

**MINUTES
BREVARD PLANNING BOARD REGULAR MEETING
JANUARY 26, 2021**

Brevard Planning Board met for a regular meeting, Tuesday, January 26, 2021 at 5:30 PM. The meeting was held remotely in accordance with NC General Statute 166A-19.24. Simultaneous live audio and video was made available to the public online at <https://www.facebook.com/brevardplanning/>.

Members Present: Chris Strassner, Chair
Greg Hunter
James Carli
Demi Loftis, Vice Chair
Stuart English

Members Absent: Molly Jenkins
Stephanie Smith

Staff Present: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
Kaitland Finkle, Planner
Leigh Huffman, Planner
Janice H. Pinson, Board Clerk

Others: Lori Roberts, LLR Holdings, LLC, Applicant
Barthell Joseph, Lamb Creek Land Company, LLC, Applicant
Michael R. Goforth, PE, Agent - Mountain Industrial Drive PDD
Amy Fisher, Fisher Realty
Mark Burrows, Blue Zones

I. Welcome

At 5:33 PM, Chair Chris Strassner, called the meeting to order.

II. Introduction of Planning Board Members

The Board introduced themselves. Roll call was taken by the Chair. Present: Chris Strassner, Greg Hunter, Demi Loftis and James Carli. Stuart English joined the meeting at 5:52 PM.

III. Certification of Quorum

Chair, Chris Strassner confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion by D. Loftis to approve the agenda as presented, seconded by J. Carli, roll call vote, carried unanimously.

V. Approval of Minutes

a. December 15, 2020

Motion to approve minutes as written by G. Hunter, second by D. Loftis, roll call vote carried unanimously.

VI. New Business

a. Consideration of Application REZ-20-003 by LLR Holdings, LLC for Zoning Map Amendment for property currently split zoned Residential Mixed Use and General Residential located at 523 S. Broad Street, PIN #8585-48-3488-000 to Downtown Mixed Use (DMX).

Leigh Huffman, Planner presented her staff report a portion of which follows:

Background

On October 27, 2020 an application was submitted by Lori L. Roberts, owner of the Sunset Motel, requesting a map amendment (rezoning) for her property at 523 South Broad Street, PIN 8585-48-3488-000, which is currently split-zoned as Residential Mixed Use (RMX) and General Residential 8 (GR8). The request is to rezone the parcel to a commercial district that permits the Hotels/Motels/Inns use by right. The Sunset Motel parcel is approximately 1.7 acres in size and the development predates the City's Unified Development Ordinance (UDO). See Attachment A for the application materials and Attachment B for a map of the current zoning.

Discussion of Applicant's Proposal

The parcel is located at the intersection of Rosman Highway, Broad Street, and Country Club Road. The Sunset Motel is located within the RMX area along the front of the parcel. This use is currently nonconforming as Hotels/Motels/Inns are prohibited in RMX. There is also a single-family dwelling to the rear of the parcel, zoned GR8. This structure does comply with the existing zoning.

Of the three zoning districts in which Hotels/Motels/Inns are permitted by right—Downtown Mixed Use (DMX), Corridor Mixed Use (CMX), and Institutional Campus (IC)—Staff believes DMX is the appropriate zoning district to meet the needs of the Applicant. In addition, the parcel is adjacent to DMX, which alleviates spot zoning concerns. If the parcel

is rezoned to DMX, the motel use would become conforming while the single-family dwelling would become nonconforming. See Attachment C for a comparison of the definitions of the three districts in question as well as a comparison of allowed uses in these districts. Attachment D contains a map of the Applicant's proposal.

Discussion of Staff's Proposal

While the Applicant is seeking a rezoning for their property in particular, Staff believes there are several adjacent and nearby parcels along Country Club Road that are currently zoned RMX and GR8. These parcels have high-density residential and nonresidential uses such as group care facilities and community service organizations, which do not comply with the existing zoning. If the Board feels that it makes sense to rezone the Applicant's property, it should consider rezoning these properties as well.

Staff is proposing rezoning multiple properties in addition to the Applicant's in order to bring more existing uses into conformity (see Attachment E). While the proposed rezoning for the Applicant's parcel is DMX, Staff proposes rezoning the additional parcels to Neighborhood Mixed Use (NMX). This will act as a transition area between the Applicant's request for DMX and the area zoned General Residential to the south along Country Club Road. See Attachment F for a comparison of the definitions of the three districts in question as well as a comparison of allowed uses in these districts.

Neighborhood Compatibility Meeting

The Planning Staff hosted a Neighborhood Compatibility Meeting on January 21, 2021. The Applicant and Staff described the proposals and answered questions from the six attendees. The attendees voiced concerns regarding potential future development that would be allowed; lighting glare; buffers between the nonresidential and residential uses, tax value. Staff confirmed that rezoning to a higher density does allow for more potential uses. Staff also discussed how rezoning the Shepard Square parcels allows residents to rebuild if the structures are substantially damaged from flooding, fires, or other natural hazards.

Policy Analysis

Rezoning the properties as recommended by Staff to DMX and RMX will eliminate the non-conformity issues these properties have, allowing land owners to invest in updating, remodeling, or rebuilding the structures on these properties.

The 2015 Comprehensive Plan encourages development of underutilized land and infill development. These are described within Economic Health and Livable Communities Elements:

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.

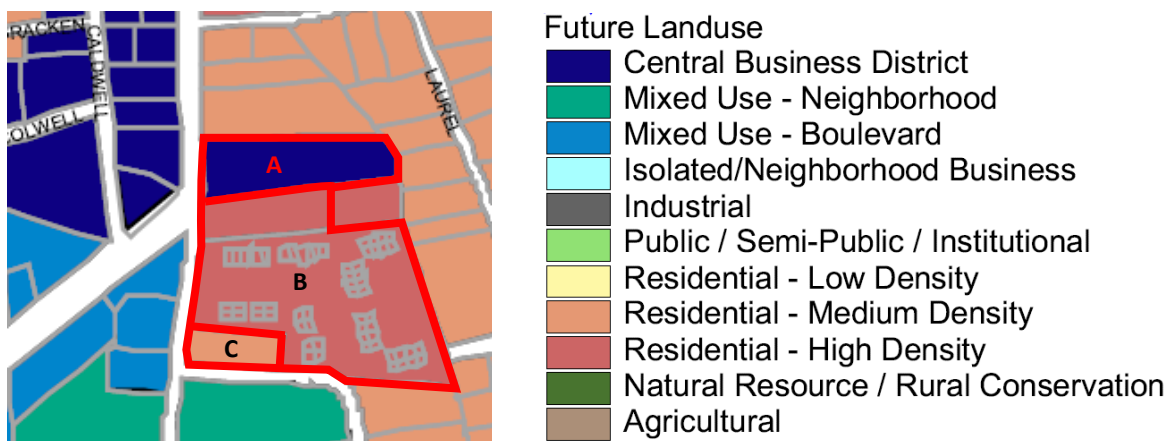
POLICY 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

OBJECTIVE 4.2: Develop a system of “complete neighborhoods” throughout Brevard.

POLICY 4.2.A: Modify zoning to increase allowable densities and the mixing of uses in appropriate areas.

The 2002 Future Land Use Map designates the Applicant’s property (A) as Central Business District, which is equivalent to the current zoning of Downtown Mixed-Use.

Several of the properties Staff is proposing rezoning (B), are designated Residential – High Density. There is not an equivalent zoning district for this designation; however, all of the mixed-use zoning districts do allow for high density housing. The final parcel proposed by staff (C) is designated as Residential – Medium Density, for which General Residential-8 is the equivalent current zoning district.



Recommendation

Staff recommends rezoning the Applicant’s parcel to DMX and rezoning several additional properties to NMX (Attachment E). Staff believes that rezoning these parcels meets the spirit and intent of the proposed zoning district and is consistent with the 2002 Future Land Use Map.

Planning Board’s role is to make a recommendation to City Council. The Board has 45 days to do so; if no recommendation is made by Friday, February 12th the application will be sent to Council without the Board’s decision.

After a brief discussion as to neighborhood concerns and neighboring zoning, J. Carli made a motion to accept staff’s recommendations, referencing the Consistency Statement (Attached and labeled Exhibit “A”), second by D. Loftis, roll call vote carried unanimously.

b. Consideration of Application REZ-20-004 by High Country Engineering, Michael R. Goforth, PE, Agent for Lamb Creek Land Company, LLC for property currently zoned Mountain Industrial Drive Planned Development District located at Mountain Industrial Drive, PIN# 8596-37-5808-000 to amend their Preliminary Master Plan.

K. Finkle, Planner presented her staff report a portion of which follows and explained that the request is to amend the preliminary master plan and to revise some conditions of the plan.

Background

In March of 2013 the Jennings Industrial Park Planned Development District (PDD) was established by Ordinance No. 2013-02 (Attachment A). This PDD was established specifically for additional signage allowances for business located in the industrial park, and no other specific conditions or master plan was included. The ordinance specifically stated that all other (non-signage) development within the district shall comply with the “general provisions [of the UDO] and provisions specifically applicable to properties with General Industrial Zoning Districts.”

In March of 2015 this PDD was amended by Ordinance No. 2015-02 (Attachment B) to allow for further additional signage. Again, no other specific conditions or master plan was included and it was clearly stated that all other development shall follow the requirements for the General Industrial zoning district.

In June of 2020 this PDD was amended by Ordinance No. 2020-10 (Attachment C) for a major modification to the existing Jennings Industrial Park PDD, along with a *final* master plan for the existing building site, and a *preliminary* master plan for future development sites on the property creating the Mountain Industrial Drive PDD.

On December 18, 2020 plans were dropped off to apply for development permits. On December 21, 2020 the applicant’s agent was told that the proposed plans did not match the previously approved *preliminary* or *final* Master Plans. The building had been enlarged by more than 25% and was moved to a new location in the floodplain, not on the existing building pad. This change was deemed a Major Modification by the Planning Director. As a reminder, major modifications may only be authorized by means of a new conditional zoning ordinance as provided for in UDO Chapter 16.

Request

On December 30, 2020, an application was submitted by Michael Goforth with High Country Engineering, PC, as agent for property owner Lamb Creek Land Company, LLC, for a major modification to the existing *preliminary* and *final* master plan for the Mountain Industrial Drive PDD. The project site is a parcel approximately 9.34 acres in size located at

the end of Mountain Industrial Drive, off of Old Hendersonville Highway. The applicant is requesting approval for a *preliminary* master plan of future building pad sites.

Discussion

The PDD Process

A Planned Development District is a form of conditional zoning in which the developer and the City negotiate site-specific development standards for the project. These standards are codified in a stand-alone ordinance which applies to the subject property in perpetuity. PDDs are meant to be flexible, particularly in the areas of density, architectural design, and the mixing of land uses. With added flexibility comes an expectation the developer will offer a high-quality project which 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. Applications for PDDs may seek exceptions to standard development requirements regarding density, building types, architectural standards, open space, landscaping, parking, and signs. Please note that the following development requirements cannot be negotiated in a PDD and must be followed for all development on site:

- Stormwater management
- Steep slope protections
- Floodplain regulations

Preliminary vs. Final Master Plans

A *preliminary* master plan is conceptual in nature, while a *final* master plan contains more detailed, construction-level drawings including all specifications for the site. In the preliminary master plan the Applicant is not required to show exactly how each development requirement will be met, such as stormwater management, open space, parking, etc. However, there should be general designs included to demonstrate the development is feasible given the standard development requirements and site constraints.

The included *preliminary* master plan is somewhat conceptual in nature, showing the general location and scale of future buildings and the proposed Mountain Industrial Extension cul-de-sac of a future access road. The actual size of these building pads will be determined by the no-rise calculations done to satisfy the floodplain development regulations.

Deviations to Standard Development Requirements

Maintain General Industrial Base Standards: The existing PDD states that except as set forth in the PDD ordinance, development within the district shall comply with general provisions of the UDO and “provisions specifically applicable to properties within General Industrial zoning districts.” Staff recommends keeping this practice of following GI regulations within the PDD given the intended industrial uses of Mountain Industrial Drive.

Staff proposes **maintaining** the following deviations from the standard development regulations from the site’s applied base zoning district of General Industrial:

- 1) *Maintain Existing Additional Sign Allowances:* The existing PDD has generous signage allowances for the industrial park uses. Staff is proposing that all these existing allowances be maintained as written.
- 2) *Maintain Additional Time for Final Master Plan Approval:* The standard time frame to secure *final* master plan approval (unless a *final* master plan was approved at the time of creation of the PDD) is within one year of the enactment of the ordinance creating the district. The UDO also allows for another period of time, not to exceed five years, to be applied as long as it is specified in the PDD ordinance. Because no-rise floodplain calculations will be necessary to determine the potential size of the future building pads, Staff is recommending the five-year maximum.

Staff proposes **amending** the following deviations to instead follow the standard development regulations:

- 1) *PDD-Specific Modification Definitions:* The UDO has previously allowed an ordinance creating a PDD to specify the circumstances for determining whether a proposed change is minor, intermediate, or major. As the UDO is updated, site-specific modification definitions may not be legal. UNC SOG and the Courts have emphasized that ordinances may allow for modifications as long as they “involve the application of specific, neutral, and objective criteria as set out in the municipality’s governing code.” Staff is in the process of amending Chapter 16 of the UDO creating the required thresholds for modifications that Staff and the Planning Board, if applicable, can approve. Modifications that do not fall within these thresholds would follow the same process as the initial approval. Staff is proposing the following language replace previous “PDD-Specific Modification Definitions”:
 - “Modifications to the *Final* Master Plan shall be considered in accordance with Chapter 16 of the UDO.”

Policy Analysis

Comprehensive Plan

The proposed project meets the 2015 Comprehensive Plan as follows:

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 2.1.A: Modify zoning regulations to encourage and allow greater density and intensities of land use within its jurisdiction.

POLICY 2.1.B: Collaborate with partner organizations and developers to financially support the City’s goals for infill development and redevelopment.

OBJECTIVE 4.1: Increased efficiency of land uses to help stabilize and grow the City’s tax base.

POLICY 4.1.A: Evaluate and amend development ordinances to facilitate infill development on vacant and under-developed parcels, as well as revitalization of developed parcels.

Land Use Plan & Future Land Use Map

The 2002 Comprehensive Land Use Plan designates these properties as Industrial.

Recommendation

The application before the Board is for a major modification to the PDD (effectively establishing a new PDD) amending the *preliminary* master plan for future building sites. Staff recommends approval of this request – a major modification and *preliminary* master plan – with amendments to the PDD ordinance “Deviations to Standard Development Requirements” as described in this staff report.

After a brief discussion D. Loftis made a motion to approve staff’s recommendations with reference to the Consistency Statement, (Attached and labeled Exhibit “B”). Second by J. Carli, roll call vote carried unanimously.

K. Finkle, Planner explained that if Council approves the amendment to the preliminary master plan that the final master plan could possibly be presented to the Board in February.

c. Consideration of Application REZ-21-001 by City of Brevard for Zoning Map Amendment for property currently zoned Transylvania Community Hospital Planned Development District to Institutional Campus (IC) located on Medical Park Drive, PIN # 8596-39-2066-000.

A. Bland, Assistant Planning Director presented his staff report a portion of which follows:

Background

City Staff has initiated a map amendment (rezoning) for the new parcel of land that is currently under development as the City’s new dog park. This property is located at the end of Medical Park Drive, between the hospital campus and the City/County Sports Complex. This rezoning would remove the parcel from the Transylvania Regional Hospital PDD conditional zoning district and make it Institutional Campus (IC) which is the same district as the adjacent sports complex. See Attachment A for a map showing the location and current zoning.

Discussion

Institutional Campus is the most appropriate zoning district for both parkland and government-owned land, making it the ideal zoning district for this property.

Policy Analysis

The 2015 Comprehensive Plan Livable Communities Element encourages parks throughout the City:

OBJECTIVE 4.3: Creation of new opportunities for citizens and visitors to experience recreation and nature.

POLICY 4.3.G: Create small parks within neighborhoods that provide all citizens opportunities to connect with and experience the natural world.

The 2002 Comprehensive Land Use Plan designates these properties as Public/Semi-Public/Institutional which is consistent with this proposal.

J. Carli made a motion to approve with reference to the Consistency Statement, (Attached labeled, Exhibit "C"). D. Loftis seconded, roll call vote carried unanimously.

d. Consideration of Application for Text Amendment -TXT-20-020 Tobacco/Nicotine Free Temporary Uses

K. Finkle, Planner presented Mark Burrows, Blue Zones' application for a text amendment to the board, stating that the recommended changes to UDO Chapter 3.23 were drafted by Mr. Burrows.

Mark Burrows introduced himself stating that he was the Director of Planning and Economic Development for Transylvania County for 30 years and now is employed by Blue Zones. He explained the role of Blue Zones and their goal is to make communities healthier.

The board had a lengthy discussion about the amendment. Their concerns included using the word maintain and feeling that the word promote was more appropriate. That a condition that the information be included in the permit that provides contact information for Blue Zones and other agencies that can be contacted on how to promote tobacco and nicotine free events.

K. Finkle noted that the amendment would be to request that the applicant promote their event as a tobacco and nicotine free event, and that this would not be a condition enforceable by the Planning Department.

Mark Burrows stated that the request would be to promote prior and during the event. That promoting a healthy environment for our community is Blue Zones' goal.

Mark Burrows further explained that Transylvania County has a no smoking policy on all County property. The City does not have a policy in place, and that Blue Zones would like to work with the City to enact a no smoking policy.

J. Carli made a motion to approve with revisions as follows: Strike maintain and use promote, to add contact information for assistance to applicants on how to promote a tobacco and nicotine free event, and reference to the Consistency Statement (Attached and labeled Exhibit "D"), second by D. Loftis, roll call vote carried unanimously.

e. Consideration of Application for Text Amendment -TXT-20-018 Public Art & Murals

Leigh Huffman, Planner presented the Pubic Art Policy and Application Process, January 2021 Draft, created by the Downtown Master Plan Committee.

The board voiced concerns about putting constraints on artist's creativity, with the request that these concerns be voiced to City Council.

J. Carli made a motion to accept Staff's recommendations with reference to the Consistency Statement (Attached hereto and labeled, Exhibit "E"). Second by D. Loftis, roll call vote carried unanimously.

VII. Old Business

a. TXT-20-017 Continued – Vehicle Storage

A. Bland presented his staff report which is attached hereto and labeled, Exhibit "F".

Motion by G. Hunter to approve as presented with reference to the Consistency Statement, Attachment B of staff report, second by J. Carli, roll call vote carried unanimously.

VIII. Public Comment – None.

IX. Remarks

Leigh Huffman, Planner requested that the board schedule workshops meetings for February 9 to complete Chapter 16 and March 9 for work on Chapter 21 Subdivisions. The Board requested that materials be printed for review prior to the workshop meetings.

X. Adjournment

There being no further business, D. Loftis moved to adjourn, seconded by G. Hunter, roll call vote carried unanimously, and the meeting adjourned at 6:55 PM.

Chris Strassner, Chair

Janice H. Pinson, Board Clerk