

PROCEEDINGS OF THE CITY OF HUNTSVILLE PLANNING COMMISSION

June 23, 2020

A regular meeting of the City of Huntsville Planning Commission was held on Tuesday, June 23, 2020 at 5:00 p.m. in the council chambers on the first floor of the Administration Building located at 308 Fountain Circle. There was a quorum present.

MEMBERS PRESENT: Les Tillery, Sally Warden, Kelly Schrimsher, Gary Whitley, Peggy Richard, Jennie Robinson

SUPERNUMERARY MEMBERS PRESENT: Rob Chiroux

STAFF & ADVISORS PRESENT: Thomas Nunez, Michael Webb, Kevin Bernard, Lady Kassama, Kimberly Gosa, Trey Riley, Dave Scroggins, Mike Malires, Nicholas Nene, Ben Ferrill, Bob Baudendistel, James Moore

OTHERS PRESENT: Billy Smith, Chris Harvey, Colin Orcutt, Jeff Enfinger, John Hamilton

The meeting was called to order by Mr. Tillery, chairman. Upon call for the ADOPTION OF MINUTES from the meeting held on May 26, 2020, Mr. Whitley made a motion to adopt the minutes; which was duly seconded by Ms. Warden and carried unanimously.

CHADWICK POINTE PHASE 3 was presented for public hearing.

Mr. Bernard stated that this 17.43-acre, Residence 1-A District parcel was located north of Highway 72 West and east of Dupree Worthey Road. He explained that a single-family detached development was proposed for the property. He further explained that since initial preliminary approval, there had been regrading of the property and redesign of the sewer.

Mr. Tillery called for public comment at this time.

There being no public comment for the record, the public hearing was then declared closed.

Ms. Richard made a motion for repreliminary approval on 34 lots; which was duly seconded by Ms. Warden and carried unanimously.

CHIPMUNK CHASE SUBDIVISION was presented for public hearing.

Mr. Bernard stated that this 28.63-acre, Residence 1-A District property was located east of Bailey Cove Road and south of Tea Garden Road. He noted that this

parcel was also in a slope development district. He further noted that the initial layout depicted 4 lots but that 2 lots were now being combined, therefore making the proposed number of lots, 3. Mr. Bernard mentioned that there had been no other changes made.

Mr. Tillery then called for public comment.

Brent Beason, 8017 Smoke Rise Road, raised a question regarding the placement of a longstanding benchmark monument located and marked on the property in question. He presented photos and stated that in 2018, when the property was surveyed again, the pin was marked 6-8 inches from the initial pin and was now encroaching onto his property. Mr. Beason commented that the initial project engineer had agreed to create another plat depicting the accurate lot lines, however that had never taken place. He suggested that the plat in question did not meet state law or City subdivision regulations and requested that the commission not approve these plans until an accurate plat was submitted. Mr. Beason stated that he would consider legal action if the plat was not corrected.

William Somers, 8024 Tea Garden Road, stated that neither he nor other nearby residents had received notice of this request. He further stated that in January 2020, the developer and construction crew had showed up at his residence and removed part of his driveway (photos attached). He noted that this was done without any indication, warning or justification made concerning the removal of a portion of his driveway.

Mr. Somers stated that he requested that the developer repair the driveway, which was done but not until over 2 months later. He pointed out that during the time that it remained in disrepair a drainage issue was created, as water flowed underneath the remaining portion of driveway, likely damaging its base. He noted that drainage problems had continued since the repair and expressed concern that additional development would further aggravate the issue.

Lastly, Mr. Somers stated that his appraised property value had already decreased twice since the approval of this development and voiced concern that it would further decrease once additional development were to take place.

Steve Thompson, 8022 Tea Garden Road, stated that he felt this request should not be approved by the commission because the plans submitted did not meet City subdivision regulations and suggested that public safety would also be impacted. He expressed that the current City of Huntsville Subdivision Regulations required that fire hydrants be located within 250-ft. of any structure and that this proposed subdivision did not comply with that regulation. Mr. Thompson also suggested issues with the subdivision plat making no mention of required NFPA fire suppression sprinkler system specifications. He further suggested that based on the current plans, adequate

water volume and pressure would not be attainable, therefore creating a public safety issue. Mr. Thompson requested that the request be disapproved for these reasons.

There being no further public comment for the record, the public hearing was then declared closed.

Ms. Warden then made a motion for relayout and re preliminary approval on 3 lots with a waiver on the angle of the side lot line between Lots 1/2. The motion was duly seconded by Ms. Schrimsher.

Upon call for discussion, Ms. Robinson stated that the concerns voiced had been ongoing and noted before. She asked if staff could respond in regard to the legality of the plat in question and whether the commission could move forward despite the claim of inaccuracy. She also asked that the claims made regarding location of fire hydrants and drainage issues be addressed.

Mr. Nunez responded by stating that this plat had previously been approved in January 2019 but had simply since expired. He reiterated that the only change that had been made to the plat since that time was the consolidation of 2 lots into 1, making the total number of proposed lots 3.

In regard to the suggested plat discrepancy, he explained that this was a civil matter and that the commission did not have the authority to resolve the issue or determine whether an error had occurred. He continued by noting that staff had previously informed Mr. Beason that he had the option of hiring a surveyor to survey his property in order to attempt to resolve the issue.

Mr. Nunez continued by noting that the commission still had the ability to approve the request based on the current plat as presented.

In regard to fire hydrants, he noted that steps were being taken to update the City Subdivision Regulations to update provisions which applied to fire hydrants. He explained that outside of a 250-ft. buildable area, there was a requirement that all homes be sprinkled to protect the safety of all properties within the vicinity of the area in question. Mr. Nunez noted that the City Fire Department had reviewed and approved plans for this subdivision.

Mike Malires, City Engineering Division, confirmed that the developer had complied with all City stormwater management requirements and implemented all the suggestions made by the Engineering Division.

Mr. Tillery asked for confirmation that the approval of the 2019 plat had been done with the same discrepancies currently being voiced. Mr. Nunez confirmed this

was in fact the case. Mr. Tillery also asked whether the dwellings would be required to be sprinkled. In response, Mr. Nunez confirmed this was also in fact true and required by the Fire Department.

Mr. Tillery asked for clarification from Mr. Riley, City Attorney, concerning whether there would be any liability issues created if the commission were to approve the request despite the civil issue involving the validity of the plat.

In response, Mr. Riley reiterated that the commission did not have the ability to resolve the civil dispute between property owners and that the commission could not determine the accuracy of any survey.

Ms. Robinson mentioned that Mr. Beason had stated that a previous project engineer had agreed to correct the discrepancy and suggested that perhaps action could be postponed until that resolution took place.

Chris Harvey, project engineer, explained that the property was last surveyed by Terry Tacon of Tacon Land Surveying. He further stated that that survey was used by his engineering firm to create the plat in question. Mr. Harvey continued by noting that the pin in question referenced by Mr. Beason was within 3 feet of 2 pins. He explained that there were several pins in the location and noted that a survey had also previously been performed by Smith Engineering.

Mr. Harvey further explained that by law, another surveyor's pin could not be pulled or moved in any way. He noted that only the licensed surveyor who set the pin could remove it. Mr. Harvey further noted that he had explained this situation to Mr. Beason.

Mr. Harvey continued by confirming that his firm had not set any pins and that he found that the pins set by Tacon Land Surveying and Smith Engineering actually lined up and were very close in proximity. Mr. Tillery asked approximately how much in measurement terms was being disputed. Mr. Harvey responded by stating approximately 1 foot.

Ms. Robinson asked if that difference could significantly affect the layout. Mr. Harvey responded that it would not change the layout at all, nor would it change Mr. Beason's recourse in the future. He explained that even if the plat was recorded and the survey was later changed, it would not affect the layout at all.

Mr. Nunez stressed that this same dispute was in question when the commission granted layout and preliminary approval in 2019. He further stated that Mr. Beason had been informed since that time that in order to resolve the dispute concerning the property boundaries, he would have to hire a licensed surveyor. Mr. Nunez reiterated

that Mr. Beason had since taken no action to do so, however it was not the duty of the commission to resolve the matter.

Ms. Robinson asked Mr. Beason to confirm whether he had taken any action to hire a surveyor. Mr. Beason stated that he had not because he had been told by a previous engineer associated with the project, that the matter would be rectified. He then stated that another survey was not necessary because historical documents, deeds and titles proved the inaccuracies he had noted.

Ms. Schrimsher asked Mr. Riley whether there were grounds legally, for the commission to disapprove the request.

In response, Mr. Riley restated that the commission could not determine the validity of the surveys in question. He explained that the commission's role was administrative and to approve the request as long as it met all necessary requirements. He further explained that if the request were not approved, then the commission would have to state on record, specifically why it was disapproved.

Mr. Riley continued by noting that the discrepancies noted regarding boundary lines would have to be handled civilly but would have no impact on the decision of the commission.

Ms. Schrimsher commented that the disagreement regarding boundary lines, was putting the commission in the middle so to speak. She continued that if all necessary criteria were met, she did not feel the commission had grounds to disapprove.

Ms. Warden agreed and pointed out that all City departments included in the plat approval process had in fact approved the plans as presented.

There was then a brief discussion concerning the option to delay action on the request in order to give Mr. Beason and the developer an opportunity to resolve the property line dispute.

Ms. Robinson commented that although the boundary dispute "gave her heartburn, "she wasn't so sure that delaying action was the best option.

Ms. Richard concurred and noted that Planning staff, and all other city departments involved in the approval process had already given their support of this development and that it was not the obligation of the commission to provide a remedy for what had been described as a civil matter.

Ms. Robinson asked if this request would come before the City Council.

Mr. Nunez explained that subdivision requests were not presented to City Council. He further explained that Planning Commission was the only body which could approve layout, preliminary and final approvals for subdivision developments.

He noted that if there was an established change made in the boundaries before final approval was presented, then this could be handled via a relayout and re-preliminary request.

After further discussion, Mr. Tillery then called for a vote on the motion for relayout and re-preliminary approval.

The motion was then carried with Ms. Robinson noting recusal.

McMULLEN COVE; ABBY GLEN PHASE 4 was presented for public hearing.

Mr. Bernard stated that this 19.93-acre, Residence 1-A District parcel was located north of Little Cove Road and east of Old Cove Place. He noted that a single-family detached development was planned for the site and that this would be the last phase of the subdivision.

There being no public comment for the record, the public hearing was declared closed.

Ms. Warden made a motion for layout approval on 38 lots and preliminary approval on 20 lots with the following modification: cul-de-sac length to 948' along Belle River Way. The motion was duly seconded by Ms. Richard and carried unanimously.

MIDTOWNE ON THE PARK, PHASE 12 was presented for public hearing.

Mr. Bernard stated that this 21.68-acre, Residence 2-A District tract was located south of University Drive and west of Pegasus Drive. He noted that preliminary approval was being sought on 39 lots.

Mr. Tillery then called for public comment.

There being no comment for the record, the public hearing was declared closed.

Mr. Whitley made a motion for preliminary approval on 39 lots; which was duly seconded by Ms. Richard and carried unanimously.

TUNLAW RIDGE PHASE 1 SUBDIVISION was presented for public hearing.

Mr. Bernard stated that this 57.62-acre, Residence 2 District property was located east of Sanderson Road and south of Sarabella Lane. He further stated that a single-family detached development was planned for the site.

Mr. Tillery called for public comment.

There being none for the record, the public hearing was then declared closed.

Mr. Tillery noted that this item had been forwarded without recommendation pending signature approval from the City Engineering Division.

Upon staff's confirmation that signature approval had been received, Ms. Warden made a motion for preliminary approval on 91 lots; which was duly seconded by Ms. Richard and carried unanimously.

LOCATION, CHARACTER AND EXTENT: SANDRA MOON COMPLEX PHASE 3 NEW PARKING (#920) was presented for public hearing.

Colin Orcutt, project engineer, stated that renovations in this phase would include mostly parking lot improvements, as well as upgrades to landscaping and athletic fields.

He presented renderings and pointed out landscaped inlands and perimeter landscaping which would be added. He noted that the landscaping would also include the addition of approximately 180 trees.

There being no public comment for the record, the public hearing was declared closed.

RIGHT OF WAY VACATION REQUESTS: Vacate portion of right of way for Elmcroft Avenue, Ashton Springs Phase 2, in front of Lot 160 and Lot 161 was presented for public hearing.

Mr. Bernard stated that this area was located south of Douglass Road and east of Indian Creek Road. He explained that this portion of the street in question had originally been designed as a 70-ft. right of way. He further explained that future phases of the development became a PUD and street width had been reduced to 46-ft. of right of way. Mr. Bernard noted that this vacation was necessary because the initial right of way was never established.

Mr. Tillery then called for public comment.

There being none for the record, the public hearing was declared closed.

Ms. Whitley made a motion to recommend to City Council, approval of said vacation; which was duly seconded by Ms. Warden and carried unanimously.

RIGHT OF WAY VACATION REQUESTS: Vacate alleyway of Kildare Estates, Block 1-5, Lots 16-24, 1315 Meridian Street was presented for public hearing.

Mr. Bernard stated that this area, located south of Oakwood Road and west of Meridian Street, was the proposed site of a new Subway restaurant. He explained that the alleyway in question had never been constructed, therefore making this vacation necessary.

Public comment was then called for.

There being no comment for the record, the public hearing was declared closed.

Mr. Whitley made a motion to recommend to City Council, approval of said vacation; which was duly seconded by Ms. Warden and carried unanimously.

Mr. Tillery noted that the following item had been withdrawn: **STREET NAME CHANGE:** Cecil Fain Drive to **"The Legacy Drive."**

There was no public comment made for the record.

MEMORIAL PARKWAY REZONING (2016) was presented for public hearing.

Ms. Kassama stated that this 6.44-acre tract, presently zoned Residence 1-B and Light Industrial District, was located on the west side of US Hwy 431 and south of Winchester Road. She noted that the request was to rezone the property to Highway Business C-4 District. She further noted that the property currently consisted of 3 parcels which would ultimately be consolidated into one parcel.

Ms. Kassama explained that because of the current Residence 1-B District zoning, any type of development on the property would require approval from the Zoning Board of Adjustment. She further stated that the proposed Highway Business C-4 District zoning would be a much more appropriate and consistent zoning, considering the surrounding properties.

She then presented a conceptual plan provided by the developer of the property which depicted both office and retail uses. She emphasized that this was not a confirmed development plan, only a concept.

Mr. Tillery then called for public comment.

Karen Rogers, 2209 Swaim Circle, stated that her property abutted this tract in question. She voiced concern with the potential that development on this property would bring additional noise to an area already polluted with constant noise. She mentioned that she planned to utilize a portion of her property for organic farming and also expressed concern for potential soil contamination due to development.

Leroy Daniels, 2217 Swaim Circle, also expressed concern with potential noise pollution and whether there would be an adequate buffer zone between his property and the property in question.

There being no further public comment for the record, the public hearing was then declared closed.

Ms. Warden made a motion to recommend to City Council that the Memorial Parkway property be rezoned from Residence 1-B and Light Industry Districts to Highway Business C-4 District. The motion was duly seconded by Ms. Schrimsher.

Upon call for discussion, Ms. Warden asked staff to detail the types of uses allowed under the current zoning of the property. Ms. Kassama responded by explaining that the Light Industry District zoning would allow for a vast variety of uses, anything from manufacturing to commercial uses.

She further explained that with a Highway Business C-4 District zoning, there would be a reduction in the variety of uses allowed and there would also be a required buffer of 25 feet between residential and Highway Business C-4 District properties. She noted that there was no buffer requirement between Light Industry and residential uses.

Mr. Nunez added that under the current zoning some of the potential allowed uses included: any lawful retail sales, light manufacturing, restaurants and bars. He pointed out the Light Industry zoning would allow for a business to operate well into late night hours.

In regard to Ms. Rogers concern about soil contamination, Mr. Nunez stated that this would not be likely, due to the rocky incline on the property and contour of elevation change.

Speaking from experience, as there are many Light Industrial properties in the South Huntsville area, Ms. Robinson stated that she could attest to the fact that Highway Business C-4 zoning would be much more beneficial for protecting the adjacent residential area.

Mr. Whitley inquired about the height restriction in Highway Business C-4 District. Mr. Nunez responded by stating that the height limitation was 10 stories. Mr.

Whitley then questioned how adjacent residents would be protected in the event that a 10-story building was erected on the site. Mr. Nunez responded by stating although the option of 10 stories existed, it was not likely for development on a property which possessed the type of terrain this one did. He explained that in the event that this was more of a possibility, the required 25-ft. landscape buffer would help to protect residential properties.

The motion was then carried unanimously.

OLMSTEAD ZONING (2017) was presented for public hearing.

Ms. Kassama stated that this 1.23-acre, newly annexed property was located on the north side of Olmstead Road and west of Taylor Road. She noted that the proposed zoning was Residence 1-B District, which would be consistent with adjacent properties.

There being no comment for the record, the public hearing was declared closed.

Ms. Warden made a motion to recommend to City Council that the Olmstead property be zoned Residence 1-B District; which was duly seconded by Mr. Whitley and carried unanimously.

MOHAWK ZONING (2018) was presented for public hearing.

Ms. Kassama stated that this 1.32-acre, newly annexed tract was located on the north side of Mohawk Road and west of Taylor Road. She noted that that the proposed zoning was Residence 1-A District, which would be consistent with zoning of adjacent property.

Mr. Tillery called for public comment at this time.

There being none, the public hearing was declared closed.

Ms. Warden made a motion to recommend to City Council that the Mohawk property be zoned Residence 1-A District; which was duly seconded by Mr. Whitley and carried unanimously.

MILLER ZONING (2019) was presented for public hearing.

Ms. Kassama stated that this recently annexed, 4.33-acre property was located on the north side of Miller Lane and west of US Hwy 431. She noted that the proposed zoning was Highway Business C-4 District, which would be consistent with zoning of property located to the north of the tract. She further noted that this property, along with property to be mentioned in the following request, was the proposed site of a multi-family development.

There being no public comment for the record, the public hearing was declared closed.

Ms. Warden made a motion to recommend to City Council, that the Miller property be zoned Highway Business C-4 District. The motion was duly seconded by Ms. Richard and carried unanimously.

MILLER REZONING (2022) was presented for public hearing.

Ms. Kassama stated that this 0.43-acre parcel was also located on the north side of Miller Lane and west of US Hwy 431. She explained that the request was to rezone the property from Residence 1-A to Highway Business C-4 District in order to accommodate the proposed multi-family development mentioned in the previous request.

No public comment was made for the record.

Ms. Warden then made a motion to recommend to City Council that the Miller property be rezoned from Residence 1-A to Highway Business C-4 District. The motion was duly seconded by Ms. Richard and carried unanimously.

WORLEY ZONING (2020) was presented for public hearing.

Ms. Kassama stated that this 25.05-acre, newly annexed tract was located on the south side of Worley Drive and west of Cherokee Lane. She noted that the proposed zoning, Residence 1-B District, would be consistent with surrounding development.

Mr. Tillery called for public comment at this time.

There being no comment for the record, the public hearing was declared closed.

Ms. Warden then made a motion to recommend to City Council, that the Worley property be zoned Residence 1-B District; which was duly seconded by Ms. Schrimsher and carried unanimously.

CROWN CREEK VILLAGE REZONING (2021) was presented for public hearing.

Ms. Kassama stated that this 30.82-acre tract, presently zoned Highway Business C-4 District, was located on the west side of Old Railroad Bed Road and south of Nick Davis Road. She explained that the request was to rezone the property to Planned Development - Housing District, LUI 56.

Ms. Kassama went on to state that with planned developments, all details such infrastructure, landscaping, lot sizes, housing styles, etc. had to be approved in the first stage of the project.

She presented a conceptual plan which depicted 158 lots, open space, fishing ponds and other recreational amenities. Ms. Kassama noted that based on the plan submitted, all PD-H requirements and ratios would be met. She explained this included maximum floor area, recreational and open space requirements.

Ms. Kassama continued by pointing out proposed 46-ft. wide right of ways with 10-ft. of buffer screen planting and 5 ft. sidewalks. She noted that a buffer screen planting easement was proposed for the area adjacent to Nick Davis Road.

Ms. Kassama then detailed the 4 housing types to be included in the development as follows:

Cottage Lots

- Lot width: 40 feet
- Front Yard depth: 30 feet
- Side Yard depth: 5 feet each
- Rear Yard depth: 15 feet

Cottage Cul-de-sac Lots

- Lot width: 40 feet
- Minimum Lot frontage: 20 feet
- Front Yard depth: 30 feet
- Side Yard depth: 5 feet each
- Rear Yard depth: 15 feet

Manor Lots

- Lot width: 50 feet
- Front Yard depth: 30 feet
- Side Yard depth: 5 feet each
- Rear Yard depth: 15 feet

Manor Cul-de-sac Lots

- Lot width: 50 feet
- Minimum Lot frontage: 20 feet
- Front Yard depth: 30 feet
- Side Yard depth: 5 feet each
- Rear Yard depth: 15 feet; 25 feet abutting another residential district

Ms. Kassama noted that the homes would range in size from 1000-1900 square feet and with 2-4 bedrooms.

Public comment was then called for.

Jeff Enfinger, project developer, stated that the goal of this project was to deliver more affordable housing which would be fitting for a broader market. He noted that a single-family detached development ranging in price from \$150K-\$200K was a preferable range for many working-class residents. Mr. Enfinger noted that this development would provide that option and stated that he felt it would be successful and good for the community.

There being no further comment for the record, the public hearing was declared closed.

Ms. Warden made a motion to rezone the Crown Creek Village property from Highway Business C-4 District to Planned Development Housing District, LUI 56. The motion was duly seconded by Mr. Whitley.

Upon call for discussion, Ms. Warden stated that she also felt that this development would be good for the community and hoped to see more developments such as this one in the future.

The motion was then carried unanimously.

AURORA APARTMENTS was presented for layout and preliminary approval.

Ms. Schrimsher made a motion for layout and preliminary approval on 324 units; which was duly seconded by Ms. Warden and carried unanimously.

COTTAGES OF HUNTSVILLE (APARTMENTS) was presented for boundary plat approval.

Upon staff's confirmation that the item was in order, Ms. Warden made a motion for boundary plat approval on 307 units; which was duly seconded by Ms. Richard and carried unanimously.

1010 ELLISTON APARTMENTS was presented for layout and preliminary approval.

Mr. Tillery noted that this item had been forwarded without recommendation pending signature approval from Harvest/Monrovia Water Authority.

Upon staff's confirmation that signature approval had been received, Mr. Whitley made a motion for layout approval on 568 units and preliminary approval on 192 units; which was duly seconded by Ms. Richard.

Following a brief discussion, the motion was then carried unanimously.

LAURENWOOD PRESERVE PHASE 5 was presented for final approval.

Upon staff's confirmation, Ms. Schrimsher made a motion for final approval on 48 lots with sidewalks to be installed by May 28, 2021 and with improvements installed and accepted by the City for maintenance by May 28, 2021. The motion was duly seconded by Ms. Richard and carried unanimously.

THE MARKET AT HAYS FARM was presented for refinal approval.

Upon staff's confirmation, Ms. Schrimsher made a motion to refinal approval on 6 lots; which was duly seconded by Ms. Warden and carried unanimously.

OLDE COBBLESTONE PHASE 8A was presented for final approval.

Upon staff's confirmation, Ms. Richard made a motion for final approval on 20 lots with improvements to be installed and accepted by the City for maintenance by June 10, 2022. The motion was duly seconded by Ms. Warden and carried unanimously.

INVOCATION/EXTENSION OF BONDS were presented for action.

Mr. Whitley made a motion for invocation of the following bonds:

- Heathland Park**
- Anslee Farms I**
- Hawks Ridge Estates**
- Willows at Sanctuary Cove**
- Natures Cove Phase 5**
- Taylor Court Subdivision Phase II**
- River Cove Subdivision Phase 1**
- Midtowne on the Park Phase 7**
- Village of Providence X**
- Mountain Cove**
- Morningside Mountain Phase 1**
- Williams Pointe Phase 1**
- Sutton Road Retail**
- Midtowne on the Park Phase 8**
- Kenthurst Phase 2 at McMullen Cove**

The motion was duly seconded by Ms. Warden and carried unanimously.

There being no further business to come before the commission, the meeting was then adjourned.