

MINUTES
HENDERSONVILLE REGIONAL PLANNING COMMISSION
TUESDAY, SEPTEMBER 4, 2012
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, Mark Bristol, Tommy Elsten, Bob Freudenthal, David Jenkins, Bryant Millsaps, Frank Pinson and Darlene Stringfellow. Absent: Ann Massey. (1 Vacancy) Also present: Fred D. Rogers, Jr., Planning Director; Lisa D. Milligan, Senior Planner; Timothy D. Whitten, Landscape Architect/Planner; 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:

Fred Rogers said there is a request to discuss minor subdivisions and possibly an amendment in regards to existing street frontage. This will be added to the Agenda under Other.

MINUTES:

MOTION by Ames, seconded by Millsaps, to approve the Hendersonville Regional Planning Commission Public Hearing Minutes for August 7, 2012 to hear comments on a request by Frances S. Oliver to rezone property located at 216 Shivel Drive, Hendersonville, Sumner County, TN from Town Center-Residential (TC-R) to Office Professional Services (OPS); said property being identified on Sumner County Property Tax Map 163D, Group G, Parcel 4.00. Ames, Bristol, Elsten, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Abstain: Freudenthal. Motion carried.

MOTION by Millsaps, seconded by Ames, to approve the Hendersonville Regional Planning Commission Minutes of August 7, 2012. Ames, Bristol, Elsten, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Abstain: Freudenthal. Motion carried.

CONSENT AGENDA ITEMS:

12-048-001: FINAL PLAT, AVONDALE, PHASE 2, RESUB. & CONSOLIDATION

LOTS 2, 3 & 4: MOTION by Pinson, seconded by Jenkins, to approve the Final Plat, Avondale, Phase 2, Resub. & Consolidation Lots 2, 3 & 4, with all staff comments as listed below. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

Planning Department

STAFF COMMENTS

1. No comment.

Submitted by Lisa Milligan, AICP, Senior Planner (August 31, 2012)

Public Works Department

1. Tie down detention pond easement with bearings and distances.

Submitted by Duane Allen, Assistant to City Engineer (August 31, 2012)

Fire Department

1. Hendersonville Fire Department recommends approval.

Submitted by Darrel Fleming, Fire Marshall (August 31, 2012)

Utility District

1. Mr. Atchley signed off on "Sewer" only

Submitted by Ronnie Perdue, HUD (August 31, 2012)

11-057-001: SITE PLAN, PAIN MANAGEMENT BUILDING – RENEWAL OF APPROVED SITE PLAN (SEPTEMBER 6, 2011): MOTION by Pinson, seconded by Jenkins, to approve the Site Plan, Pain Management Building – Renewal of Approved Site Plan (September 6, 2011) extension for an additional year. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

FINAL PLATS: None

PRELIMINARY AND FINAL MASTER DEVELOPMENT PLANS: None

SITE PLANS:

12-049-001: SITE PLAN, AVONDALE BUSINESS CENTER: MOTION by Millsaps, seconded by Pinson, to approve Site Plan, Avondale Business Center, granting the request/waiver to allow a flat roof; metal and painted CMU on the rear of the building; and with all staff comments as listed below. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

Planning Department

STAFF REPORT

The subject lot is located on the south side of Avondale Road, adjacent to and east of Storplace. The old Garrott Brothers mix plant used to be located on part of the property. It is zoned GCS-PUD and IG. The site plan shows three separate buildings. The front part of the property is proposed to be used for a multi-tenant facility which will accommodate Dickens Turf & Landscape Supply, as well as other office/warehouse type uses. The second building (labeled “Storage Building #5” on sheet c-2.1), on the rear portion of the lot, will be used for an expansion of the Storplace facilities. The third building (labeled “Storage Building #6” on sheet C-2.1) is located on the Storeplace lot to the west and is an expansion of those facilities. This building will be located directly behind the main storage building, as well as behind the storage building fronting on Saundersville Road.

This site plan is unusual in that it is split-zoned. Part of the property lies within the Avondale PUD, and is subject to its design guidelines. The greater portion of the lot is zoned Industrial General. The office/warehouse building, at the front of the lot, straddles the zone line, with the

bulk of the building lying in the industrial zoning. Thus, part of the building is subject to required building upgrades that the main part of the building, lying within the industrial zone, is not. The Storeplace building (Storage Building #5) at the rear lies entirely within the industrial zoning and does not have this issue. The third building lies entirely within the PUD and complies with its requirements.

The applicant is requesting two waivers from the PUD design guidelines for the office/warehouse building straddling the zone line. First, the building (or the portion lying with the PUD) is required to have a pitched roof. The applicant is requesting a flat roof. Second, the building (again, the portion lying within the PUD) is required to “be a combination of brick, stone and EIFS”, including the rear façade. The front and sides of the entire building comply with this requirement. However, the applicant is requesting to be allowed to use painted concrete block and metal on the rear of the building. Within the industrial zone, these materials are allowed on the rear so long as they are screened from the street, which is the case here. The rear will not be visible from the 386 bypass south of the lot. In considering these waivers, keep in mind that while a part of the building is non-compliant with a couple of the PUD design requirements, the front and sides of the building in the industrial zone will exceed the architectural and building material requirements established for that zone.

STAFF COMMENTS

1. Understory/ornamental trees shall be 2.5” cal. minimum.
2. Provide an NES-approved electrical service plan. All new electrical lines shall be underground.

Submitted by Timothy Whitten, Planner/Landscape Architect (August 31, 2012)

Public Works Department

1. No policy issues.

Submitted by Duane Allen, Assistant to City Engineer (August 31, 2012)

Fire Department

1. Concerns addressed. Hendersonville Fire Department recommends approval.

Submitted by Darrel Fleming, Fire Marshall (August 31, 2012)

Utility District

1. Need 6” clean out at property line, fees due.

Submitted by Ronnie Perdue, HUD (August 31, 2012)

12-050-001: SITE PLAN, MODERN CONSTRUCTION – 254 ROCKLAND ROAD: MOTION by Jenkins, seconded by Elsten, to approve Site Plan, Modern Construction – 254 Rockland Road with all staff comments as listed below. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

Planning Department

STAFF REPORT

This lot is located on the north side of Rockland Road, directly across from River Road. It is zoned GCS. The proposed use is office/warehouse facilities for Modern Construction.

STAFF COMMENTS

1. Provide landscaping to screen the outdoor storage area.
2. All new electrical lines shall be underground. Revise. Provide NES-approved electrical service plan.
3. Provide dumpster screen wall detail.

Submitted by Timothy Whitten, Planner/Landscape Architect (August 31, 2012)

Public Works Department

1. Dedicate right-of-way as per the Transportation Plan.
2. Payment in-lieu-of improvements to Rockland Road are required. Improvements include but are not limited to sidewalks, curb and gutter, lane widening and drainage improvements.

Submitted by Duane Allen, Assistant to City Engineer (August 31, 2012)

Fire Department

1. Concerns addressed. Hendersonville Fire Department recommends approval.

Submitted by Darrel Fleming, Fire Marshall (August 31, 2012)

Utility District

1. Need RPBP on ¾” water line, 6” service can not be tied into manhole, service tap to be installed if not there and 6” clean out at property line.
2. Fees due.

Submitted by Ronnie Perdue, HUD (August 31, 2012)

SKETCH PLATS: None

PRELIMINARY PLATS: None

REZONING REQUEST: None

STAFF APPROVED PROJECTS:

12-046-001: FINAL PLAT, COLONIAL ACRES, SEC. 7B, LOT 395 & CREEKWOOD ESTATES SEC. 6, LOT 395A: The Hendersonville Regional Planning Commission acknowledged staff approval of Final Plat, Colonial Acres, Sec. 7B, Lot 395 & Creekwood Estates Sec. 6, Lot 395A.

12-047-001: SITE PLAN, FIFTH THIRD BANK ATM ADDITION: The Hendersonville Regional Planning Commission acknowledged staff approval of Site Plan, Fifth Third Bank ATM Addition.

12-052-001: SITE PLAN, PANERA BREAD REMODEL: The Hendersonville Regional Planning Commission acknowledged staff approval of Site Plan, Panera Bread Remodel.

12-053-001: SITE PLAN, HENDERSONVILLE UTILITY DISTRICT – FOREST RETREAT/NEW SHACKLE ISLAND ROAD AREA WATER SYSTEM: The Hendersonville Regional Planning Commission acknowledged staff approval of Site Plan, Hendersonville Utility District – Forest Retreat/New Shackle Island Road Area Water System.

12-056-001: SITE PLAN, ENTERPRISE CAR SALES – 1169 WEST MAIN STREET: The Hendersonville Regional Planning Commission acknowledged staff approval of Site Plan, Enterprise Car Sales – 1169 West Main Street.

OTHER:

DISCUSSION ON MINOR SUBDIVISION IMPROVEMENTS AND ED AND NANCY DUKE PROPERTY:

Fred Rogers discussed a possible amendment to the subdivision regulations. This is not on the agenda and the Commission received a short email about the subject and final action is not being requested tonight unless the Commission would prefer to take action or it could be deferred to the study session in two weeks. Any amendment to the subdivision regulations requires a public hearing first and the public hearing must be advertised 30 days prior. The staff and Planning Commission had two requests within the last six months for a waiver from the requirement that improvements be made to the frontage of a residential subdivision on an existing street that involves less than 5 lots. Staff has discussed this with the City Attorney and checked with some other cities to see their requirements. We contacted Gallatin and Goodlettsville and neither of those cities requires improvements in this situation. A total of six cities in this area do not require any improvements and Franklin, Collierville and Hendersonville do require the improvements. We looked at Metro's regulations and it appears they require improvements just in limited circumstances. We realize the Planning Commission does not like the idea of granting waivers so Staff thought you might want to consider a possible amendment to be more consistent with what other cities require. We have also talked to Bill Terry and Sam Edwards and they felt like the best approach for subdivisions involving less than 5 lots is to require right-of-way dedication only, no improvements.

Mr. Rogers said if the Planning Commission favors such an amendment that the Commission could reconsider granting a waiver on the Ed and Nancy Duke Property in order for them to move forward.

Tommy Elsten said he would like to add Mr. Ed Duke to this agenda and make a motion that Mr. Duke be added to the agenda first.

Bob Freudenthal asked if anyone had an objection and with hearing none, Mr. Duke is added for the purpose of this discussion.

Tommy Elsten said if it is going to take us 4 to 6 weeks to get this done, then he would make a motion that we go ahead and give Mr. Duke a waiver.

MOTION by Elsten, seconded by Stringfellow, to add an item back.

Don Ames said it just seems like the Planning Commission should decide on the amendment before deciding whether or not to make a waiver.

Bob Freudenthal asked for a second from the prevailing side to Mr. Elsten's motion. Bob Freudenthal then declared that motion failed for lack of a second.

John Bradley, City Attorney, spoke to the Planning Commission regarding a time line where it is important that the Board go ahead tonight and act on Mr. Duke's exemption if you look favorably toward this amendment to the subdivision regulations. This is a 6 acre parcel of land that Mr. Duke is trying to subdivide into 3 lots. The fee that was quoted by our current regulation (\$45,000) is basically, in my opinion, an impact fee on this subdivision of land and this land is not even in the City of Hendersonville so the Public Works Department is not likely to be building a road on this land at this point in time and making improvements. What I am asking you to do is look at what is reasonable and the reasonableness of this situation. As far as Mr. Duke's action, it was taken at the first meeting in August and Mr. Duke has by statute 60 days to appeal the decision of this Planning Commission to a trial court in Tennessee. So that's the reason I would ask that you would act on the exemption tonight if you look favorably toward this. This is something a lot of other cities do and Mr. Rogers has consulted with two of the foremost planning experts in Middle TN with Bill Terry and Sam Edwards and they both recommended that this is the action this Commission should take so I would encourage you to go ahead and act on the exemption. With respect to the actual amendment to the subdivision regulations there are several things I hope the Planning Commission will consider. I want to be sure this is cumulative. We do not want people to build 4 lots now and 4 lots in 2 years and 4 lots later. You also could even retain the right on a particularly unusual situation like Metro.

Bryant Millsaps noted the Planning Commission had a history of evenly applying the restrictions. He further stated that Mr. Bradley would not be asking the Commission to grant a special waiver for a citizen unless he felt like it was really the thing to do.

John Bradley suggested that this Commission go into Executive Session because there certainly is an exception here for threatened litigation. The City Attorney and Planning Commission convened in an Executive Session in Conference Room 2.

John Bradley noted that no deliberation or discussion could be made and all he can do is talk to the Commission.

Bob Freudenthal called the meeting back to order and the Chair recognized the City Attorney.

John Bradley noted the Planning Commission is back in session and after the Executive Session, has a recommendation to the Commission to entertain and that is the action taken at the Hendersonville Regional Planning Commission's first meeting in August, where the fee of \$45,000 was placed on Mr. Duke with respect to the subdivision of this parcel of land and the 3 lots, that the Commission rescind that action of requiring that fee and further ask that consideration of his lot and his subdivision be placed on the agenda in two weeks and at that time this Planning Staff and myself will present an amendment to the subdivision regulations and the Commission will have it prior to that meeting for review. All of you have a lot of issues with respect to an amendment to the subdivision regulations and different requirements, restrictions, and limitations to think about in the next two weeks. Once this Commission decides to make a change in the subdivision regulations, Mr. Duke's situation would be out of the time sensitive nature tonight by vacating the fee requirement, but if you decide at that time that his particular property should be exempted, I would ask for you to vote to allow his subdivision to go forward without the fee and staff to go ahead and sign off on his subdivision so he can record his plat.

So, procedurally, to get there, you need to move to reconsider the action you took at your August meeting with respect to that fee on Mr. Duke's property at the start and then do those things that I just recommended.

MOTION by Jenkins, seconded by Millsaps, to reconsider the action on the Duke Property of August 7th. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

MOTION by Jenkins that we vacate the action of the \$45,000 fee for the Duke Property on August 7th.

Bryant Millsaps questioned if that would not move the Commission to action tonight as opposed to 2 weeks from tonight?

MOTION by Millsaps, seconded by Bristol, that the Hendersonville Regional Planning Commission vacate the action of August 7th on the Duke Property. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

MOTION by Millsaps, seconded by Ames, to request Staff, including City Attorney, to prepare proposed amendments to the subdivision regulations or recommendations therewith regarding minor subdivisions for the September 18th meeting. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

MOTION by Millsaps, seconded by Pinson, to advise the Duke Property developer that pending approval of the amendments to the subdivision regulations, the Commission will address his issue with respect to waiver of fee. Ames, Bristol, Elsten, Freudenthal, Jenkins, Millsaps, Pinson and Stringfellow voted aye. Nay: None. Absent: Massey. Motion carried.

ADJOURNMENT:

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

DON AMES, Assistant Secretary

BOB FREUDENTHAL, Chairman

FRED D. ROGERS, JR., Planning Director