

CITY OF HENDERSONVILLE
BOARD OF MAYOR AND ALDERMEN
MINUTES OF REGULAR MEETING
FEBRUARY 22, 2011

PRESENT

SCOTT FOSTER, MAYOR
GARRY FORSYTHE, VICE-MAYOR
STEVE BROWN, ALDERMAN
ARLENE CUNNINGHAM, ALDERMAN
TOMMY ELSTEN, ALDERMAN
HAMILTON FROST, ALDERMAN
JIM HOBACK, ALDERMAN
JACK LONG, ALDERMAN
FRED QUALLS, ALDERMAN
SCOTT SPROUSE, ALDERMAN
MATT STAMPER, ALDERMAN
LISA WEST, ALDERMAN
JOHN BRADLEY, CITY ATTORNEY
KAY FRANKLIN, INTERIM CITY RECORDER

ABSENT

CHRIS GALLAHER, ALDERMAN

AGENDA

Cunningham moved; seconded by Hoback for acceptance of the agenda.

Sprouse requested adding a presentation from the Beech High School Future Business Leaders of America.

There was a unanimous vote for approval of the agenda as amended.

PRESENTATIONS

Representatives from the Beech High School Future Business Leaders of America congratulated the Quiz Bowl winning team which consisted of Cunningham, Forsythe, Sprouse and Stamper. They explained this event was a fundraiser for the March of Dimes and presented a check to a March of Dimes representative.

PUBLIC HEARING

A public hearing was held to hear comments on a request by Halo Properties, LLC, to approve Indian Lake Village Final Master Development Plan amendment, Phases IIIA2, IIIA3, IIIB, IIIE, IIIF, III Outparcels, IV, V, and VI to combine and amend two previously approved Final Master Development Plans.

As there was no one desiring to speak, Foster declared the Public Hearing closed.

MINUTES

Frost moved; seconded by Sprouse for approval of the February 8, 2011 minutes.

There was a unanimous vote for approval.

CITIZENS COMMENTS

Robert Briggs, 1007 Peck Place, addressed the Board with his concern about the traffic and construction in the Stoneybrook area.

As there was no one else desiring to speak, Foster declared Citizens Comments closed.

REPORTS

Finance Committee – deferred for one month discussion on appropriating \$135,000 for drainage work on Cherokee Drive; recommended appropriating funds to purchase a 100' aerial fire truck; recommended appropriating proceeds from various sources for flood recovery projects and reviewed the January financial reports stating revenue is at 105% of budget.

General Committee – no report.

Public Safety Committee – no report.

Public Works Committee – no report.

Foster explained the developers of Indian Lake Village did a traffic study for both ends of their project. He further explained that there has been no additional development at that exit of the Bypass. He stated the City has requested TDOT study the widening of that ramp and their possible closing of Saundersville Road and that a five lane tunnel under the railroad tracks is planned. He stated the Indian Lake Boulevard Bridge is currently under design to widen to five lanes also.

Capital Projects Committee – no report.

Planning Commission – no report.

Mayor – reported the West Main Street reconstruction is wrapping up with sod being laid next week and explained the final pavement is not yet down.

ORDINANCES AND RESOLUTIONS

The caption of Ordinance 2010-33 was read on second and final reading, an Ordinance appropriating Federal Emergency Management Agency (FEMA) Funds for the Assistance to Firefighters Grant (AFG) to purchase 30 portable radios and eight mobile repeaters. Elsten moved; seconded by Stamper.

There was a unanimous vote for approval of Ordinance 2010-33 on second and final reading.

The caption of Ordinance 2011-3 was read on second and final reading, an Ordinance amending the Hendersonville Municipal Code, Title 7, Chapter 2, Fire Code and Chapter 3, Fire Department. Elsten moved; seconded by Frost.

There was a unanimous vote for approval of Ordinance 2011-3 on second and final reading.

The caption of Ordinance 2011-6 was read on second and final reading, an Ordinance to approve Indian Lake Village Final Master Development Plan amendment, Phases IIIA2, IIIA3, IIIB, IIIE, IIIF, III Outparcels, IV, V, and VI to combine and amend two previously approved Final Master Development Plans. Stamper moved; seconded by Hoback.

Elsten stated he would like Planning Director Fred Rogers to explain the purpose of this ordinance.

Rogers explained Article 8 of the Zoning Ordinance specifies the process for approval of PUD Master Plans and any amendments. He further explained Section 210.1 specifies the process for changes involving adding uses to approved Final Master Plans and the Planning Commission can elect to approve the additional use. He stated Article 8, 210.2 specifies the process for all other changes to Final Master Plans which is what this ordinance is, a change other than an additional use. He explained the originally approved Causey Lofts, live/work units and single family attached dwellings are being replaced with a 206 unit apartment complex. He stated this ordinance also removes the note requiring at least 100 owner-occupied units be built before any additional multi-family units are constructed and that there are no rental units in this phase.

Elsten questioned where these notes appear and why the Board is hearing this as he understood this to be a Planning Commission issue.

MINUTES OF REGULAR MEETING

FEBRUARY 22, 2011

PAGE 4

Bradley stated the Planning Commission has the authority to do what they have done and the Board must pass an ordinance to combine these plans. He explained the Planning Commission took final action on the zoning aspect by extending the zoning line. He further explained rental units were approved to be constructed near Stoneybrook without a 50% owner-occupied requirement and are being requested to be relocated behind the movie theatre and the Board needs to ratify the change so the Master Development Plan and the zoning map will be correct. He stated this ordinance will provide a more favorable location for the apartment units.

Elsten stated he does not understand why the Board must approve this ordinance as the Planning Commission has certain authority.

Bradley explained the Zoning Ordinance gives the Board and the Planning Commission certain authorities and part of what is before this Board can only be done by the Board.

Brown stated this ordinance does not approve any new apartments but is moving 206 of previously approved apartments to a better location behind the movie theatre. He stated his concern that no owner-occupied units have been built yet and this ordinance removes the note requiring 100 lofts be built and that 94 apartment units are still approved to be built behind Stoneybrook. He stated his concerns that renters do not pay property taxes and the possibility of a 94 unit apartment complex being built behind Stoneybrook.

Brown moved; seconded by Frost to amend Ordinance 2011-6 to reflect the remaining 94 units, part of the originally approved 300 in the amended Master Plan be alleviated and that the maximum number of rentals be 506 total.

Frost stated he feels it is a good idea to relocate the apartments away from Stoneybrook and will create foot traffic for The Streets of Indian Lake.

Elsten questioned if Note 13 stating the maximum number of residential units in all phases is 1,050 with up to 50% in rental units is to remain on the plan.

Rogers stated this Note is remaining and is highlighted to bring attention to it.

Elsten stated as long as the developer does not build over 525 rental units, they remain within approval of the Preliminary Master Development Plan.

Rogers stated Note 11 specifies the 50% rule that remains in effect.

Elsten stated with the above amendment the number of units allowed will be reduced to 506 units.

Rogers stated the Note would have to be modified to read 600 owner-occupied and 506 rental units.

MINUTES OF REGULAR MEETING
FEBRUARY 22, 2011
PAGE 5

Elsten stated he is unsure if the Board has the authority to do this or if this is a Planning Commission issue.

Foster stated the Planning Commission does not have the authority to take notes off of plans that the Board required like this 50% requirement. He explained that when property was added to the development, 300 units were allowed adjacent to Stoneybrook without this note. He stated the original Final Master Development Plan has the 50/50 requirement imposed by the Board so tonight the note on the original Final Master Development Plan is being amended in order to relocate the apartments behind the movie theatre. Foster stated apartment complexes do pay property taxes on property and are assessed at 40%.

Cunningham stated her concern with no owner-occupied units being built yet but does understand the market conditions. She stated she supported the amendment due to the decrease in the number of rental units.

Forsythe moved; seconded by Sprouse to suspend the rules to allow the developer to address the Board. There was a unanimous vote for approval.

Randy Hoffman, co-owner of Halo LLC, addressed the Board explaining the original project was 250 acres with approval for 968 multi-family units and a 50% note. He explained additional property has been added increasing the number of units to 1,200 and still with the 50% note. He further explained typical apartment developers want to build 250-300 units due the costs of amenities. He stated he cannot commit to give up 90 units and it may be more economically feasible to return to the original design. He further stated he has held the design for building the subdivision as it is a good plan but funding is not available at this time to build residential subdivisions.

Sprouse stated there is risk involved when parts are removed from the plan which will upset the financial stability of what is already built.

Foster stated the Planning Commission should be involved in the density per acre and rather than remove the 94 units, refer this back to the Planning Commission.

Stamper stated this plan has changed a lot but feels it has gone through proper procedures.

Forsythe stated it is not unusual to make amendment to Final Master Development Plans. He stated the proposed apartments are nice and there is a need for them. He stated his concern that the remaining 94 units could still be built adjacent to Stoneybrook. He further stated this is an opportunity to add commercial taxes to the City's coffers and reduce the TIF. He stated every time a building goes up, it is a plus for the City and feels the investors are confident the units will be rented. He stated he is comfortable reviewing this ordinance at the Board level. Forsythe questioned if the remaining 94 rental units could be marketed for sale instead of rentals.

MINUTES OF REGULAR MEETING

FEBRUARY 22, 2011

PAGE 6

Hoffman stated he can commit the 94 units will not be constructed adjacent to Stoneybrook without bringing it to the Board but he does not want to give up the 94 units.

Forsythe questioned if at this time 94 rental units can be built in Phase V-A at Stoneybrook. Rogers replied they could.

Forsythe questioned if a note be placed on the plan requiring that any development in Phase V-A be brought to the Planning Commission and the Board before any construction.

Rogers explained there is currently a Preliminary Master Development Plan for Phase V-A which is approved for office with retail as an accessory use or residential.

Hoffman stated he does not have a problem restricting rental units from Phase V-A.

Elsten questioned why all apartment units could not be located behind the movie theatre.

Hoffman stated he can commit that 94 units could be built in Areas 6 and 7, as shown on the map and not be built by Stoneybrook.

Hoback call for the question on the amendment.

Brown withdrew his motion to amend and Frost withdrew his second.

Brown asked if an amendment to Ordinance 2011-6 could be added to reflect a contingency that before anything is done the remaining 94 units, the Board must give approval.

Hoffman stated his concern with the unknown, that is, if he has a client interested in a mixed-use project, he does not want to have to get approval from the Board. He stated if approval is given tonight to combining and amending the two previously approved plans, he will move the remaining apartments away from Stoneybrook. He stated he would prefer moving all 300 apartment units behind the movie theatre.

Brown moved; seconded by Qualls to amend Ordinance 2011-6 by providing that those remaining 94 units will not be built in Phase V-A but if built, will be west of the library

West asked for clarification that there would be no restriction on those 94 units with regard to whether they are owner-occupied.

Brown agreed that restriction would not apply.

There was a unanimous vote for approval of the above amendment to Ordinance 2011-6.

MINUTES OF REGULAR MEETING

FEBRUARY 22, 2011

PAGE 7

There was a unanimous vote for approval of Ordinance 2011-6, as amended on second and final reading.

The caption of Ordinance 2011-5 was read on first reading, an Ordinance appropriating Federal Emergency Management Agency (FEMA) Funds for the Assistance to Firefighters Grant (AFG) to purchase a 100' aerial platform fire apparatus. Frost moved; seconded by Stamper.

There was a unanimous vote for approval of Ordinance 2011-5 on first reading.

Upon motion and second and followed by a unanimous vote for approval, the meeting adjourned at 8:50 p.m.

Approved: Scott Foster, Mayor

Attest: Kay Franklin, Interim City Recorder