

**MINUTES
BREVARD PLANNING BOARD REGULAR MEETING
APRIL 25, 2023
CITY COUNCIL CHAMBERS**

Brevard Planning Board met for a regular meeting, Tuesday, April 25, 2023, at 5:30 PM, in Council Chambers at City Hall.

Members Present: Greg Hunter, Chair
Reid Wood, Vice Chair
Peter Chaveas
Molly Jenkins
Alan Mercaldo
John Schommer

Absent: James Carli

Staff Present: Paul Ray, Planning Director
Aaron Bland, Assistant Planning Director
Emily Brewer, Senior Planner
Janice H. Pinson, Board Clerk

I. Welcome

At 5:30 PM, Greg Hunter, Chair called the meeting to order.

II. Introduction of Planning Board Members

The Board introduced themselves.

III. Certification of Quorum

Chair Greg Hunter confirmed with the Board Clerk that a quorum of the Board was present.

IV. Approval of Agenda

Motion to approve agenda by M. Jenkins second P. Chaveas, unanimously carried.

V. Approval of Minutes

Motion to approve March 28, 2023, minutes with revision by P. Chaveas, second M. Jenkins, unanimously carried.

VI. New Business

a. Consideration of application for rezoning REZ-23-001 by Jeremy and Maria Watson of 1699 Old Hendersonville Highway for property zoned Corridor Mixed Use (CMX) to be rezoned to General Residential (GR4) property further identified by PIN# 8596-58-8230-000.

Emily Brewer, Senior Planner, presented her staff report a portion of which follows:

Background

On February 22, 2023, an application was submitted by Jeremy and maria Watson (“Applicants”) requesting a map amendment (rezoning) of their property. The property is located at 1699 Old Hendersonville Highway near Ecusta Road, identified by PIN 8596-58-8230-000. The parcel is currently zoned Corridor Mixed-Use (CMX). The request is to rezone to General Residential-4 (GR-4) to restore the historic structure and return it to use as a single-family home. The property abuts CMX, GR-4, and General Industrial (GI) zoning districts. See Attachment 1 for the application materials and Attachment 2 for a map of the current zoning.

Discussion

The property currently has a historic single-family home built in the 1840s. According to the applicants, it has gone through many owners and over time fell into disrepair and was ultimately abandoned. The applicants intend to work with the Joint Historic Preservation Commission to maintain the home’s historical character and upgrade to interior to modern living standards.

Though the property was previously used as a single-family home, the property cannot return to use as a single-family residence in the current zoning district because it was abandoned for more than 180 days. The CMX zoning district is described by the Unified Development Ordinance as follows:

The Corridor Mixed-Use District is coded to facilitate convenient access, minimize traffic congestion, and reduce the visual impact of auto-oriented uses along the city's major thoroughfares. In addition, this district is established to assure the continuation of the natural beauty and green appearance of the major thoroughfares leading into the city, for enhancement of the appearance of newly developed and redeveloped properties, and for the promotion of public safety by limiting the number and location of access points.

The requested zoning district, GR-4, is intended for primarily-residential neighborhoods. Below is a comparison of density and dimensional requirements of the existing and proposed districts:

Requirement	CMX	GR-4
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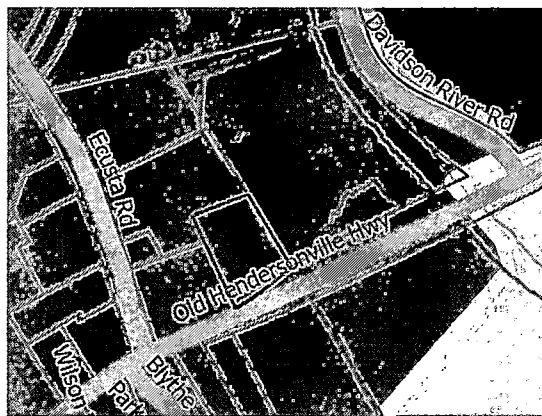
Maximum dwelling unit density	40/acre	4/acre
Maximum ground floor area for principal structures	50,000 SF	10,000 SF
Minimum setbacks for principal structures (front/side/rear)	10/0/10*	15/6/25
Minimum setbacks for accessory structures < 120 square feet (side/rear)	0/0	3/3
Minimum setbacks for accessory structures ≥ 120 square feet (side/rear)	0/0	6/10
Maximum height by right	50 feet	35 feet
Minimum lot width	0 feet	30 feet

*Side and rear setbacks are increased if adjacent to residential district.

It should also be noted that rezoning this property alters the permitted uses for future development (see Attachment 3 for a comparison of uses in CMX and GR). For example, the majority of commercial, institutional, and manufacturing uses would no longer be permitted on the property.

Policy Analysis

The *Building Brevard 2030* Comprehensive Land Use Plan designates the property as a Major Activity Center. Activity Centers represent unique destinations across the City. They are meant to be the focus of targeted urban design initiatives with a focus on infill, adaptive reuse, and creative solutions to address opportunities and challenges in each unique place.



Future Land Use

- Downtown and City Center
- Activity Center - Major
- Activity Center - Minor
- Urban Corridor
- Office, Institutional, Special District
- Traditional Neighborhood
- Conservation Design / Low Density
- Conservation/Open Space/Parks

According to the Future Land Character Area Table, GR-4 is not an applicable zoning district for a Major Activity Center:

Future Land Use Character Areas	Applicable Zoning Districts
City Center / Downtown	Downtown Mixed-Use, Corridor Mixed Use, and Residential Mixed-Use
Activity Center - Major	Corridor Mixed-Use, Neighborhood Mixed-Use, Special Districts
Activity Center - Minor	Neighborhood Mixed-Use, Residential Mixed-Use

Urban Corridor	Corridor Mixed-Use, Neighborhood Mixed-Use, and
Office, Institutional, Special District	Institutional Campus and General Industrial
Traditional Neighborhood	General Residential-8, Residential Mixed-Use
Conservation Design / Low Density	General Residential-4
Conservation / Open Space	-

Though GR-4 is inconsistent with the future land use map, the Comprehensive Land Use Plan does include goals and recommendations related to historic preservation and creation of housing. The following goals and recommendations are related to this rezoning request and should be considered by the Board:

Goals

- **GOAL 1:** *Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.*
- **GOAL 6:** *Integrate arts, culture, diversity, and history into everyday life and build on Brevard's identity as a dynamic community to live, work, and play.*

Recommendations

- **Land Use and Housing-2:** *Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.*
- **Land Use and Housing-6:** *Encourage rezonings to allow for a mix of uses in Activity Centers.*
- **Land Use and Housing-9:** *Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.*
- **Land Use and Housing-18:** *Collaborate with neighborhoods to explore opportunities for zoning overlays, historic preservation, adaptive reuse, infill projects, special events, and other neighborhood-specific activities.*
- **Parks, Natural Resources, and Cultural Resources-17:** *Continue participating in North Carolina Historic Preservation Office's Certified Local Government Program via the Transylvania County Joint Historic Preservation Commission.*

She explained that the Applicants have not pursued the historical designation process because they are waiting on the outcome of the rezoning.

Aaron Bland explained that the NC Historical Foundation has an agreement with this property; that there are covenants against the property that if the project to rehabilitate the property is not completed the Foundation can buy the property back for a low price.

Paul Ray further explained that the City can rezone at will without the consent of the property owner.

Emily Brewer explained that the board can recommend a conditional zoning district, and that the board has 30 days to make their recommendation to Council.

After discussion, J. Schommer made a motion to move forward with recommendation of a conditional zoning district with reference to the Consistency Statement, which is attached hereto and labeled, Exhibit "A", second by M. Jenkins, all board members voted in favor except, P. Chaveas voted nay.

b. Consideration of application for rezoning REZ-23-002 by Tore Borhaug and Paralift Holdings, LLC of Deerlake Road for property zoned Independent Living at Tore's Home Planned Development District to be rezoned to Corridor Mixed Use and General Residential (GR8) property further identified by PIN #s 8586-86-4675-000; 8586-86-1995-000 and 8586-87-0180-000.

Aaron Bland, Assistant Planning Director, presented his staff report and stated that all three properties are in line with the future land use map and consistent with the current land use plan. He explained that the basic reason for the request is because a lot of changes have been made to the ordinance that would allow Mr. Borhaug to complete his development by right instead of having to continue to appear before Planning Board when changes are made to his plans.

A portion of the staff report follows:

Background

October 17, 2019 an application was submitted by Tore Borhaug, of Lift Holdings, LLC, along with a preliminary master plan for a mixed-use development located along Deerlake Road. The three parcels that make up the subject area were all zoned General Residential – 8 (GR8) and the Applicant was seeking a conditional zoning district, then called a "planned development district" to establish a site-specific ordinance tailored to the planned mixed-use development of the site.

After several meetings of discussion, the Planning Board unanimously recommended approval at a special-called meeting on June 25, 2020.

After the final Planning Board meeting the Applicant amended the preliminary master plan in order to alleviate neighbor concerns; this plan was presented to Council on August 17, 2020. Council held an on-site meeting on September 3, 2020 and voted on the matter at their regular meeting on September 21, 2020, adopting Ordinance No. 2020-18 approving the PDD.

Mr. Borhaug now wishes to rezone the properties subject to the PDD to traditional “base zoning” districts. Two back to GR8 as they were before the PDD rezoning, and one to Corridor Mixed Use (CMX).

Discussion

A conditional zoning district is a rezoning in which the developer and the City negotiate site-specific development standards for the site/project. These standards are codified in a stand-alone ordinance which applies to the subject property in perpetuity. This process is meant to be flexible and is intended to accommodate complex projects.

Applications for conditional rezonings may seek exceptions to standard development requirements regarding density, building types, architectural standards, open space, landscaping, parking, and signs, but may not seek exceptions for stormwater management, steep slope protections, and floodplain regulations.

Base districts are the standard zoning districts applied throughout the City’s jurisdiction. Rezoning to base districts would undo the site-specific standards of the PDD, including any deviations from the typical UDO requirements. Moving forward any development of the site would have to follow any and all applicable UDO requirements.

Tore Borhaug explained that he has been hard at work for the past 3 years. That the intent of what he wants to do has not changed, but with all the ordinance changes he now feels he can develop his properties by right without the necessity to come before the board every time he wants to make a revision to his plan. He explained the changes that Covid made to his development plans, that having small facilities was huge during Covid. Development by right would allow him to more easily phase his project and would allow him more flexibility.

M. Jenkins moved to approve the request as presented with reference to the Consistency Statement which is attached hereto and labeled, Exhibit “B”, second by P. Chaveas, unanimously carried.

c. Continuation of TXT-22-006 Steep Slopes

Emily Brewer presented the Board’s recommended changes. There was discussion about why the number 2250 was chosen and it was explained that the Planning Board chose that number previously and that part of the reason was for view shed protection.

J. Schommer made a motion to approve with revisions, second by P. Chaveas, G. Hunter voted nay, all other board members voted in favor.

Emily Brewer explained that because Council will be discussing the budget in their May meetings that the public hearing might not happen on this matter until June.

d. CLUP Priorities Discussion

Emily Brewer presented the board with a summary of City Council's retreat from March indicating their priorities for the upcoming budget cycle. She also presented them with the annual Planning by the Numbers reporting, and the Comprehensive Land Use Plan Implementation Tracker for their review and future comments and recommendations. Staff will prepare a memo to Council noting the Board's recommendations.

She gave the Board an update on the progress and upcoming meetings with the UNC School of Government Development Finance Initiative.

VII. Public Comment –

Monica Driscoll stated that she enjoys the Planning Board meetings and gets a lot out of their discussions.

VIII. Remarks –

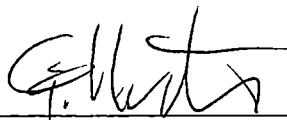
G. Hunter presented different ideas to the board about getting together socially. He noted that the City Attorney had said no to them meeting socially, but maybe a special meeting or some other idea might work.

Monica Driscoll spoke up that it did not sound right, stating that she has heard Council and Mack McKeller say emphatically no to matter.

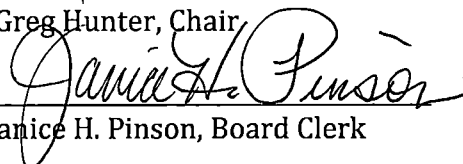
Paul Ray said maybe a board's appreciation dinner would be an idea but that the idea of a social gathering has already been approached and the idea disapproved. He further stated that the City Manager would need to weigh in on any meetings, and that it might be a good idea for Greg Hunter to call the City Attorney and have a discussion with him on the matter.

X. Adjournment

There being no further business, M. Jenkins moved to adjourn, seconded by P. Chaveas, carried unanimously, and the meeting adjourned 7:00 PM.



Greg Hunter, Chair



Janice H. Pinson, Board Clerk

EXHIBIT "A"

STATEMENT OF CONSISTENCY AND REASONABLENESS WITH ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD REZ-23-001

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Goals

- **GOAL 1:** *Expand housing opportunities for all residents while preserving the character of Brevard and its neighborhoods.*
- **GOAL 6:** *Integrate arts, culture, diversity, and history into everyday life and build on Brevard's identity as a dynamic community to live, work, and play.*

Building Brevard 2030 Recommendations

- **Land Use and Housing-18:** *Collaborate with neighborhoods to explore opportunities for zoning overlays, historic preservation, adaptive reuse, infill projects, special events, and other neighborhood-specific activities.*
- **Parks, Natural Resources, and Cultural Resources-17:** *Continue participating in North Carolina Historic Preservation Office's Certified Local Government Program via the Transylvania County Joint Historic Preservation Commission.*

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **inconsistent** with the following elements of the City's adopted plans and policies:

Building Brevard 2030 Future Land Use Map

The Future Land Use Map recommends *Activity Center – Major* as the future character area:

Activity Centers represent unique destinations across the City. They are meant to be the focus of targeted urban design initiatives with a focus on infill, adaptive reuse, and creative solutions to address opportunities and challenges in each unique place.

The appropriate character area for the proposed zoning district is *Conservation Design / Low-Density*.

Building Brevard 2030 Recommendations

- ***Land Use and Housing-2:*** Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.
 - ***Land Use and Housing-6:*** Encourage rezonings to allow for a mix of uses in Activity Centers.
 - ***Land Use and Housing-9:*** Evaluate and amend development ordinances to facilitate infill development on vacant and underdeveloped parcels, as well as revitalization of developed parcels.
-

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is in the public interest and **reasonable** due to the following factors:

- As defined in the City of Brevard Unified Development Ordinance, the General Residential-4 zoning district is a logical and appropriate zoning district for a single-family home.
- The Plan is consistent with the goals and recommendations outlined in the City's Comprehensive Land Use Plan.

**STATEMENT OF CONSISTENCY AND REASONABLENESS WITH
ADOPTED PLANS AND POLICIES OF THE CITY OF BREVARD
REZ-23-002**

NCGS 160D-604 requires that the Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan prior to consideration by the Governing Board. The Planning Board shall provide a written recommendation to the Governing Board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Governing Board.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is **consistent** with the following elements of the City's adopted plans and policies:

Comprehensive Land Use Plan & Future Land Use Map

Recommendation Land Use & Housing – 2: Evaluate rezoning requests based on the Future Land Use Map and character area descriptions.

The Future Land Use Map identifies the two parcels proposed to revert to GR8 as within the *Traditional Neighborhood* character area, and the parcel proposed to be CMX within the *Urban Corridor* character area. Both of the proposed new zoning districts are applicable zoning districts for the character areas as outlined in the Future Land Use Character Area Table. Therefore, the Board finds that this proposed zoning map amendment is consistent with the Future Land Use Map and LUH-2.

NCGS 160D-605 requires the Governing Board to approve a statement analyzing the reasonableness of a proposed rezoning. The statement of reasonableness and the statement of consistency may be approved as a single statement.

The Brevard Planning Board forwards this recommendation to City Council with a finding that the proposed zoning map amendment is in the public interested and **reasonable** due to the following factors:

- The relationship between the current permissible development and land uses in the existing conditional zoning district is very similar to the development and land uses permissible under the proposed zoning districts.
- The size of the parcels and proximity to existing areas of the proposed zoning districts does not constitute spot zoning.
- The Plan is consistent with the above elements of the Comprehensive Land Use Plan and the Future Land Use Map.