

**MINUTES
BREVARD PLANNING BOARD MEETING
MARCH 21, 2017**

Brevard Planning Board met for a regular meeting, Tuesday, March 21, 2017, at 6:00 PM in Council Chambers of City Hall.

Members Present: Jimmy Perkins, Chair
Demi Loftis, Vice Chair
Chris Strassner
Keenan Smith
Frank Porter
Katie Thompson

Staff Present: Daniel Cobb, Planning Director
Aaron Bland, Planner
Paul Ray, Senior Code Enforcement Officer
Janice H. Pinson, Board Secretary

I. Welcome and Introduction of Planning Board Members -

At 6:00 PM, Chair, Jimmy Perkins called the meeting to order. Board members and Staff introduced themselves and there was a moment of silent reflection.

II. Approval of Minutes –

a. Minutes of the February 21, 2017 meeting, motion to approve by Katie Thompson, seconded by Frank Porter, unanimously carried.

III. New Business-

a. Consideration of Application #Z17-000015, by Workforce Homestead, Inc., Jim Yamin Agent, for a Planned Development District, Falling Waters is a proposed affordable 80-unit rental apartment development, location of property Tinsley Road, Zoning General Residential (GR-6), PIN #'s: 8586-44-6320-000; 8586-44-5742-000 and 8586-44-4931-000.

Daniel Cobb, Planning Director, gave a brief overview of the project and pointed out to the Board that in order for the project to be approved that the text amendment to amend Chapter 6.4, Steep Slope Requirements would have to be approved.

Paul Ray, Senior Code Enforcement Officer, presented his Staff Report which is attached hereto and labeled Exhibit "A". He gave an overview of the project and explained the planned development requirements according to the current ordinance.

J. Perkins, Chair, commented that he felt that the application was woefully short of being complete and that the Board did not have any detailed construction drawings to consider.

D. Cobb, explained that it was a preliminary master plan and that the Applicant would have a period of time to submit the final master plan. He stated that Mr. Yamin would be addressing his reasons and that he was probably handling this way because of funding issues. D. Cobb further explained the process the Applicant would have to go through for final approval.

K. Thompson expressed her concerns about components that do not comply.

P. Ray stated that Staff would not let a project move forward to be built that did not fully comply just because the preliminary plan was approved by the Board.

D. Cobb explained that steep slopes of 25 percent or more are not allowed to be developed according to the current ordinance and that Council would have to approve the text amendment in order for the project to move forward.

Jim Yamin, Applicant, stated that he appreciated the opportunity to address the Board. He explained that he felt the Board had already been given a good outline of the project and that his reason for asking the Board to approve was that he had already submitted an application to the Housing Finance Agency Tax Credit, and that it is a two (2) part application, the second part of the application is required to be submitted by May 12th and that a portion of the application requires the approval by Council and that this would mean that Council would have to approve at their April meeting in order for him to meet the deadline.

Mr. Yamin explained that he fully understood that there are items to be addressed to fully comply with all of the City's ordinance requirements and that he has a long way to go to meet these requirements. He further explained that he has been looking for a property for four (4) years to provide affordable housing to Transylvania County and that he is aware of the topographical issues, but that it is normal for this area and part of what makes it so nice. He stated that he does not want to provide any additional run off outside the site or cause any environmental issues and his plans would include controlling any run off.

Mr. Yamin explained the surrounding property uses as commercial, residential, single and multi-family and vacant land and that he felt this a reasonable use of the land and a demand for 430 additional housing units in the market area Transylvania County. He believes his project would provide a robust shot in the arm to the revitalization of the Railroad Avenue area.

He explained that he has been developing affordable housing for 28 years, 18 apartment complexes in rural and urban areas of North Carolina. That he has spoken in many public forums and that the opposition to the development is not a surprise to him. That people do not like change and that people feel the worst and expect the worst, because affordable housing really triggers people. He feels the housing that he is proposing is needed and will serve hardworking individuals that are interacted with every day of the week and contributors to the community. His hope being that the Board would consider his project.

J. Perkins stated that there is nothing that Mr. Yamin said that he could not agree with, and that affordable housing is a problem that needs to be addressed. He further explained that he had serious reservations about where the project is located and the amount of bend the Applicant is requesting. He stated that we work hard to protect our mountains and steep slopes. He said that he read the PDD requirements and wanted Mr. Yamin to explain how his project was going over and beyond the normal guidelines.

Mr. Yamin stated that they would not be able to provide the required open space, but would come close by reducing parking spaces they could provide approximately 1.7 acres and/or make a payment in lieu of. That his project would provide a playground, picnic area, extensive sidewalk network throughout the development and they have also been exploring the idea of a dog park along Tinsley Road.

He further explained that he only learned that the property was for sale in January and wish he would have had time to provide more details. He stated that the property is an island of land surrounded by developed properties. They are proposing to cut down the hill by 35 percent, but would still be leaving some untouched forested areas and that they would be managing all run off on the site.

Mr. Yamin compared his proposed project to the Cottages at Brevard and Broad River Terrace and when asked by K. Smith, provided proposed rent ranges for the units as follows: 1, 2, and 3 bedroom unit's \$325-525, 395-635, 460-700 and that the only other cost to the tenants will be electricity.

D. Loftis stated that the project has great merit and is much needed, but that it would be unconscionable to move forward without a traffic study. That she read the steep slope ordinance and feels the needs for specifics to give her the feeling of security in moving forward and that this had not be provided so far.

Mr. Yamin explained that he would be cutting down the steep slope and using the earth to fill in some of the ravines in order to provide a large enough area for the project. That they would design an engineered system to deal with run off from roofs, parking areas and it will not go into a retention pond and will not affect the surrounding areas.

P. Ray explained that the City's ordinance protects steep slopes and the removal of 35 feet would violate the current ordinance.

K. Thompson requested the opportunity to read her comments which are summarized here:

1. The proposed development is not only on steep slopes which the City seeks to protect but it is of a density multiple times that allowable for safety. Justification based on residency by low income renters would lead some to call this environmental discrimination" against those of lower income. Whether you call it that or not, to determine that citizens with lower incomes are not deserving of equal protection and equity in quality of housing violates our Ordinances and our Comprehensive Plan (Policy 3.1.A under Environment section and Policy 4.2.Gunder Livable Communities.

2. There has been long-standing concern among housing experts, city officials and planners throughout the country about ghetto-ization of residents with low incomes through such large housing developments. That is a significant concern with this project; proposed clustering of three 40story buildings with 80units (assuming no more than 2 residents/bedroom, up to 380 people) isolated from amenities on a road with no sidewalk.

3. Increased traffic and un-safe conditions on Tinsley Road, which is already considered by those in the area as hazardous.

4. The proposed development may not be a match with OUR folks with "low income" who need housing adjusted to their limited means. The experience of the Brevard Housing Authority and

the Transylvania Housing Needs Assessment re: housing needs and demographic characteristics, there is a greater need for single bedroom apartments and most of those with "low income" in need of housing are elderly, hardly candidates for these 3-4 story walk-ups.

5. The proposal does not meet the requirements for designation as a Planned Development District.

Mr. Yamin stated that HUD's median income is \$53,000.00 for a 4 person family. He further explained that he has an extensive market study that was completed and provides the best analysis of this project and that there is a very strong demand for the units.

J. Perkins stated that the board welcomes and encourages public comment and that the folks signed up to speak would now be allowed to have three (3) minutes a piece to speak.

The following people spoke:

Carol Moore, 264 Resada Drive, Deer Track, She would like to be a neighbor to affordable housing if the steep slope issues can be resolved, traffic study and sidewalks are both necessary items and bad choices are made when there are time constraints.

Norah Davis, 265 Resada Drive, Deer Track, She understands the need for affordable housing. If the developer is allowed to take 35 foot off the mountain top, in the event of a 100 year flood event it would form mudslides in Deer Track and Millbrook Estates. Tinsley Road is extremely dangerous, no shoulders or sidewalks and traffic is very fast on the road and it road intersects with two (2) subdivisions and Whitmire Street. A traffic study is necessary before this project moves any further.

Michael Somich, Whitmire Street, He enjoys the natural beauty of this area, takes walks, etc. He is very concerned for the residents of this area.

Gary Fort, 411 Kings Creek Road, He has traffic concerns, traffic study needs to take into consideration walkers, bikers. Concerned how any steep slope amendments would affect the rest of the City. A study should also be made of affordable housing and crime rates.

Tom McGow, 487 Tinsley Road, Coty Ferguson, Realtor and Board of Adjustment member quoted in the newspaper that he is concerned about no other affordable housing coming to this area if this project is not approved. Mr. Ferguson is Mr. Yamin's realtor. Concerned about the lighting from the project shining down on the surrounding properties. He feels that his neighborhood has been a major contributor to the City.

Donna Ross, 487 Tinsley Road, Mr. Yamin indicates that a pasture is a bad word. She felt that there are other properties that are better suited for this project and gave examples.

Dick Tucker, 264 Resada Drive, Deer Track, Affordable housing is a buzz word and people are fear driven by it, he feels the City should work with the developer to make it work. There are definite traffic concerns that do need to be addressed. He just helped a friend move into English Hills and it is located in a beautiful area.

Larry Tinsley, 410 Tinsley Road, His family came to this property and first developed in 1850's. He supports affordable housing. He has traffic concerns and that the entrance would be right below his home. School traffic is already a problem. What will the development look like in 20 years? It will be a travesty if the hill is allowed to be cut down. He spoke with the manager at Broad River Terrace and the income cut off is \$23,000.00.

Jay Coan, 150 Ronnie Drive, Millbrook Estates, steep slope requirements are there to protect, Brevard is unique and all of the surrounding neighbors will see this project from their subdivisions and he named examples. This is a great project but not a great property for the project.

Charles Moore, Kings Creek Road, The community includes the Tinsley Farm, Deer Track and Millbrook Estates and is a unique area that needs to be protected. A four (4) story building would ruin this community and take away from the atmosphere that one gets when walking or driving along the road. He has traffic concerns for this area as well. He believes it will be a travesty if this project is allowed. He stated that Katie Thompson's comments were on the mark.

Gil Newberry, 158 Fisher Road, He is not afraid of affordable housing and has worked with Habitat for Humanity for years and is not a, "not in my backyard guy". Density does bring more income. Tinsley Road is a very narrow road with blind curves – why would we exempt safety, why would we approve making it more dangerous. Why would we allow dangling a dog park persuade our decision? The Developer needs to address issues with wider road, sidewalks, reduce the scale to minimize these issues. A developer's deadline should not drive a decision. Suggestion would be to visit the other communities that have gone through this and see what their outcome has been.

Barbara Troyer, 100 Lollipop Lane, She has a deep concern because it is so personal, her property abuts the project and if the slope is cut down she would have a 35 foot cliff right behind her house. She said her property would stick out like a piece of cake and all around it would be taken away. She could not fathom this being allowed to happen.

Ms. Ross further commented that Ms. Troyer's property will be compromised and that her well would be disturbed if the project is allowed.

Martha Tinsley, 534 Tinsley Road, I sit on my porch and look at Cooper Hill's, which used to be called "Mount Surprise". I would hate to see something happen to that hill. I am against this project. I see the little children riding their bikes on the road. I just needed to have my say.

J. Perkins thanked everyone who spoke for being well thought out and respectful.

Mr. Yamin explained that the text amendment he applied for would apply to city wide development. He explained that the elevation from the front is 3 stories and that it will appear as a 4 story building from the rear. He said that woodland areas would be preserved in areas. He recognizes the challenges with the road structure and that calming devices could be installed to address. He enthusiastically welcomed all to visit his properties. He stated that Brevard does have experience with two (2) new tax credit housing developments.

K. Smith stated that he is apprehensive to move forward with multiple noncompliant issues and without specific details to meet the above and beyond requirements of a PDD. He stated that the traffic study is

an important factor; that he is very concerned about the neighboring properties and that there has not been enough attention to steep slope or natural resources.

F. Porter stated that we value what we have and if we are not careful everywhere we look we are going to have a tall building on the top of the hill, and there will be nowhere in the French Broad Valley that we can look without seeing a big building.

F. Porter made a motion to deny application as submitted, seconded by K. Thompson, unanimously denied.

Daniel Cobb stated that the matter would go before City Council at their meeting on April 24th at 7PM in Council Chambers.

b. Consideration of Text Amendment to amend Chapter 6, Environmental Protection Section 6.4, Steep Slope Requirements.

A. Bland, Planner, presented his staff report. The amendment would allow City Council to reduce steep slope requirements for affordable housing developments on a case by case basis. He explained that currently steep slopes of 25% or greater are not allowed to be developed and must be left in a vegetative state. He further stated that Staff does not recommend approval of this amendment.

D. Loftis moved to accept Staff's recommendation, seconded by C. Strassner, unanimously carried.

c. Consideration of Text Amendment to amend Chapter 6, Environmental Protection, Section 6.6 Stormwater Runoff Provisions.

D. Cobb explained that this text amendment had nothing to do with Mr. Yamin's project. He presented his staff report stating that the current UDO regulations are very hard to implement because of the way they are written and explained that there is no way to meet the current requirements in the downtown area. He pointed out the biggest difference in the amendments. The staff report is attached hereto and labeled, Exhibit "B".

When questioned as to why the downtown area was the only area being considered, D. Cobb explained the reason for beginning with the downtown area was because it is a definable area with high density development.

Eric Caldwell introduced himself, formerly with NC Agricultural Extension, he explained low impact development and that there is a manual for the State laying out best practices for stormwater management.

D. Loftis moved to recommend amendments as presented, seconded by F. Porter, and unanimously carried.

IV. Old Business –

a. Continuation of Review of 2015 Comprehensive Plan

F. Porter moved to table this discussion, seconded by D. Loftis, unanimously carried.

V. Other Business

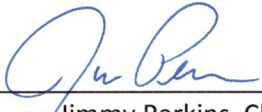
D. Cobb recommended that due to unavailability of Staff that the April 18th meeting be cancelled, F. Porter moved to cancel the April meeting, seconded by D. Loftis and unanimously carried.

D. Cobb explained that a request by Transylvania County Planning Department had been made to have a joint meeting between Transylvania County Planning Board, City of Brevard Planning Board and Transportation Advisory Committee on June 15, 2017 at 6:00 PM. K. Thompson and D. Loftis stated that they did not think they could make a meeting on that date.

D. Cobb announced that there will be a North Carolina Department of Transportation presentation at the Transylvania Transportation Advisory Committee meeting on April 4, 2017 at 7:00 PM in the County Commissioners meeting room and encouraged the Board to attend this meeting.

VI. Adjourn –

There being no further business, F. Porter moved to adjourn, seconded by D. Loftis, unanimously carried, and the meeting adjourned at 8:40 PM.



Jimmy Perkins, Chair



Janice H. Pinson, Board Secretary

STAFF REPORT**Planning Board, Tuesday, March 21, 2017****Title:** **Falling Waters Preliminary PDD – Z17-000015****From:** Daniel Cobb AICP, Planning Director**Prepared by:** Paul C. Ray, Senior Code Enforcement Officer**Approved by:** Daniel Cobb AICP, Planning Director**Executive Summary**

Planning Board will consider and formulate a recommendation to City Council regarding a Preliminary Master Plan for "Falling Waters," a proposed Planned Development District (PDD) with funding through the Low Income Housing Tax Credit (LIHTC) program. An application was submitted by Jim Yamin, of Workforce Homestead, Inc., along with a conceptual site plan for an affordable housing development consisting of three multistory buildings with 80 apartments ranging from one to three bedrooms. The proposed location is off Tinsley Road in Brevard's corporate limits, and would require the applicant to purchase and combine three parcels of land currently owned by Mars Hill University, identified by their Property Identification Numbers, 8586-44-4931-000; 8586-44-5742-000 and 8586-44-6320-000. The combined properties would equal approximately 14.76 acres and are zoned General Residential (GR4 and GR6).

Background

See the applicants proposed Architectural Site Plan dated February 6, 2017; (Attachment A) the Conceptual Elevations; (Attachments B1 – B4) a Revised Layout; Attachment C) and a letter from the City's Consultant Engineer; (Attachment D).

The City of Brevard Unified Development Ordinance (UDO), Chapter 2, Section 2.1.E authorizes the establishment of Planned Development Districts (PDD). A Planned Development District is, essentially, a rezoning in which the developer and the City negotiate site-specific development standards for the project. These standards are codified in a stand-alone ordinance that applies to the property, in perpetuity. Planned developments are meant to be inherently flexible, particularly in the areas of density, architectural design, and the mixing of land uses. However, with that flexibility comes an expectation that the developer will offer in return a high quality project that in some way goes "above and beyond" the baseline ordinance requirements. The City has considerable authority to negotiate with the applicant and to impose such conditions as necessary to protect the public interest and ensure high-quality development.

Per Section 2.3.A.1 of the UDO:

"In return for greater flexibility in site design requirements, planned developments are expected to deliver exceptional quality community designs that preserve critical environmental resources, provide above-average open space amenities, incorporate creative design in the layout of buildings, open space and circulation; assure

compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. Planned development districts shall not be used as a means of circumventing the City's adopted land development regulations for routine developments."

Discussion

Staff offers the following comments:

Chapter 2 – District Provisions

1. The proposed development may only be authorized as a Planned Development District (PDD) per Section 2.1.E because it contains the following:
 - A development where the total ground floor area of all principal structures equals or exceeds 100,000 square feet;
 - A development containing 25 or more structures or units;
 - A development for which the developed area is proposed to include ten or more acres of land (inclusive of required recreation and open spaces).
2. PDDs have a specific set of standards exclusive to the development. Only the uses specified in the PDD ordinance are allowed within the district. Any of the uses contained within the Use Matrix (2.2.C) may be requested, provided they are consistent with the Unified Development Ordinance. Section 2.1.E.9 further delineates a specific formula for land use composition as seen below:

Land Use	Minimum	Maximum
Single-Family	15%	75%
Multi-Family	10%	40%
Lodging/Office/Retail	2%	40%
Civic	2%	None

Unless otherwise requested by the applicant and approved by City Council, land composition in a PDD should follow this formula. However, the applicant has proposed only "Multi-Family" use on the site. Planning Board and City Council will need to determine whether Single-Family, Lodging, Office, Retail and/or Civic should be required. In this case, Staff recommends that the applicant not be required to provide any other use due to topographical site restrictions and the need for higher density housing developments. It is further recommended that the uses permitted in the underlying General Residential zoning district, including but not limited to Home Occupations, shall not be allowed in the proposed PDD with the exception of Agricultural, to allow for a community garden, if desired, or any reasonable use or accommodation required under the Americans with Disabilities Act such as assisted living or group care in adequately sized apartments.

3. Setbacks: The setbacks for the underlying General Residential zoning district are: (front) 15 feet from the edge of the right-of-way, (side) 6 feet off the property line or between buildings without partiwall, (rear) 25 feet off the right-of-way or property line. Staff recommends that minimum setbacks be determined by Staff upon review of a Final Master Plan to ensure the functionality of pedestrian and vehicular travel and foster a harmonious environment. Per Section 5.12.B, apartment buildings typically have one yard (rear) though variations include a small front setback often used for landscaping.
4. Maximum building height, according to Section 2.3.E, in the underlying General Residential zoning district is 35 feet. Although the proposed site plan does not delineate exact building dimensions, it can be inferred that the proposed four-story apartment building will be at least 56 feet tall. Section 5.18.C defines a "story" as the habitable level of a building, which level shall not exceed 14 feet in height from finished floor to finished floor. Staff recommends approving a four-story building, not to exceed 60 feet tall, to encourage efficient use of land while maintaining the proposed housing density.

Chapter 3 – Additional Use Standards

Not applicable.

Chapter 4 – General Lot and Structure Provisions

1. Section 4.4.F.2 sets forth the situations in which residential multi-family developments may qualify for exemption from the City's public street frontage requirements, "proposing no more than four principal structures, each containing no more than four dwelling units in each structure..." This section is relevant to this application because while Falling Waters is proposed to have public streets passing through the development, some sections transition into parking areas where there are dwelling units. Additionally, the existing section of Lollipop Lane, off Tinsley Road, may have to remain private since an access easement, crossing another's land, would be conveyed to the applicant upon purchasing the property. The Board should consider a condition of approval being to secure a ROW to be dedicated to the City.



Staff recommends only accepting the dedication of the street rights-of-way and sidewalks, and any necessary utility easements, but not the private parking areas and their adjoining sidewalks, which would remain under the care and control of the property management company.

2. Containment areas for trash containers shall meet the standards set forth in Section 4.6.A-G, unless alternative and equivalent standards are accepted by Staff and Director of Public Works.
3. The remaining provisions of Chapter 4 shall apply.

Chapter 5- Building Types and Architectural Standards

1. The applicant has not submitted full construction drawings with detailed building elevations, but has submitted conceptual elevations for each building (Attachments B1 – B4). The proposed development may look similar in appearance to Broad River Terrace, located on Kimzey Circle, which is a 62 unit affordable housing community. The Unified Development Ordinance outlines architectural standards for apartments in Section 5.12. It is expected that the quality of design on the Final Master Plan will exceed the minimum ordinance standards.

Chapter 6 – Environmental Protection

1. The applicant has not provided a grading or sedimentation and erosion control plan, which is a requirement. The applicant shall provide a copy of an approved NCDEQ Sedimentation and Erosion Control Permit prior to issuance of authorization to construct.
2. The straightening, channelization or piping of a watercourse will be necessary for road construction at the northeast entrance. All local and state permits must be secured prior to construction.
3. The proposed development does not comply with Section 6.4, Steep Slope Area Requirements. It is Staff's opinion that Section 6.4.D.6 of the Unified Development Ordinance would have to be amended before the City Council could approve this development since all of the developable land area exceeds a 25 percent slope and would be developed at a greater density than the maximum average of one dwelling unit for every three (3) acres. Reference text amendment application number TA17-000001.
4. All stormwater runoff provisions are applicable to this development and shall not be varied.

Chapter 7 – Open Space

1. The required amount of open space for this development is 99,840 square feet, which is 2.1 acres of land for passive and active recreation. *(Note: 43,560 SQ FT equals 1 acre.)* The required amount of open space is based on the number of bedrooms in the proposed development, which is 192 bedrooms, and calculated using a density multiplier of 520, as specified in Section 7.3 of the UDO. The actual density of this project is 5.42 units per acre, which is the top range for using that multiplier. Due to the topographical limitations and proposed density of the development, more information is needed to show how the applicant will provide 2.1 acres of functional open space. The preliminary master plan delineates a playground with one bench and 150 SQ. FT. of

covered picnic area with two tables and a grill, along with three (3) outdoor sitting areas. The Revised Layout (Attachment C) also shows areas of open space. The Board shall consider the type and quality of open space proposed by the applicant and decide on a requirement.

Other types of acceptable open space listed in the Unified Development Ordinance include greens, parks, walking trails, or a small athletic fields. The preferred design for residential neighborhoods is functional open space with identifiable centers and edges or a network of walkable connections to smaller recreational areas. Section 7.4 allows for payment in lieu of open space or a combination thereof, when topographic site restraints make it impractical. The amount is based on a fair market appraisal of the site. All funds received for payment in lieu of shall be used for the acquisition, improvement, development, or redevelopment of open space within the City. Staff recommends the developer provide functional open space to the fullest extent possible and pay a fee in lieu of as a last resort.

Chapter 8 – Tree Protection and Landscaping

1. The applicant has not submitted landscaping designs, but shall be required to comply with all of the standards outlined in this chapter including but not limited to tree protection and preservation, buffers and screening, street trees, parking lot screening and landscaping, and must abide by the general installation and maintenance standards.

Chapter 9 – Circulation and Connectivity

1. Full circulation and a highly connected sidewalk network is required by ordinance, limiting cul-de-sac or dead-end streets for both automobiles and pedestrian travel. An amendment to the site plan was submitted by the applicant on February 14, 2017, after receiving comments from the Technical Review Committee (TRC) and Staff. The new circulation pattern connects the parking area behind building number 300 with the proposed city street (Attachment C).
2. Section 9.4.A requires a Traffic Impact Study (TIS) for certain developments to help identify where such developments have a significant impact on safety, traffic and transportation. They provide a means for the developer and government agencies to mitigate these impacts. The TIS is used to evaluate if the scale of development is appropriate for a particular site, and what improvements may be necessary to provide safe and efficient access and traffic flow. A TIS may be required for a planned development district with an estimated trip generation of 2,000 vehicles per day or greater during an average weekday, based on a five day national average. For purposes of determining the requirement to submit a TIS, the following examples are provided, which typically meet or exceeds 2,000 vehicles per day threshold:
 - 50,000 sf Retail

- 200 Single family homes
- 150,000 sf Office
- 250,000 sf Industrial
- 300 room Hotel

The proposed development consists of 80 apartment units, totaling 192 bedrooms. Tinsley Road is a 15 foot wide paved surface on a 30 foot wide ROW. The Board shall decide if a traffic impact study is necessary.

Chapter 10 – Parking Standards

1. A conceptual parking design is shown on the Site Plan, (attachment A). All parking requirements outlined in this Chapter shall be enforced unless approved otherwise per the PDD Ordinance.
2. The parking standards in Section 10.3.A requires a minimum parking ratio of 2 spaces per dwelling unit, which equals 160 spaces for this development as noted on the site plan. Staff recommends reducing the parking ratio from 2 spaces per unit to 1.5 spaces per unit to provide 120 spaces. This will reduce the amount of impervious surface area and increase the potential for more open space. Additionally, on-street parking has been delineated on the site plan creating a variety of parking options.
3. Parking areas are not shown to be curbed on the site plan, as required in Section 10.6.B and therefore shall be delineated on the Final Master Plan.

Chapter 11 – Lighting

1. A lighting plan in accordance with 17.5.K.3 or 17.10 has not been provided, showing all non-residential full cut-off external illumination (lighting in open spaces, parking lots etc). Per Section 11.5.A.3, the general layout of street lights should be every 150' along the street.
2. A full isolux lighting plan demonstrating compliance with Chapter 11 shall be submitted and approved prior to Final Master Plan approval.
3. Lighting shall comply with the "Dark Skies" objective mentioned in the 2015 Comprehensive Plan and shall comply with Chapter 11 of the Unified Development Ordinance.

Chapter 12 - Signs

No details on signage has been submitted at this time. Signage can be negotiated as part of the PDD process. The ordinance standard for a ground sign at neighborhood entrances is 32 square

feet of surface area per side of sign up to a maximum of 64 square feet of aggregate surface area. Two ground signs may be permitted at opposite entrances, per Section 12.11.3.

Chapter 13 – Infrastructure Improvement Requirements

1. Connection to City sewer system and water system is required.
2. All utilities shall be designed and constructed in accordance with the City of Brevard Standards and Specifications for Utilities.
3. A Plat of Dedication and Dedication Agreement conveying utilities, utility easements and rights-of-way to the City will be required prior to final approval.
4. Tap fees will be assessed for all structures and irrigation and remitted to the City before the approval of Final Master Plan.
5. City streets shall be built to the minimum specifications of this chapter and Chapter 62 of Brevard City Code, and shall comply with all standards and specifications of the Public Works Director. Streets must be built to a minimum dimension and specification of a “Neighborhood Street” as defined in Section 13.6.K.
6. Sidewalks, multi-use path, and other pedestrian and bicycle improvements shall be installed by the developer and dedicated to the city prior to the approval of any final subdivision plat, or issuance of final zoning approval. The ordinance requires that streets shall be bordered by pedestrian/ bicycle infrastructure on both sides. However, to help preserve steep slope areas and natural space, Staff may negotiate areas where it may be practical to require sidewalks on one side of city streets and/or private parking area or a combination of a sidewalk on one side of the street and a bicycle lane on the other. The Final Master Plan shall have sidewalks and pedestrian travel lanes extending to Tinsley Road from the northeast entrance to the northwest entrance and throughout the interior of the development.
7. The developer, and their engineers, shall provide more information to show how they will accomplish the minimum allowable domestic water pressure of 20 PSI by Public Water standards at the meter in addition to meeting the demands for fire suppression and hydrants. (Attachment D)

Neighborhood Compatibility Meeting

The Neighborhood Compatibility Meeting was held on March 16, 2017, from 6:00 p.m. to 8:00 p.m. at City Hall. The Developer, Jim Yamin, was present at the meeting. Staff facilitated the discussion between the developer and the fourteen (14) local residents who attended. There were no comments made by residents in support of the development at the proposed location,

although most people agreed that high-quality, affordable housing was necessary for a healthy and diverse community. The primary concerns and comments were as follows:

1. The protection of environmentally sensitive areas, like steep slopes and floodplain, outweigh the need for housing development.
2. Tinsley Road cannot safely support the additional traffic caused by 80 new apartments. Excessive vehicular speed and no sidewalks are already problems not being addressed. A traffic impact study is needed.
3. Affordable housing should not be “segregated” in the form of dense, low income development but spread throughout the city.
4. The proposed development is not compatible in appearance or density with the surrounding neighborhoods.

Fiscal Impact

To be determined.

Policy Analysis

The City’s 2015 Comprehensive Plan remarks on the increasing pressure to develop more land, whereas the City will be faced with difficult decisions regarding how to best find a balance between the demand for additional urbanized land for homes, roads, stores, and services, with issues of public safety, environmental sustainability, and community character. Striking this balance is critical to protecting the high quality of life that residents expect. A sustainable economy is also a place where residents can find jobs and afford to live in the community and where everyone can expect quality services and infrastructure.

The proposed development provides economic and housing benefits that support the City’s Comprehensive Plan, but would have an environmental impact on steep slopes, which does not. The following examples are objectives and policies taken from the City’s 2015, Comprehensive Plan.

Supports Comprehensive Plan:

- OBJECTIVE 2.1: As the City of Brevard's primary source of financial capital, the City will take proactive measures to stabilize and grow the tax base.
- POLICY 4.2.E: Collaborate with partners to increase the amount of available affordable and workforce housing, and to combat homelessness.

Challenges Comprehensive Plan:

- OBJECTIVE 3.1: Preservation of surrounding natural assets of mountains, farmlands, woods, and water for future generations.
- POLICY 3.1.A: Continue using land development regulations and incentives to steer future development away from environmentally sensitive areas such as steep slopes and floodplains.
- POLICY 3.1.B: Connect landowners and developers with local conservation organizations and encourage the permanent protection of farmlands, steep slopes, floodplains and other sensitive natural areas.

Staff Recommendation

BPB has three options:

1. Recommended approval of the application as submitted.
2. Recommended denial of the applicant as submitted.
3. Recommend approval of the application with conditions.

Table 45 days to decide

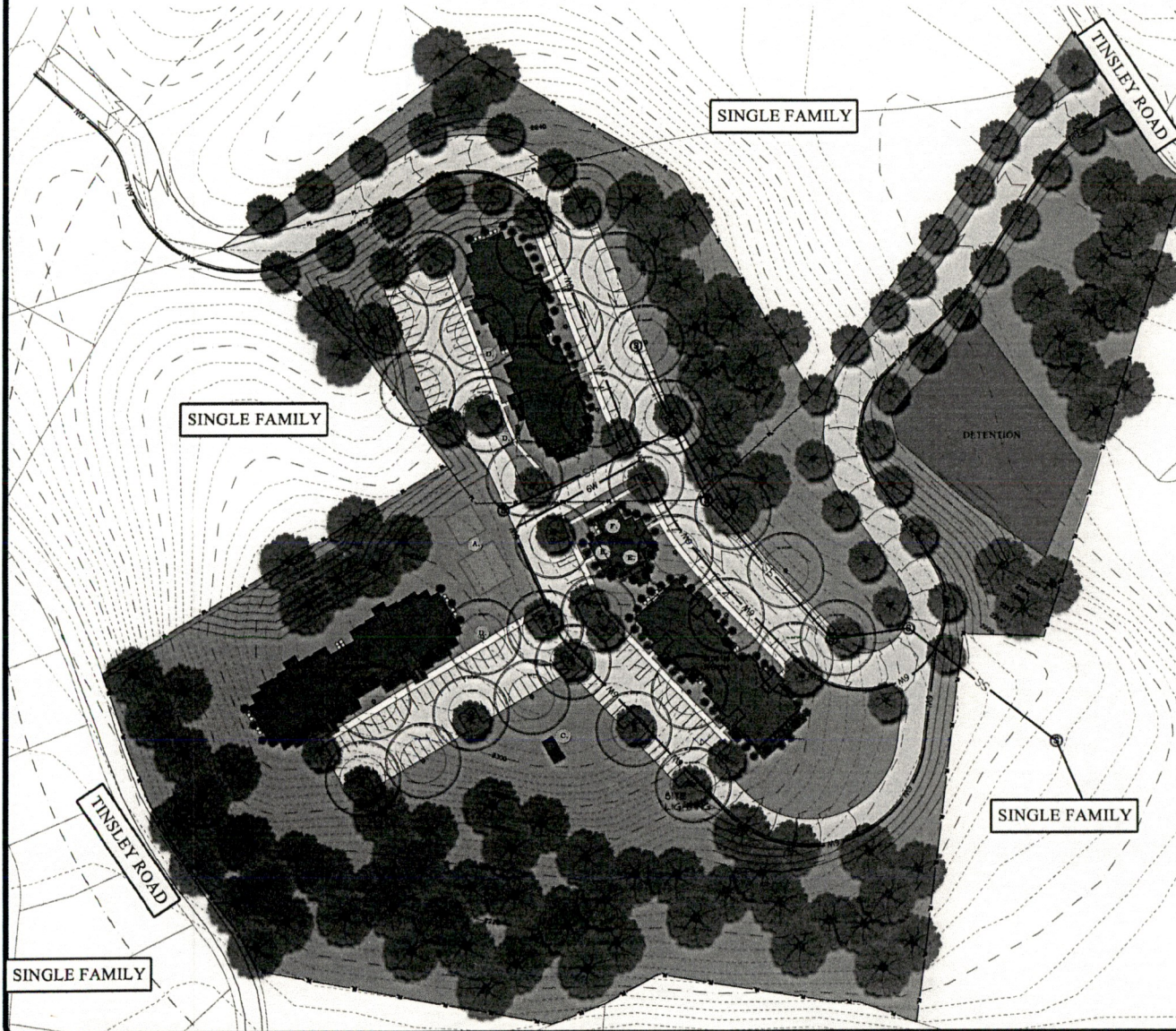
Attachments

- A. Site Plan
- B1. Building Elevation; Building 100
- B2. Building Elevation; Building 200
- B3. Building Elevation; Building 300
- B4. Building Elevation; Clubhouse
- C. Revised Layout
- D. Water Service Letter; High Country Engineering

FALLING WATERS

BREVARD, NC

2-6-2017



SITE INFORMATION:

SITE: 14.76 ACRES
 DENSITY: 5.42 UNITS/ACRES
 BUILDINGS: (1) 1 STORY CLUBHOUSE
 (2) 3-STORY APARTMENT BUILDING
 (1) 3-4 STORY APARTMENT BUILDING
 SPRINKLERS: 12R
 PARKING SPACES: 160 PROVIDED @ 2 PER UNIT

UNIT INFORMATION:

UNIT MIX	SPCS/UNIT	PKG. REQ.
1-BR (A UNITS)	= 14	2.0
2-BR (B UNITS)	= 34	2.0
3-BR (C UNITS)	= 32	2.0
TOTAL	= 80 UNITS	160

REQUIRED SITE AMENITIES:

- (A) PLAYGROUND - (W/MIN. 1 BENCH)
- (B) MULTI-PURPOSE ROOM (MIN. 250 SQ. FT.)
- (C) COVERED PICNIC AREA - (150 SQ. FT. W/ 2 TABLES & GRILL)

ADDITIONAL AMENITIES:

- (D) OUTDOOR SITTING AREAS W/ BENCHES - (MIN. 3 LOCATIONS)
- (E) EXERCISE ROOM - (W/ NEW EQUIPMENT)
- (F) RESIDENT COMPUTER CENTER - (MIN. 2 COMPUTERS)

Unit Type	Unit Heated Area	Unit Net Area	No. of Units	Heated Total	Net Total
ONE BEDROOM	789	829	14	11046	11606
TWO BEDROOM	1,044	1,094	34	35496	37196
THREE BEDROOM	1,230	1,286	32	39360	41152
Total			80	85902	89954



PROJECT	2/5/2017
DATE	2-6-17
BY	UT/2017
CHKD BY	PLP

MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.
 25 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3300 404-377-3800
 FALLING WATERS
 BREVARD, NC
 ARCHITECTURAL SITE PLAN

MRA
 CSP.1

NOT RELEASED FOR CONSTRUCTION

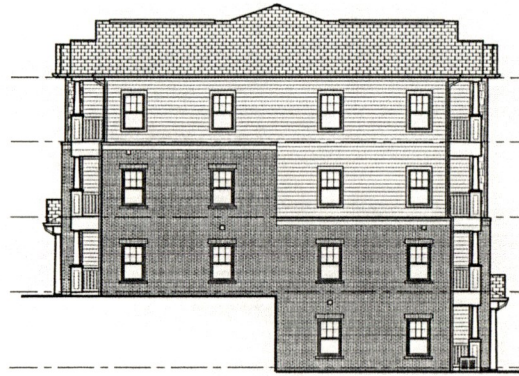
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1 BUILDING 100 FRONT ELEVATION
1/8" = 1'-0"



2 BUILDING 100 REAR ELEVATION
1/8" = 1'-0"



3 BUILDING 100 LEFT ELEVATION
1/8" = 1'-0"
(RIGHT SIDE MIRRORED)

SCALE: 1/8" = 1'-0"

PROJECT	2017-036
DATE	1/18/17
DRAWN BY / CHECKED BY	PLJ
REVISION	2-2-17

MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.
25 CHURCH STREET SUITE 200 DECATUR GEORGIA 30030-3329 404-373-2800
FALLING WATERS
BREVARD, NC
BUILDING ELEVATIONS

MARA
A3.1

NOT RELEASED FOR CONSTRUCTION

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1 BUILDING 200 FRONT AND REAR ELEVATION
1/8" = 1'-0"



2 BUILDING 200 LEFT ELEVATION
1/8" = 1'-0" (RIGHT SIDE FINISHED)

SCALE: 1/8" = 1'-0"

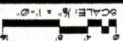
MRA

MARTIN RILEY ASSOCIATES - ARCHITECTS, P.C.
25 CHURCH STREET SUITE 200 DECATUR GEORGIA 3003-329 404-373-2800
FALLING WATERS
BREVARD, NC

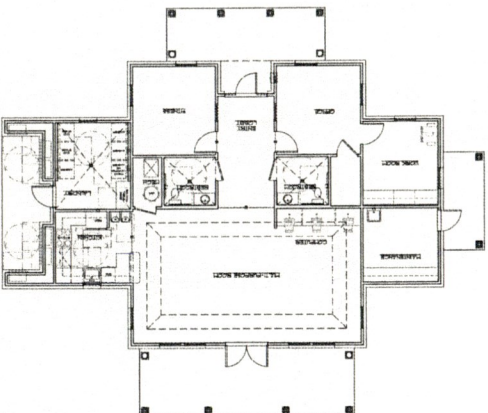
A3.2

DATE	2-2-17
BY	2017-036
CHECKED	1/16/17
PLT	PLT

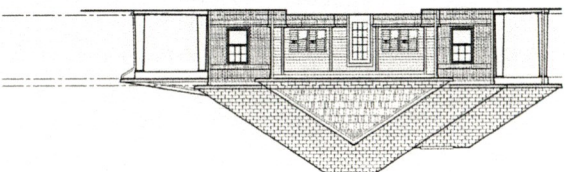
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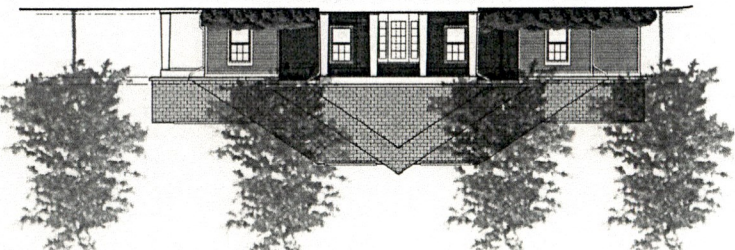
CLUBHOUSE FLOOR PLAN



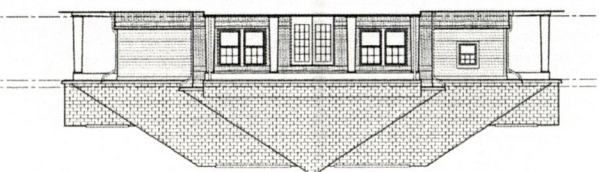
CLUBHOUSE RIGHT ELEVATION



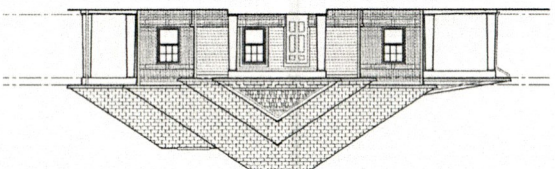
CLUBHOUSE FRONT ELEVATION 1/8" = 1'-0"

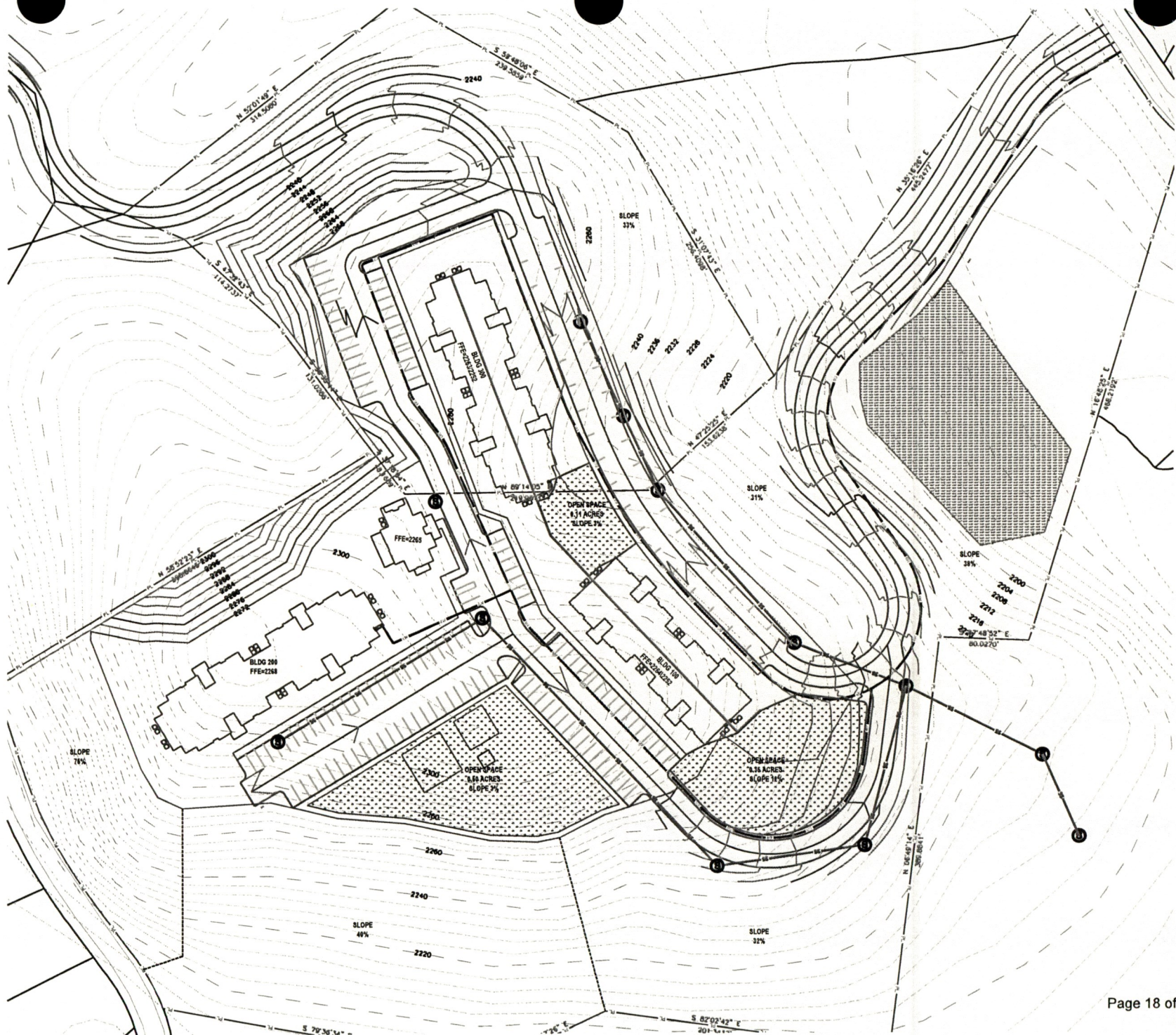


CLUBHOUSE REAR ELEVATION 2



CLUBHOUSE LEFT ELEVATION







February 9, 2017

Mr. Paul Ray, Senior Code Enforcement Office
City of Brevard
95 West Main Street
Brevard, NC 28712

RE: Falling Water Conceptual Master Plan
Water Service

Dear Mr. Ray,

After reviewing the conceptual master plan for Falling Water, the Brevard water system will not have adequate water pressure to supply this development without some type of pump and tank system. The overflow elevation of the main reservoirs in Brevard is $\pm 2320'$ and the proposed finished floor elevation of the 4-story building is shown at $2265'$ from the master plan. This allows for only ± 23.8 PSI of static pressure under the very best conditions (tanks full and little system demand). The minimum allowable water pressure at the water meter is 20 PSI by Public Water Supply standards.

The developer, and their engineers, would need to provide more information to show how they will accomplish both the fire and domestic demands of their development.

Sincerely,

Michael R. Goforth, PE

CC: Mr. David Lutz, Public Service Director



STAFF REPORT

Planning Board, Tuesday, March 21, 2017

Title: **Text Amendment: UDO Section 6 – Environmental Protection – Stormwater Management**

From: Daniel Cobb, AICP, Planning Director

Prepared by: Daniel Cobb, AICP, Planning Director

Approved by: Daniel Cobb, AICP, Planning Director

Background

Chapter 6 of the Unified Development Ordinance (UDO) regulates environmental protections, such as steep slope development requirements, sedimentation and erosion prevention, stormwater runoff provisions, and surface water protection.

The proposal before the Board is to modify Chapter 6, subsection 6.6 – Stormwater Runoff Provisions.

Discussion

Chapter 6 of the UDO details environmental protection measures required for development within Brevard's regulatory jurisdiction. The purpose of this chapter is to "protect and promote the public health, safety, and general welfare by preventing the loss of life and/or public and private economic loss due to landslides, floods, erosion and sedimentation pollution" (UDO 6.2.A).

The purpose and intent of the UDO's stormwater management regulations (6.6) in particular are explained further in the following statement:

The purpose this section is to (1) protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; and (2) to protect water quality and natural ecosystems by filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

Due to Brevard's inherently wet climate and miles of high quality waters, these regulations are particularly important. Brevard receives nearly 70 inches of rain per year. For comparison, Hendersonville receives approximately 56 inches, and Asheville only receives about 37 inches.

While environmental protections are extremely important, it is equally as important that local ordinances recognize the existing built environment and the practical implications of high development standards. The current regulations require any commercial property to treat the 10-year, 24-hour storm event. This in and of itself is not an unusual requirement, what presents challenges is retrofitting a site to account for existing impervious surface. For example, if a property is two acres in size and is currently 100% impervious area (parking lots and buildings), currently does not have any stormwater treatment on site, and the owner would like to tear

down the building and replace it with the same amount of impervious area, the entire site must be brought into compliance. In some cases this can mean a reduction in available parking, a reduced building footprint, or in some cases prevent redevelopment of any kind. This has the unintended consequence of discouraging property owners with older or dilapidated buildings from redeveloping their sites.

A more appropriate approach to these situations is to give credit to the amount of impervious surface existing on a site at the time of redevelopment. Under this scenario the owner of the same two-acre tract above would be able to demolish and rebuild without dedicating valuable real estate and financial capital to address something that was not causing any negative impacts to begin with.

There are situations when stormwater management is required but may be impractical. For these situations Section 6.6.J of the UDO offers a fee-in-lieu option. Proposed amendments to this section aim to clarify how those fees are calculated and utilized.

Policy Analysis

Element 3 of the 2015 Comprehensive Plan is the Environmental Health section of the plan. This element makes clear the City's intent to preserve the natural resources in and around Brevard. While these changes may appear to contradict this intent, they do not. Through an analysis conducted as part of the rewrite of the City's development standards it became evident that stormwater runoff is not creating any immediate issues that should be addressed.

Modifications of the City's stormwater management provisions have been discussed for several years, and is also a specific policy objective in the 2015 Comprehensive Plan. An excerpt of the plan is included below:

Objective 3.1: Preservation of surrounding natural assets of mountains, farmlands, woods, and water for future generations.

POLICY 3.1.D: Seek out and develop innovative solutions to protect water quality while reducing the cost of stormwater management to private developers.

POLICY 3.1.E: Revise development regulations to encourage and incentivize the use of Low Impact Design techniques to manage stormwater.

The proposed text amendments directly relate to these two policies; Section 6.6.B.4 would exempt property located within the Heart of Brevard Municipal Service District from stormwater management requirements. The intent of this is to allow great development densities downtown by removing the burden of stormwater treatment and Section 6.6.C.3 of the proposed text amendments would specifically require the use of low impact design (LID) as described in Policy 3.1.E above.

Recommendation

Staff recommends approval of the amendments as presented.

The Planning Board's responsibility is to formulate a recommendation to Brevard City Council. The Board's options are as follows:

1. Recommend approval of the proposed text amendments as presented.
2. Recommend approval of the proposed text amendments, with recommended modifications.
3. Recommend denial of the proposed text amendments as presented.

Fiscal Impact

None.

Attachments

- A. Proposed Amended Text

6.6. - Stormwater runoff provisions.

The purpose this section is to (1) protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; and (2) to protect water quality and natural ecosystems by filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

A. *Affected property:* The requirements of this section shall apply to the following activities:

1. Any new non-residential or mixed-use development that disturbs more than one acre of land, and or will have an impervious surface area more than 50% of the total acreage of the site; ~~or any existing non-residential or mixed-use development undergoing significant improvement; or any existing non-residential or mixed-use development undergoing an expansion of impervious surface area of 25 percent or more.~~
2. Any new residential development or subdivision of four or more dwelling units; ~~or any existing multi-family residential structure of four or more dwelling units undergoing significant improvement; or any expansion of or additions to an existing residential structure or development that would result in four or more dwelling units within the same parcel of land or structure or grouping of joined structures.~~
- ~~2.3. Any project for which Stormwater management is required as a condition of approval by the Planning Board, Board of Adjustment, or City Council.~~
- ~~3.4. In the event of redevelopment that results in increased impervious area, only the new impervious areas are subject to the standards in 6.6.C.~~
- ~~3. All new residential and non-residential major subdivisions and any new phase or expansion of existing residential and non-residential major subdivisions.~~
- ~~4. All new non-residential or mixed-use minor subdivisions and any new phase or expansion of existing non-residential or mixed-use minor subdivisions.~~
- ~~5. Any new residential or non-residential development project permitted as a planned development or conditional zoning district.~~
- ~~6. New structures; significant improvements to existing non-residential or mixed use structures; significant improvements to existing residential structures containing four or more dwelling units; and any expansion of impervious surface area of 25 percent or more within any development except expansions to residential structures containing fewer than four dwelling units, unless otherwise subject to these requirements.~~
- ~~7. Any project for which stormwater management is required as a condition of approval by the planning board, board of adjustment, or city council.~~

B. *Exempt activities:* The following activities are exempt from the stormwater management provisions of this section:

1. Existing bona fide agricultural structures used exclusively for agricultural purposes, and
 2. Development or redevelopment of a single one or two family dwelling unit that disturbs less than one acre and will have an impervious surface area less than 20,000 square feet.
 3. Redevelopment that results in no net increase of impervious surface area on a property.
 4. Development or redevelopment of parcels located within the Heart of Brevard Municipal Service District.
 5. Small accessory buildings or structures, or additional less than 400 square feet.
- ~~2. Except as provided elsewhere in this ordinance, the placement of small accessory buildings or structures or small amounts of other built-upon area; provided, however, that the total additional built-upon area shall be no greater than 400 square feet and the additional built-upon area shall not be placed within a special flood hazard area or surface water protection area.~~

C. *Stormwater management requirements:* The following requirements shall apply to the entire parcel of land or project area and all impervious surface areas of affected properties.

1. ~~Design standards: The property owner and developer of all affected property shall be required to comply with the following design standards:~~
 - a. Runoff volume shall be calculated with the use of the Soil Conservation System (SCS) method.
 - b. The stormwater run-off generated by a 2-year and 10-year, 24-hour rain event, shall be controlled limited to the pre-development discharge rates.
 - c. ~~b.~~ At a minimum, stormwater measures shall be designed to remove 85 percent of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event.
 - d. ~~c.~~ Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.
2. Stormwater measures shall be designed by a North Carolina Licensed Professional Engineer or an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize "low impact" and non-structural control and treatment measures are encouraged.
3. Small scale Stormwater management practices, non-structural techniques, low-impact designs (LID), and site planning designed to mimic natural hydrologic

runoff characteristics and minimize the impact of land development on water resources must be implemented. Only when it is absolutely necessary is the use of a structural BMP warranted.

4.3. Structural treatment devices used as an alternative to, or in conjunction with LID techniques are acceptable only when practically necessary.

5. Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners' association or similar entity. When stormwater measures are located off-site, deeds of both the affected property and the property containing the stormwater measure shall be provided and shall clearly reference an access easement and the right and responsibility of the owner of the affected property to access and maintain such measure.

6. 4. In all instances stormwater measures shall be designed to complement a development and surrounding community and to minimize any threat to public health. If ponds or lakes are used, such areas shall be landscaped as amenities or hidden from view. This provision applies regardless whether the pond or lake typically contains water or may be dry for periods of time.

D. *Permit requirements:* The administrator shall review all stormwater plans required by this ordinance to ensure compliance therewith. In making this determination, the administrator shall use the *Stormwater Best Management Practices Design Manual* published by the North Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data.

1. Stormwater management system concept plan. When required as part of any project, a written or graphic concept plan of the proposed post-development stormwater management system shall be submitted along with other application materials and shall include the following: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.
2. As-built plans and final approval. Upon completion of a project, and before final zoning approval or a Certificate of Occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

3. a. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of

all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance.

4. ~~b.~~A final inspection and approval by the administrator is necessary prior to the issuance of any Certificate of Occupancy, release of improvement guarantee, or other final approval.

E. *Inspection of measures:* The ~~a~~Administrator may, from time to time, inspect approved stormwater measures for compliance with this section and approved plans. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater measures; and evaluating the condition of stormwater measures. No person shall obstruct, hamper or interfere with the ~~a~~Administrator while carrying out his or her official duties. If the owner or occupant of any affected property refuses to allow such inspection, the ~~a~~Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor.

F. *Maintenance of stormwater measures:*

1. The owner of any stormwater measure installed pursuant to this section shall maintain and operate such measure so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the stormwater measure was designed.
2. Furthermore, stormwater measures installed prior to the enactment of this ordinance as a requirement of the issuance of any permit shall be subject to the maintenance requirements herein.
3. The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

H. *Illicit discharges:* Except as provided herein, no person shall cause or allow the discharge, emission, disposal, pouring, or pumping, whether directly or indirectly, of any liquid, solid, gas, or other substance, other than stormwater, into any surface water, ground water, or stormwater conveyance. This prohibition applies to any substance deposited upon the land in manner and amount that the substance is likely to reach a stormwater conveyance, surface or ground water.

1. The following discharges shall not be deemed illicit and shall be permitted under the terms stated:
 - a. Water line flushing, except any anti-freezing agent;
 - b. Landscape irrigation;
 - c. Diverted stream flows;

- 155 d. Rising ground waters;
- 156 e. Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- 157 f. Uncontaminated pumped ground water;
- 158 g. Discharges from potable water sources;
- 159 h. Foundation drains;
- 160 i. Air conditioning condensation;
- 161 j. Irrigation water;
- 162 k. Springs;
- 163 l. Water from crawl space pumps;
- 164 m. Footing drains;
- 165 n. Lawn watering;
- 166 o. Individual residential car washing;
- 167 p. Flows from riparian habitats and wetlands;
- 168 q. Dechlorinated swimming pool discharges;
- 169 r. Street wash water; and
- 170 s. Other non-stormwater discharges for which a valid NPDES discharge permit
- 171 has been approved and issued by the State of North Carolina.
- 172 2. Prohibited discharges include but are not limited to the following:
- 173 a. Discharges of oil, anti-freeze, chemicals, paints, garbage, litter;
- 174 b. Raw sewage discharges or overflows;
- 175 c. Discharges of wash water resulting from the hosing or cleaning of gasoline
- 176 stations, auto repair garages, or other types of automotive service facilities;
- 177 d. Discharges resulting from the cleaning, repair, or maintenance of any type of
- 178 equipment, machinery, or facility (including motor vehicles, cement-related
- 179 construction equipment, port-a-potty servicing, etc.);
- 180 e. Discharges of wash water from mobile operations such as steam cleaning,
- 181 power washing, pressure washing, carpet cleaning, and mobile carwash
- 182 facilities; discharges of wash water from the cleaning or hosing of impervious
- 183 surfaces in industrial and commercial areas including parking lots, streets,
- 184 sidewalks, driveways, patios, plazas, work yards, and outdoor eating or
- 185 drinking areas;
- 186 f. Discharges of runoff from material storage areas containing chemicals, fuels,
- 187 grease, oil or hazardous materials or chemicals;

- g. Discharges of pool or fountain water containing chlorine, biocides or other chemicals, and also discharges of pool or fountain filter backwash water;
 - h. Discharges of water containing sediment or construction-related wastes; and
 - i. Discharges of food-related wastes such as grease, oil, fish processing water, kitchen mat wash water, trash bin wash water, pouring liquids into dumpsters.
- l. *Illicit connections:* Other than those exceptions listed in Section 6.6.H.1, above, it shall be unlawful to cause or permit any connection to a surface water or stormwater conveyance or stormwater conveyance system that allows the discharge of anything other than stormwater.
 - 1. Prohibited connections include, but are not limited to the following: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.
 - 2. Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance. Provided, however, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
 - 3. Upon determining that an illicit connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat or that a connection was made in violation of any applicable regulation or ordinance, other than this section the administrator shall designate the time limit within which the connection shall be removed. In setting the time limit for compliance, the administrator shall take these matters into consideration:
 - a. The quantity and complexity of the work;
 - b. The consequences of delay;
 - c. The potential harm to the environment, to the public health, and to public and private property; and
 - d. The cost of remedying the damage.
- J. *Fee-in-lieu of stormwater compliance:* On-site compliance with the requirements of this section may be impractical or impossible ~~in certain watersheds on certain parcels within~~ of the city. The owner and/or developer of affected properties may pursuant to

the provisions set forth herein, opt to pay a fee-in-lieu of compliance with the stormwater management requirements of this section.

1. Payment may be made in the form of contribution of funds, contribution of land, contribution of engineered stormwater control construction work, or a combination of these, ~~the total value of which shall be in accordance with the stormwater fee-in-lieu schedule which shall be established by the city manager and periodically revised to account for changes in construction and maintenance costs.~~

2. Fees shall be based upon actual cost of construction of a structural stormwater measure to control and treat stormwater runoff from the total impervious surface area of the affected property.

~~3. Reserved.~~

~~4. City council shall adopt a map of watersheds within which a fee in lieu of stormwater compliance may be permitted.~~

~~53. Fee-in-lieu contributions shall be set aside in a dedicated, watershed-specific special fund, and applied to stormwater management and other water quality improvement projects, within the same watershed as the affected property.~~

 Purposes eligible for fee-in-lieu contributions include the following:

- a. The acquisition, design, or construction of stormwater control and treatment measures.
- b. Stream bank, wetland, or other surface water protection and restoration projects that enhance stormwater management goals, reduce erosion, and enhance water quality.
- c. The elimination of illicit or inappropriate connections to stormwater conveyances.
- d. Other activities identified by the city manager, provided that such activities are for the sole purpose of improving water quality.
- e. Matching funds for grants to fund any of the aforementioned types of activities.
- f. Matching funds for participation in any water quality improvement program funded by the Transylvania County Soil and Water Conservation Service, the North Carolina Department of Environment and Natural Resources, the USDA Natural Resources Conservation Service, or other local, regional, state or federal agencies.

~~64.~~ The expenditure of stormwater contributions is limited as follows:

- a. To the extent practical, contributions shall be applied to activities that will result in water quality benefits comparable to the benefits of controlling and treating stormwater on the contributing property.

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- b. Contributions shall not be applied to the stormwater management requirements of other affected properties, or to the same affected property to satisfy the stormwater management requirements of future site plan approvals.
- c. Contributions shall not be applied to any other purpose or activity of the city not directly related to stormwater management and water quality improvement.