

**MINUTES**  
**HENDERSONVILLE REGIONAL PLANNING COMMISSION**  
**TUESDAY, FEBRUARY 1, 2011**  
**6:30 P.M. – POLICE ANNEX**

Chairman Bob Freudenthal called the meeting to order at 6:30 p.m. in the Meeting Room of the City of Hendersonville Police Annex Building, 1 Executive Park Drive, Hendersonville, TN.

**ROLL CALL:**

Present: Don Ames, Lori Atchley, Mark Bristol, Tommy Elsten, Bob Freudenthal, David Jenkins, Ann Massey, Bryant Millsaps and Frank Pinson. Absent: Janet Carr. Also Present: Fred D. Rogers, Jr., Planning Director; Lisa D. Milligan, Senior Planner; Timothy D. Whitten, Planner/Landscape Architect; Jerry Horton, Public Works Director; Nate Renzella, Fire Inspector; and Georgie Mathis, Administrative Clerk.

**PUBLIC HEARING:** None

**REQUEST FOR INFORMATION AND ASSISTANCE:** None

**ADDITIONS TO AGENDA:** None

**MINUTES:**

MOTION BY Atchley and was SECONDED BY Millsaps to approve the Hendersonville Regional Planning Commission Minutes of January 18, 2011. Ames, Atchley, Freudenthal, Jenkins, Massey and Millsaps voted aye. Nay: None. Abstain: Bristol, Elsten and Pinson. Absent: Carr. Motion carried.

**CONSENT AGENDA ITEMS:**

**08-0080-001: RENEWAL OF EXPIRED FINAL PLAT, SAUNDERSVILLE STATION, PHASE 7:** MOTION BY Jenkins and was SECONDED BY Massey to approve the Renewal of Expired Final Plat, Saundersville Station, Phase 7, for 2 years. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried.

**11-004-001: RENEWAL OF EXPIRED FMDP AND SITE PLAN, WATERMARK CONDOMINIUMS, 143 WATERVIEW DRIVE:** MOTION BY Jenkins and was SECONDED BY Massey to approve the Renewal of Expired FMDP and Site Plan, Watermark Condominiums, 143 Waterview Drive, for 1 year. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried.

**FINAL PLATS:** None

**PRELIMINARY AND FINAL MASTER DEVELOPMENT PLANS:**

**11-003-001: INDIAN LAKE VILLAGE FMDP AMENDMENT, PHASES IIIA2, IIIA3, IIIB, IIIE, IIIF, III OUTPARCELS, IV, V, VI:**

MOTION BY Millsaps and was SECONDED BY Atchley to approve Indian Lake Village FMDP Amendment, Phases IIIA2, IIIA3, IIIB, IIIE, III Outparcels, IV, V, VI with Planning Department Staff Comments 1 through 4, excluding Planning Department Staff Comment 5, and all other staff comments as listed below. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried.

MOTION BY Atchley and was SECONDED BY Millsaps to declare the Indian Lake Village FMDP Amendment, Phases IIIA2, IIIA3, IIIB, IIIE, IIIF, III Outparcels, IV, V, VI a minor change. Fred Rogers explained that the Planning Department Staff is in favor of the main purpose of this amendment which is to go ahead and build the apartments now prior to the owner occupied units being built; however, the Ordinance does require that staff take this matter to the Board of Mayor and Aldermen and is stated very clearly in the Ordinance. In particular, Section 8-210.2 states that the Planning Commission shall present this matter to the Board of Mayor and Aldermen for action. Mr. Rogers stated the City Attorney concurs. Chairman Freudenthal asked if this is in writing. Mr. Rogers stated no. Ames, Atchley, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: Bristol. Absent: Carr. Motion carried.

Planning Department

## **STAFF REPORT**

The proposed Final Master Development Plan Amendment for Indian Lake Village, Phases IIIA2, IIIA3, IIIB, IIIE, IIIF, III Outparcels, IV, V & VI combines and amends two previously approved Final Master Development Plans. The two plans that are being combined and amended are the Final Master Development Plan for Phase IIIB and the Final Master for Phases IIIA2, IIIA3, IIIE, IIIF, III Outparcels, IV, V and VI. The primary amendment is to Phase IIIB (Ashecrest) and part of Phase IV (Causey Lofts).

The primary purpose for this amendment is to build 206 multi-family rental units and to do so prior to building any For Sale units. This multi-family development would be located on the east side of Cinema Drive, behind Parkside Plaza Office Building. It is to be constructed this spring and would take the place of the Causey Lofts live/work units and part of the original Ashecrest. The developer has stated that the market has changed and the live/work product is no longer viable.

The proposed plan revises part of Phase IV and Phase IIIB. The portion of Phase IV referenced is being transferred to Phase IIIB. The total area of the amended IIIB is 29.77 acres (27.40 in original IIIB and 2.37 added from IV). In addition to the 206 rental units, this phase includes an additional 129 For Sale units to be built at a latter date. The total number of dwelling units is 335. The density of the 206-unit multi-family rental section is 25 units per acre. The overall density in this phase will be 11.25 dwelling units per acre assuming the remainder develops per these plans. The market could dictate further changes. The previous density on the 29.77 acres was 9.6 units per acre (259 dwelling units in IIIB and 27 units on the 2.37 acres in IV). As originally approved, the type of units broke down as follows: 27 work/live units; 32 single-family detached units; 131 single-family attached units; and 96 multi-family units. All of the units were specified as being For Sale units. The proposed plan includes: 33 single-family detached units; 61 single-family attached units; 35 Big House attached units; and 206 multi-family rental units. This plan is an increase of 49 units for this Phase. The 1,200 maximum allowed units for the PUD as a whole is unchanged.

There have been, over the course of the many approvals of Indian Lake Village, several restrictions in terms of the number of rental units. As originally approved, the overall development included 968 units, with up to 50% (484) of them allowed to be rental units. At the time of approval of Phase IIIB, the number of units was increased to 1,050 units, with up to 50% (525) of them being rental. However, all units in Phase IIIB were specified as being For Sale units. With the approval of the overall Final Master for Phases IIIA2, IIIA3, IIIE, IIIF, III Outparcels, IV, V and VI, the total number of residential units was increased to 1,200 with up to 50% (600) of them allowed to be rental units. At the time of approval of this increase, 300 rental units had been built and no For Sale units. For this reason, the developer was required to place a note on the plan stating "The developer agrees to no additional rental units until 100 lofts along Causey Boulevard and/or Ashecrest units (IIIB) are constructed along with 100% of the infrastructure within Ashecrest". With the later approval of the Preliminary Master Development Plan for Phase V-A (east of Stop 30), this restriction was not required. This was

the recommendation of the Planning Commission and BOMA agreed to not impose this requirement on Phase V-A. So, these 206 rental units could be built right now in Phase V-A. However, it should be understood that if this new plan is approved, there will be a total of 506 rental units with no For Sale units. If/when the 129 For Sale units are built, as per this new plan, the percent will be 80% rental and 20% For Sale. Additional residential units are shown in part of Phase V-A. At the maximum allowed density of 17 units per acre, 212 For Sale units could be built, improving the ratio to 60% rental and 40% For Sale. There are no additional areas SHOWN on the plan for For Sale units. However, there are additional areas APPROVED for For Sale units, i.e., part of the area shown on the plan as an office campus. Some of these offices could be replaced with residential in order to meet the 50-50 requirement.

Because the western (Causey Lofts) part of the 206-rental unit development is zoned GCS and GCS does not allow residential except as an accessory use to commercial, i.e., on the second floor above commercial, it will be necessary to change the zoning of this part of the property from GCS to MRO. In lieu of going through the rezoning process, Sections 8-111 and 2-301(H) give the Planning Commission the authority to extend the MRO zoning up to 500 feet. An extension of 150 feet is all this is needed. The entire phase would then be MRO.

In summary, if the Planning Commission is (1) OK with removal of the “no rental” requirement for this phase, (2) OK with the removal of the “no more rental until For Sale units are built” requirement, and (3) OK with the 150 – ft extension of MRO zoning, a motion to approve this amendment would be in order. This motion should include the following Staff Comments.

**STAFF COMMENTS** (Note applicant response is in **red** and staff response to applicant response is shown in *italics*.)

1. The Planning Commission approved Automotive Service and Repair for the Sam’s lot only. The Planning Commission did not approve Automotive Service and Repair for all of Area 2. Please revise.
2. How many units are there in each Big House building? It appears from the elevations that there are 8. However, PD 6.0 states that there are 35 big house units proposed. Please review and make necessary changes. **(As indicated in the typical floor plans, there are 7 units per big house building.)** *The typical floor plan on PD 6.6 has been changed from the original submittal. It appears that part of the lower level floor plan has been cut off. The floor plan included with the original submittal showed 8 garages. The Layout Plan on PD 6.6 (both original submittal and resubmittal) shows 8 garages. This was the reason that staff asked this question. The resubmittal does not make this any clearer and it was not noted that the lower level floor plan was changed with the resubmittal. Please correct the lower level typical floor plan so that it is complete and please clarify how many units are proposed overall given the discrepancy between PD 6.0 and PD 6.6. If there are 8 units per building, then all of the unit and density calculations need to be updated to reflect this.*
3. Please revise the note stating that Final Amenities plans are to be provided with site plan to state that if no site plan is required, the plans are to be provided with the Final Plat. **(The applicant believes the note is sufficient as currently worded.)** *Revise the note as it is not sufficient in dealing with instances that do not require a site plan.*

4. The previous amenities in Phase IIIB included 15 benches, 4 trash cans, and 2 bike racks. This has been decreased to 10 benches, 1 bike rack and 4 trash cans. Given the increase in the number of units, please re-evaluate these amenities and make changes as appropriate. Also, no bike racks are shown in or around the multi-family rental site. *(The previously approved FMDP for Phase III-B did not include amenities on the multi-family stacked flat site. The proposed plan includes an additional clubhouse and swimming pool on the multi-family site, which we believe is a greater improvement than the 5 benches and 1 bike rack difference between the two plans.) This staff comment was specifically in reference to benches, trash cans and bike racks and was not referencing the pool/clubhouse amenities. The proposed plan includes only 1 bench in the area of the Big House units. No bike racks are included in this area. Most of the benches have been included in the single-family home area. This doesn't seem appropriate as these homes will include private yards whereas the Big House units will not. While there is outdoor area included around the Big House units, it would seem appropriate for benches to be included in this area to make it useful to the future residents. The Planning Commission must determine if the number of benches, bike racks and trash cans is appropriate given the increase in the number of residential units.*
5. The Preliminary Master Development Plan as approved by BOMA specified that the developer must prepare a traffic study and provide additional improvements as specified by the study. The study was completed soon thereafter. It specified that a second northbound lane across the bridge is required along with the installation of signals. The Final Master was then approved and included the following note: "Developer will be responsible for paying the balance of \$100,000 to \$150,000 towards the signalization of the Hwy 386 ramps on the north side of 386. The developer will also be responsible for the cost of widening and re-striping Indian Lake Boulevard, across the Hwy 386 bridge, provided their total costs, including the signal cost, do not exceed \$250,000." The City then approved a Preliminary Master for Phase V-A (east of Stop 30). The Planning Commission agreed that it was not necessary to include this note on Phase V-A because the note applied to Phase IIIE. In the mean time, the City received a 100% grant for engineering. The city has a grant for up to 80% of the construction cost. The City's share will be at least \$1,100,000. The Planning Commission did not require any payments in conjunction with the approval of the Sam's plat. The thought at that time was that the note had been removed. It had not. And, the actions to approve the plat without requiring any payment at that time has no bearing on the fact the note is still in place on the Final Master which is to be amended at this time. The applicant has left this note off this amendment. If this amendment is approved as is, the note would no longer exist. However, if this note remains on this amended Final Master, the Planning Commission could still chose to require some type of contribution in conjunction with further development of Phase IIIE and Phase III Outparcels and thus adhere to the original note as approved by BOMA. The Planning Commission will need to decide whether this note is to remain on the Final Master or not. (This comment deleted by Planning Commission)

#### REQUIRED PROCESS FOR APPROVAL:

The authority to approve this amendment is Section 8-210.2. This section mandates the process for approval of addition of residential density and ALL OTHER CHANGES, other than the addition of uses. This section states the Planning Commission "shall forward its recommendations to BOMA for action."

Were the request for the addition of a use, Section 8-210.1 would apply. The Planning Commission has the authority, following a public hearing, to approve an additional use as a minor amendment OR forward the matter to BOMA with a recommendation.

The applicant has requested approval by the Planning Commission as a minor amendment. But the requested amendment is not for a change in use.

The applicant has cited Section 8-209.1 as authority for the Planning Commission to approve as a minor amendment and has stated, in support of this request, that they are making minor modifications to the location and siting of buildings due to circumstances not foreseen at the time the final development plan was approved. The problem is, this section is for minor modifications which the ZONING ADMINISTRATOR is authorized to approve. Furthermore, this section only allows the Zoning Administrator to approve "MINOR MODIFICATIONS in the location, siting, and height of buildings if required by engineering and other circumstances not foreseen at the time the final development plan was approved." For example, if a final master showed single-story houses 20 feet from the street, the Zoning Administrator could authorize two story houses 30-ft back.

This section states that minor modifications in the location of streets may be approved. It also states that any modification must be held to the minimum necessary. To qualify it must be proven that "strict application of the provisions of this ordinance would result in practical difficulties and unnecessary hardships" and "that there are exceptional or extraordinary circumstances or conditions applying to the land, buildings or uses referred to in this application, which circumstances or conditions do not apply generally to other land, buildings or uses in the same district. This section also states that the intent of the final master must be maintained. 8-209 and 8-210 are attached for you review.

The requested amendments go much further than minor modifications. The requested amendments include (1) density within this phase is increased from 9.6 to 11.25 and the density of the currently proposed 206-unit multi-family rental development is 25 units/acre, (2) MRO is being extended (similar to rezoning), (3) the "No Rental" restriction is being lifted, (4) large multi-family buildings are added, (5) Big House multi-family units are added, (6) the requirement that For Sale homes be built before more rental is removed, and (7) the note requiring up to \$250,000 contribution for street improvements has been removed.

The Zoning Administrator cannot approve any of these amendments, much less all of them. Amendment as per 8-210.1, which requires BOMA approval, is the only option for approval of the proposed amendments, other than amending the Zoning Ordinance to amend the process for amending a final master. This requires BOMA approval and would take more time.

Submitted by: Lisa D. Milligan, AICP, Senior Planner (January 28, 2011)

Fire Department

1. No comment.

Submitted by: Nate Renzella, Fire Inspector (January 28, 2011)

Public Works Department

1. No policy issues.

Submitted by: Duane Allen, Assistant to City Engineer (January 28, 2011)

Utility District

1. Approval for Planning

Submitted by: Larry Davis, HUD (January 28, 2011)

**SITE PLANS:**

**11-002-001: SITE PLAN, MCDONALD'S RESTAURANT, 258 SAUNDERSVILLE ROAD:** MOTION BY Jenkins and was SECONDED BY Millsaps to approve the Site Plan, McDonald's Restaurant, 258 Saundersville Road with all staff comments as listed below. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried.

Planning Department

STAFF REPORT

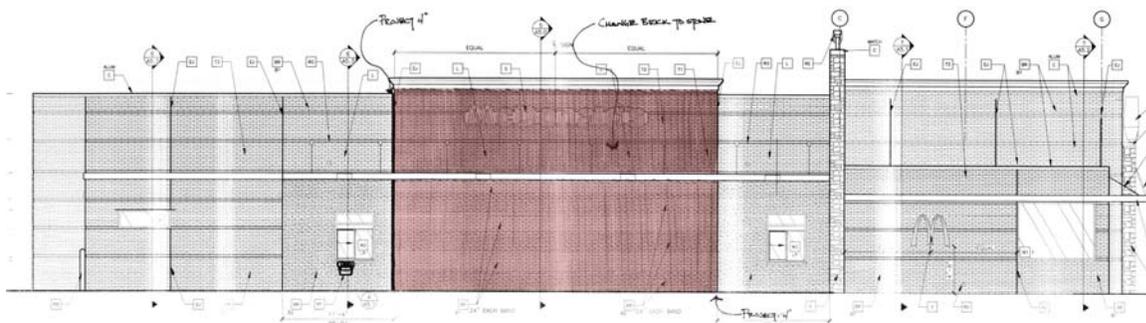
McDonald's will be located at the southeast corner of the Indian Lake Boulevard and Saundersville Road intersection, two lots north of AT&T. The lot is zoned GCS-PUD.

The Indian Lake Village Development Guide requires long building wall expanses to be broken up by varying their depth and direction through such means as piers and columns, recessed and projecting bays, etc. Staff asked the applicant to comply with this requirement, specifically on the back 2/3rds of the north and south walls. The elevations were revised to vary the cornice/roof height; however, the walls still did not have any variation in depth. Staff then suggested that the two large brick areas underneath the raised cornices on each side of the building (see colored areas on next page) be projected outward four inches, and the brick be changed to stone. This would provide some of the variation in wall depth and direction that the

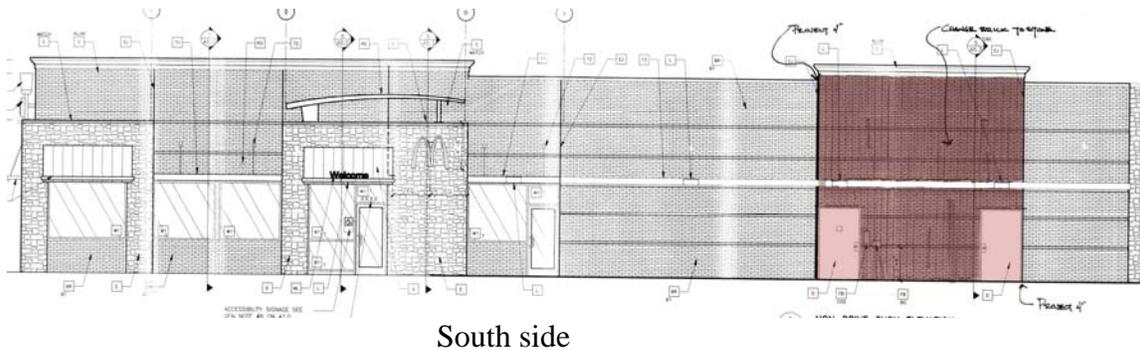
Guide was looking for, while the contrast in material would help to emphasize the slight projection. McDonald's architect responded that he does not want to project the brick on the drive-thru side of the building, fearing impact from cars navigating the drive-thru window, and also does not want to project the brick on the south side. They also do not want to switch from brick to stone, citing past problems with stone falling from the wall, which would present a problem in an area with constant vehicular traffic. Instead, they propose to use a dark brick to provide contrast with the lighter brick on either side and simulate variance in wall depth.

#### STAFF COMMENTS

1. Provide detail for Saundersville Road ground sign. Detail shall comply with requirements of ILV Development Guide for Outparcel Sign – Saundersville Road.
2. Indian Lake Boulevard ground sign cabinet face shall be aluminum. Cabinet shall be seamless finish, no visible fasteners. Base shall be Sioux City Brick - Cabernet Burgundy with Velour Finish, or, Woodbury Modular Brick – Red with B500 mortar. Other details shall be as required by the ILV Development Guide for Outparcel Sign – Indian Lake Boulevard.
3. Plat must be recorded prior to issuance of Building Permit.
4. Revise slope at northwest corner of site to maximum of 3:1.
5. Show tree protection fencing on grading sheet.
6. Obtain slope easement for off site grading (along south property line).
7. Sod (not seed) is to be installed in all disturbed areas not otherwise landscaped. Revise plant schedule.
8. Irrigation shall be provided for all turf areas.
9. To help make up for the lack of foundation plantings on the north side of the building, relocate the line of shrubs at the edge of the north parking area to the back of the street sidewalk. This will make the shrubs more visible than their current location 6 feet below the street grade.
10. All roof top units must be completely screened from view by the parapet walls. Show outlines on each building elevation.
11. Change the yellow awnings to muted, natural earth tones.



North side (facing Saundersville Road)



Submitted by Timothy Whitten, Planner/Landscape Architect (January 28, 2011)

Public Works Department

1. No policy issues.

Submitted by Duane Allen, Assistant to City Engineer (January 28, 2011)

Fire Department

1. A Knox Box is required near the entrance door. (A.2) It should be recessed in the stonework. A front elevation or a non-drive through elevation is acceptable.
2. Sprinkler plans are forthcoming.

Submitted by Nate Renzella, Fire Inspector (January 28, 2011)

Utility District

1. Approval for Planning
2. Need Utility Plans
3. Tap and Capacity fees due

Submitted by Larry Davis, HUD (January 28, 2011)

**11-001-001: SITE PLAN, INDIAN LAKE RETAIL CENTER – NORTHSTAR, 280 INDIAN LAKE BLVD:** MOTION BY Elsten and was SECONDED BY Pinson to approve Site Plan, Indian Lake Retail Center – Northstar, 280 Indian Lake Blvd, with all staff comments as listed below. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried.

Planning Department

STAFF REPORT

This project is located on the east side of Indian Lake Boulevard, two lots south of Mimi's Café and just north of the future Electric Credit Union. The lot is zoned GCS-PUD. The 12,000 square foot building will accommodate 6 or 7 tenant spaces.

STAFF COMMENTS

1. Maintain 10' clear space adjacent to transformer doors. Relocate landscaping to maintain screening.
2. Provide master signage plan.
3. Provide an NES-approved electrical service plan.

Submitted by Timothy Whitten, Planner/Landscape Architect (January 28, 2011)

Public Works Department

1. No policy issues.

Submitted by Duane Allen, Assistant to City Engineer (January 28, 2011)

Fire Department

1. Hendersonville Fire Department recommends approval.

Submitted by Nate Renzella, Fire Inspector (January 28, 2011)

Utility District

1. Approval for Planning
2. Need Utility Plans
3. Tap and Capacity fees due

Submitted by Larry Davis, HUD (January 28, 2011)

**10-059-001: FLOWER EXPRESS – ADOPT RESOLUTION:**

Fred Rogers gave the Planning Commission a revised Resolution. The City Attorney suggested amending the last sentence to reference tonight's meeting and to state that this action is based on all the reasons stated above in the WHEREAS'. Derek Vance was sent a copy of the Resolution

and was advised that he would be given an opportunity to present any additional information to the Planning Commission at tonight's meeting.

MOTION BY Jenkins and was SECONDED BY Bristol to approve and adopt Resolution 2011-01 denying Design Review approval of Flower Express. Ames, Atchley, Bristol, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Abstain: Elsten. Absent: Carr. Motion carried.

**SKETCH PLATS:** None

**PRELIMINARY PLATS:** None

**REZONING REQUEST:** None

**STAFF APPROVED PROJECTS:**

**11-005-001: SITE PLAN, RIO BRAVO MEXICAN RESTAURANT:** The Planning Commission acknowledged staff approval of Site Plan, Rio Bravo Mexican Restaurant.

**OTHER:**

Fred Rogers noted staff would hopefully be prepared to present some additional parts of the Zoning Ordinance at the February 15<sup>th</sup> meeting in addition to a matter of business for an addition of a use to the Indian Lake Market Planned Unit Development. This is to add a use of medical office building in the end cap of the Play-It-Again Sports Building in front of Home Depot.

**ADJOURNMENT:**

MOTION BY Millsaps and was SECONDED BY Pinson to adjourn the Hendersonville Regional Planning Commission Meeting at 6:43 p.m. Ames, Atchley, Bristol, Elsten, Freudenthal, Jenkins, Massey, Millsaps and Pinson voted aye. Nay: None. Absent: Carr. Motion carried

---

LORI ATCHLEY, Secretary

---

BOB FREUDENTHAL, Chairman

---

FRED D. ROGERS, JR., Planning Director