what will be the proper course of action.

ADJOURNMENT:

Motion by Millsaps, seconded by Pinson, to adjourn the Hendersonville Regional Planning Commission Meeting at 7:22 p.m. Ames, Atchley, Bristol, Bryant-McCormick, Freudenthal, Jenkins, Lea, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: None. Motion carried.

LORI ATCHLEY, Secretary

BOB FREUDENTHAL, Chairman

FRED D. ROGERS, JR., Planning Director