

**MINUTES**  
**HENDERSONVILLE REGIONAL PLANNING COMMISSION**  
**TUESDAY, JUNE 21, 2011**  
**6:30 P.M. – CITY HALL**

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

Vice-Chairman Jenkins announced for the benefit of visitors that the work session is typically a more informal meeting; however, there is a lot of business to be conducted and the Commission is going to try to handle it expeditiously.

**ROLL CALL:**

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

**PUBLIC HEARING:**

Vice-Chairman Jenkins announced that the Commission is not scheduled to have any hearings tonight; however, the Commission does want to accommodate people who would like to speak regarding Indian Lake Village Phase VII Preliminary Master Development Plan. Without objection, the Commission would accommodate up to three people to speak, allowing 4 minutes each and that it would be more of a dialogue than just speech regarding the issues. The developer will be allowed to speak.

**MINUTES:**

MOTION BY Stringfellow and was SECONDED BY Elsten to approve the Minutes of Public Hearing of June 7, 2011 regarding a request by ILVLB North, Inc. to rezone Indian Lake Village VII located on the east side of Stop 30 Road and on the north side of Vietnam Veterans Boulevard from Agricultural/Residential (AR) to Multiple Residential/Office Planned Unit Development (MRO PUD). Sumner County Property Tax Map 145, Parcel 44.00 and part of Parcel 45.00 and 48.00. Ames, Atchley, Elsten, Jenkins and Stringfellow voted aye. Nay: None. Abstain: Massey and Millsaps. Absent: Bristol, Freudenthal and Pinson. Motion carried.

Bryant Millsaps asked with all the interchange/exchange of emails and conversations about the appropriateness of the 60 day deferral and since the minutes can't be modified to reflect something that did not happen asked if the Commission will have an opportunity to get a proper motion in place and get the Commission back in compliance with the City Ordinance.

Vice-Chairman Jenkins noted this was a good observation that the Commission can't really amend the minutes to say something that essentially was not said in the previous meeting. We had a motion that was properly made by a Planning Commissioner that became an improper motion simply because of a Statute where it requires 45 days versus 60. I think this goes to the maker of the motion, which was Don Ames, to put forth a new motion to supercede the one that was made last week to correct the 60 days.

MOTION BY Ames and was SECONDED BY Millsaps that we defer the Preliminary Master Development Plan for Indian Lake Village for up to 45 days starting retroactively from this past June 7, 2011 meeting with a public workshop type of discussion with the developer, the Planning Commission and the residents of the community tonight and further as deemed necessary by the Planning Commission prior to the Planning Commission's action on this plan which would be on July 5, 2011. Ames, Atchley, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Absent: Bristol, Freudenthal and Pinson. Motion carried.

MOTION BY Elsten and was SECONDED BY Ames to approve the Minutes of Public Hearing of June 7, 2011 regarding a request by Thomas McPherson to rezone his property located at 143 Waterview Drive from Medium Density Residential Planned Unit Development (R-10 PUD) with 16 multi-family units to Medium Density Residential Planned Unit Development (R-10 PUD) with 6 single family residential homes. Sumner County Property Tax Map 164D, Group E, Parcels 1.00 and 2.00. Ames, Atchley, Elsten, Jenkins and Stringfellow voted aye. Nay: None. Abstain: Massey and Millsaps. Absent: Bristol, Freudenthal and Pinson. Motion carried.

MOTION BY Ames and was SECONDED BY Stringfellow to approve the Hendersonville Regional Planning Commission Minutes of June 7, 2011. Ames, Atchley, Elsten, Jenkins and Stringfellow voted aye. Nay: None. Abstain: Massey and Millsaps. Absent: Bristol, Freudenthal and Pinson. Motion carried.

## **PRELIMINARY PLAT:**

### **10-047-001: THE TRIANGLE PRELIMINARY PLAT:**

Fred Rogers pointed out that should the Planning Commission wish to delete Comments 1 through 4 that would involve granting deviations from the subdivision regulations and as stated in the staff report, the Commission would need to state the reasons or justification for that deviation. Examples are stated in the staff report.

MOTION BY Millsaps and was SECONDED BY Massey to approve Preliminary Plat, The Triangle, with the deletion of Staff Comments 1 through 4, the inclusion of Plat Notes 8 and 9, and that the justification for deviations as stated in the staff report be included by reference and with all other staff comments as listed below. Ames, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Abstain: Atchley. Absent: Bristol, Freudenthal and Pinson. Motion carried.

Planning Department

STAFF REPORT

Both a Preliminary Master Development Plan and a Final Master Development Plan have been approved for the property known as The Triangle. The developer now wishes to subdivide the property for sale as individual lots. Because State Law requires that any property under 5 acres be recorded as a lot, the entire property must be platted at one time.

There are a couple of matters which require explanation:

1. The plat shows dedication of an additional 5 feet of right-of-way (ROW) along the north side of the property for a total of 30 feet from centerline. The City Engineer has agreed to this amount of ROW. The newly adopted Transportation Plan, however, states this street is "To be initially constructed/improved as 2-lane divided ON ROW SUFFICIENT FOR A 4- LANE divided section. Future improvements will improve the roadway from a 2-lane divided cross-section to a 4-lane divided cross-section." Such a cross-section requires a ROW of 84 feet. This would require the dedication of 17 feet rather than 5 feet as proposed.
2. Note 8 on the plat states that payment in lieu of constructing improvements along the frontage of New Shackle Island Road and Goshentown Road will be made prior to the issuance of a building permit for each lot. Note 9 on the plat states that improvements to Old Shackle Island Road will be made with each lot's site plan. The City Engineer has agreed to this. However, Section 2-107 of the Subdivision Regulations states, "PRIOR TO RECORDING THE FINAL SUBDIVISION PLAT, the applicant shall provide a surety conforming to Section 2-108 guaranteeing construction of the remaining required improvements". According to Section 2-108, this surety must be in the form of a Letter of Credit or cash. Furthermore, Section 4-105.3 requires the City Engineer to sign the following Certificate on the recorded plat:

I hereby certify: (1) that all designated public ways on this final subdivision plat have been installed in an acceptable manner and according to the specification of the Hendersonville Subdivision Regulations; or (2) that a surety has been posted with the Planning Commission to guarantee completion of all required improvements in case of default.

The Planning Commission Secretary must sign the following certificate on the plat:

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations, for Hendersonville, Tennessee, except for variances, if any, as noted in the minutes of the Planning Commission and that it has been approved for recording in the Office of County Register.

As per Section 1-112, the Planning Commission has the right to grant deviations from the requirements of the Subdivision Regulations. This section reads as follows:

### 1-112 **Deviations**

#### 1-112.1 General

If the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, a deviation from these regulations may be granted; provided, such deviation shall not have the effect of nullifying the general intent and purpose of these regulations and provided, further, that the planning commission shall not approve deviations unless it shall make findings based upon written evidence presented to it in each specific case that:

1. granting of the deviation will not be detrimental to the public safety, health, or welfare, or be injurious to other property or improvements in the neighborhood where the property is located;
2. conditions upon which the request for deviation is based are unique to the property for which the deviation is sought and are not applicable generally to other property;
3. because of the particular physical surroundings, shape, or topographical condition of the specific property involved, a particular hardship (not self-imposed) to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out; and
4. the deviation will not in any manner alter provisions of the land development plan, the major street or road plan, or the zoning ordinance.

Where the planning commission concludes that the purpose of these regulations may be specifically served to an equal or greater extent by an alternative proposal, condition, or circumstance, it may approve other deviations to these regulations.

#### 1-112.2 Deviation Procedures

Each and every deviation or modification of the subdivision regulations sought by a subdivider shall be specifically applied for in the numerical order of the subdivision regulations, in writing by the subdivider. A separate form provided by the Enforcing Officer shall be utilized to list any and all deviations being requested. This form shall accompany the preliminary conceptual plan. Any condition shown on the plat, which is a deviation or modification, shall constitute grounds for disapproval of the plat unless such special application for deviation is made. In approving any deviation from the

regulations the planning commission shall state fully in the minutes the grounds for the deviation and all of the facts upon which the decision was made. The minutes of the meeting where the action approving the deviation is take shall reflect the specific nature and extent of such deviations.

1-112.3      Conditions

In approving deviations, the planning commission may impose such conditions as in its judgment will secure substantially the objectives, standards and requirement of the regulations.

The risk with such a deviation is that the developer could file for bankruptcy or otherwise be unable to provide the required improvements or surety. The people who buy these 4 lots would not be able to obtain building permits. The reason the Subdivision Regulations require a surety is to guard against such an event, as unlikely as it may be.

If these deviations are granted, it will be the first time the Planning Commission has granted such deviations. All other developers have been required to dedicate according to the Transportation Plan and to provide surety for all remaining required improvements or make payment in lieu PRIOR TO RECORDING THE PLAT rather than after. Recording the plat allows lots to be sold.

Should you wish to grant these deviations, you will need to delete Staff Comments 2 and 4 and state the reasons. For example:

1. The Triangle is surrounded on 3 sides by streets, 2 of which are major thoroughfares. The amount of ROW to be dedicated is substantial and greatly diminishes the value of the property.
2. Even if the property on Goshentown Road develops as per the new Land Use Plan (Mixed-Use, with a density of up to 6 houses per acre), it will be many years until this additional ROW is needed, if ever.
3. The amount of the surety for improvements to all 3 sides of the property is excessive, and, with today's tight financing policies, it is very difficult to secure.
4. Because of the current state of the economy; it is anticipated that it will take many years for all 4 of these lots to sell. Thus, the developer's money would be tied up in the surety for a very long time.

**STAFF COMMENTS**

1. New Shackle Island Road is designated as an arterial on the Major Thoroughfare Plan and is proposed to be 4 lanes with a turn lane. Provide improvements (widening, curb, gutter, storm sewer, sidewalks) accordingly for your half of the entire length of New Shackle adjacent to the subject property. *(Deleted per motion dated June 21, 2011)*
2. Goshentown Road north of the property is designated as an arterial on the Major Thoroughfare Plan and is proposed to be one lane in each direction plus a median or turn lane

and dedication of right-of-way for an additional lane in each direction when needed (84 foot right-of-way). Dedicate additional right-of-way as required and provide improvements (widening, curb, gutter, storm sewer, sidewalks) accordingly for your half of the entire length of Old Shackle Island Road north of the property or obtain Planning Commission approval of a deviation. *(Deleted per motion dated June 21, 2011)*

3. Provide improvements (curb, gutter, storm sewer, sidewalks) to Old Shackle Island Road west of the property to bring it up to city standards. Provide for the entire length of Old Shackle Island Road west of the subject property. *(Deleted per motion dated June 21, 2011)*
4. Provide surety prior to recording the plat or obtain Planning Commission approval of a deviation. *(Deleted per motion dated June 21, 2011)*
5. Provide street addresses on the Final Plat with the initial submittal.
6. Per the approval of the Preliminary Master Development Plan and Final Master Development Plan, the Planning Commission required that all buildings were to have pitched roofs, with shingles or standing seam. This condition has been changed by the applicant on the submitted Preliminary Plat to state "All buildings to have pitched roofs, with shingles or metal with option of a flat roof with parapet walls to screen roof mounted machinery". Please revise this note to comply with the conditions of approval of the Master Plan. If the applicant wishes to make this change, an application would be required to revise the Final Master Development Plan.
7. At the time that the Final Master Development Plan was revised to move the convenience market lot to its current location, the Planning Commission required that a 6' earthen berm with evergreen shrubs and trees be installed along the northern property line on the convenience store lot. With the submission of the Preliminary Plat, the applicant has removed this note and stated "Adequate screening to be provided north of Lot 3 and adjacent to Goshentown Road. Screening to be submitted for review and approval with site plan". Please revise this note to comply with the conditions of approval of the Master Plan. If the applicant wishes to make this change, an application would be required to revise the Final Master Development Plan.
8. Provide covenants and restrictions for staff review. They must be provided and reviewed prior to any plat recording. Covenants and restrictions should reflect all architectural and signage requirements as established by the approval of the Preliminary Master Development Plan and Final Master Development Plan.
9. The Final Plat must comply with all of the above comments and also reflect any changes per the Planning Commission approval of the Preliminary Plat.

Submitted by Lisa Milligan, AICP, Senior Planner (June 16, 2011)

Public Works Department

1. Not yet provided.

Submitted by Duane Allen, Assistant to City Engineer (June 16, 2011)

Fire Department

1. The proposed water lines coming off of the 8 inch water line on New Shackle Island Road shall remain 8 inches throughout the site. A minimum of 1500 gallons per minute is required and a 6 inch line is not capable of 1500 GPM. It must be then connected to the Old Shackle Island Water Main at both ends to form a loop.

Submitted by Nate Renzella, Fire Inspector (June 16, 2011)

Utility District

1. Approval for Planning
2. Tap and Capacity fees due

Submitted by Larry Davis, HUD (June 16, 2011)

**PRELIMINARY AND FINAL MASTER DEVELOPMENT PLANS:**

**11-036-001: INDIAN LAKE VILLAGE PHASE VII PRELIMINARY MASTER DEVELOPMENT PLAN:**

Danny Hale, 700 Johnny Cash Parkway, with HALO Properties addressed a few concerns that were heard in the last meeting and requested that the Planning Commission recommend Indian Lake Village Phase VII Preliminary Master Development Plan on to the Board of Mayor and Aldermen for approval.

Vice-Chairman Jenkins noted that the Planning Commission is not under any mandate tonight to have any public hearings or have any comments from any citizens. However, the Planning Commission does want to be accommodating and fair thus allowing comments by 3 citizens in this area to speak regarding this issue.

Steve Wolfe, Louis Svendsen, and Carl Vassar spoke regarding citizen concerns in relation to the Indian Lake Village Phase VII Preliminary Master Development Plan.

Danny Hale stated that he did not intend to ask that the remainder of the property be rezoned from Agricultural-Residential but that he could not prevent the buyer from applying. He also stated that he would be willing to commit to limiting the common ownership of multiple units to two to dissuade people from buying multiple units and renting them.

Vice-Chairman Jenkins reaffirmed that Indian Lake Village Phase VII Preliminary Master Development Plan has been deferred until the July 5, 2011 meeting and no action will be taken tonight.

Fred Rogers presented a brief history of the new Land Use and Transportation Plan which was adopted in October, 2009. This property is within the Regional Activity Center of the Land Use Plan and this request is in compliance with the Land Use Plan.

Further discussion of the Plan followed.

**LONG RANGE PLANNING REPORT:** None

**OTHER:**

**RESOLUTION 2011-06:** A Resolution serving as a report to the Hendersonville Board of Mayor and Aldermen of the proposed Plan of Services for the proposed annexation of the property located on the south side of Stop 30 Road and the east and west sides of New Shackle Island Road, Sumner County, TN.

MOTION BY Millsaps and was SECONDED BY Stringfellow to approve Resolution 2011-06 of the proposed Plan of Services for the proposed annexation of the property located on the south side of Stop 30 Road and the east and west sides of New Shackle Island Road, Sumner County, TN (This Resolution will be forwarded to the Board of Mayor and Aldermen). Ames, Atchley, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Absent: Bristol, Freudenthal and Pinson. Motion carried.

**RESOLUTION 2011-02:** A Resolution recommending acceptance of the dedication of the completed streets in Lakes of Savannah, Phase 1, Hendersonville, Sumner County, Tennessee.

MOTION BY Atchley and was SECONDED BY Massey to approve Resolution 2011-02 recommending acceptance of the dedication of the completed streets in Lakes of Savannah, Phase 1, Hendersonville, Sumner County, Tennessee (This Resolution will be forwarded to the Board of Mayor and Aldermen). Ames, Atchley, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Absent: Bristol, Freudenthal and Pinson. Motion carried.

**RESOLUTION 2011-07:** A Resolution allowing additional extensions of expired subdivision plats and reducing fees.

MOTION BY Elsten and was SECONDED BY Millsaps to approve Resolution 2011-07 allowing additional extensions of expired subdivision plats and reducing the fee. Ames, Atchley, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Absent: Bristol, Freudenthal and Pinson. Motion carried.

**REPORTS:** None

**ADJOURNMENT:**

MOTION BY Millsaps and was SECONDED BY Elsten to adjourn the Hendersonville Regional Planning Commission Meeting at 7:42 p.m. Ames, Atchley, Elsten, Jenkins, Massey, Millsaps and Stringfellow voted aye. Nay: None. Absent: Bristol, Freudenthal and Pinson. Motion carried.

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LORI ATCHLEY, Secretary

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DAVID JENKINS, Vice-Chairman

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FRED D. ROGERS, JR., Planning Director