

**These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>**

Planning & Zoning Commission Mid-Month Meeting  
Minutes of November 20, 2014  
1st Floor North Conference Room - City Hall

**Present:** Chairman Jeremy Goldstein, Kristy Carter, Jim Edmonds, Laura Berner Hudson and Joe Minicozzi

**Absent:** Vice-Chair Holly P. Shriner and Mr. Karl Koon

**Regular Meeting - 4:00 p.m.**

Chairman Goldstein called the meeting to order at 4:00 p.m. and informed the audience of the public hearing process.

**Agenda Items**

- (1) **Review of revised plans for a conditional zoning request from Urban Village District to Urban Place District/Conditional Zoning for the development of a mixed use project containing apartments and retail off of Fairview Road with modifications to parking as found in Section 7-8-26 of the UDO. The subject property is a total of 14.02 acres and includes PINs 9648-80-8406 and 9647-89-8924. Planner coordinating review – Jessica Bernstein.**

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting a Conditional Zoning for two parcels located on Fairview Road from Urban Village District to Urban Place District/Conditional Zoning in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development. This request includes a modification to parking standards as found in Section 7-8-26 of the UDO. These are revisions from the original proposal, which was reviewed by the Planning & Zoning Commission on October 16, 2014.

Ms. Bernstein then reviewed the summary of changes:

The project has been revised along Fairview Road (Buildings 100 and 200) to respond to comments from staff and the Planning & Zoning Commission and to better exemplify the Urban Place zoning district and are as follows:

- Setback
  - The previous plan included a modification to increase the building setback along Fairview Road. The current design complies with the maximum 15' setback, eliminating the need for modification.
- Number of Units
  - The number of residential units has increased from 298 to 309. The number of live/work units remains the same.
- Amount of Retail
  - The amount of retail space has increased from 7,600 square feet to 9,742 square feet and provides direct access to the spaces along Fairview Road.
- Building Height
  - By stepping the buildings along with the grade on Fairview Road, the tallest building height has increased to 73 feet for Building 100 and 63 feet for Building 200. Buildings 300 and 400 remain at 53 feet.
- Parking
  - The number of parking spaces has increased from 533 to 578 and on-street

spaces are proposed along Fairview Road. There is still a modification to allow parking between the building and street along Stoner Road.

- Design and Operational Standards
  - By stepping the buildings with the grade of Fairview Road, there are now multiple entrances into retail spaces along the streetscape and the previous variance for distance between entrances along Fairview Road is no longer applicable.
- Retaining Walls
  - The retaining walls along Fairview Road have been greatly eliminated by redesigning the buildings to provide direct pedestrian access in multiple locations. There is still a wall along the southwest end of the site but it has been stepped to soften the overall perception of height. Walls have not changed on the north, east or west boundaries of the site.

The project site consists of two parcels with a combined area of approximately 14.02 acres (according to submitted plans) and frontage on Fairview Road and Stoner Road just outside of Biltmore Village on the edge of the Oakley neighborhood. The site is currently zoned Urban Village (rezoned in 2007 as a part of a larger development project that was never realized). Adjacent parcels are zoned Commercial Industrial (CI) to the west and north, RM-8 and UV to the east and UV to the south.

The project area is currently vacant and has mature trees across the site. Surrounding uses include commercial/industrial operations, retail, the Norfolk Southern rail line and single-family residential. The site has some steep grade changes from adjacent parcels, especially along Stoner Road and the parcel to the west, along Fairview Road.

The applicant is proposing the construction of a mixed-use development with primarily residential units but also live-work and some retail space. Revised plans indicate a total of 309 residential units with 155 1-bedroom, 122 2-bedroom and 32 3-bedroom *configurations (up from 298 units previously)*. There are 5 live-work units identified as well as 9,742 square feet for retail uses.

The design incorporates four buildings with surface parking throughout. The buildings range from four to six levels and have a maximum height of 73 feet. Buildings 300 and 400 are unchanged from the previous plan (four/five splits at 53 feet maximum height) but Buildings 100 and 200 have been revised to provide access into retail spaces along Fairview Road which has resulted in a greater height for those two buildings (73 feet and 63 feet respectively).

The project proposes two vehicular access points, one from Fairview Road and one on Stoner Road towards the rail line, both two-way driveways. Once inside the site, the buildings are surrounded by a series of linear surface parking areas. There are a total of 578 parking spaces shown, including required accessible spaces and bike parking (*previously 533 spaces – number of spaces increased to accommodate additional retail spaces and residential units*).

New sidewalks are shown on Fairview Road but none are proposed on Stoner Road which would be handled through a fee-in-lieu. There are internal walkways throughout the site. While the previous plan showed very limited pedestrian access from Fairview Road into the retail shops, the proposal has been revised to provide multiple direct access points along this streetscape.

Landscaping is required for this project and includes a property line buffer against areas of residential zoning, street trees, building impact and parking lot landscaping and dumpster screening.

Open space is required in an amount equal to five percent of the lot area, which is 30,492 square feet (or 0.7 acre). More than this amount is provided in hardscaped plaza areas throughout the site.

The redesign has greatly eliminated the retaining walls along Fairview Road, with the exception of a stretch approximately 80 feet long at the southwest end of the site. This section has been stepped in a way with incorporated landscaping at each level (10 and 12 foot sections) to reduce the perception of overall height. The west, north and east boundaries have not changed and include walls up to 40 feet along the western (internal) property line, 16 to 36 feet along the northern boundary (rear of the site) and up to 26 feet along the east side with walls between 2 to 18 feet along Stoner Road. Interior to the site, there are additional walls around each building ranging in height from 2 to 13 feet.

#### *Modification*

- **Parking** – Parking is not permitted to be closer to the street than the face or edge of a structure. Because the buildings are oriented either towards Fairview Road or internally, the frontage along Stoner Road is not activated. Also, there is no sidewalk proposed along this frontage so it is not proposed to be pedestrian-oriented. Due to buffer requirements along Stoner Road because of dissimilar zoning, the lack of sidewalk and existing topography, activation in this particular location would be challenging and staff believes the layout as proposed is supportable, with parking areas separated from the street by landscaping and grade change.

The proposal was approved with conditions by the Technical Review Committee at their meeting on September 15, 2014. The original proposal was denied by a vote of 6-0 by the Planning & Zoning Commission on October 16<sup>th</sup> and lead to these revisions which specifically address how the project relates to Fairview Road and the Urban Place zoning district. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit.

Staff has spoken with several adjacent residential property owners who have indicated concern about the visual impact of the development (retaining walls and large buildings) as well as the increased traffic to the area.

The site was zoned Urban Village as a part of a larger master plan that was never finalized. Before that rezoning in 2007, the site was zoned as RM-16 (Residential Multi-family High Density). The proposed district, Urban Place, allows 64 residential units per acre and is intended to foster “higher-density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the city...in the form of mixed-use structures that relate to the street, enhance the streetscape and offer a wide range of complementary land uses and employment opportunities.”

The proposal offers a residential density of approximately 21 units per acre and includes five live-work units and almost 10,000 square feet of space available for retail use. The site is in a good location for a multi-family residential use because it is sited along a transit route and walkable to Biltmore Village and beyond. This revised proposal has increased the amount of retail and has been redesigned to allow for the buildings to step along the grade changes on the site, providing direct access to retail spaces from the sidewalk as well as internally along the main drive access. The Fairview Road frontage has been revised to be an active and pedestrian-oriented streetscape, more in line with the intent of the Urban Place zoning district.

Recent actions in the general vicinity have included the approval of the Roots & Wings School conditional zoning at 573 Fairview Road (2014); Biltmore Hill mixed-use conditional zoning at 63 Brook Street (2013) and rezoning of Thompson Street at Stoner Road from River to Urban Place (2013) with a Level III proposal recommended for approval by Planning & Zoning Commission on November 5, 2014.

Zoning and uses adjacent to this site include CI and UP to the north (Norfolk Southern railroad, manufacturing uses); RM8 and UV to the east (single-family residential); UV to the south across Fairview Road (Carepartners and retail) and CI to the west (manufacturing). Along the

north boundary of the site is a 100 foot railroad easement. This location is well suited for a higher-density residential, mixed-use development given the proximity and access to employment locations, transit and amenities.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*

There are significant topographic differences around the site and vicinity. Fairview Road drops approximately 70-90 feet from the eastern to western extents of the parcel. The building on the parcel to the west is approximately 45 feet lower than the elevation at the western property boundary. There is a difference of approximately 90 feet from the railroad line at Stoner Road up into the center of the project site. As is, the parcel sits well above Stoner Road, the adjacent parcel to the west and most of Fairview Road. In order to create a more ideal building surface within the site, the applicant is proposing significant retaining walls around the bulk of the project area's perimeter. This results in walls from 24 to 40 feet in height along the western property line; from 16 to 18 feet along Stoner Road (across from single-story homes); and from 9 to 26 feet along the eastern boundary (the site drops down below the adjacent single family homes but is 30-40 feet above the homes across Stoner Road). The plans have been revised to address the interaction between the project and Fairview Road, greatly reducing the walls along this southern boundary line.

While the revisions address the project's ability to facilitate pedestrian activity along Fairview Road and meet the intent of the Urban Place zoning district, the large retaining walls on the rest of the site remain and prohibit integration of the project with the residential uses to the east.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*

The proposed use of the land for the mixed-use development is not expected to injure the value of adjoining or abutting property; higher-density uses have been anticipated in this area with the 2007 Urban Village rezoning as well as the RM-16 zoning before that. The revisions along Fairview Road greatly enhance the streetscape and the interaction of the proposal within the area. However, there may still be some question of how the development of the land with large retaining walls at the perimeters could impact the value of the adjacent single-family residential uses.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*

As stated in finding number three, this area has been anticipated for higher-density development. Given the proximity to employment centers, residential infrastructure and transit, this is an appropriate location for the use. While the scale, bulk, coverage and

density are all greater than the adjacent neighborhood, this is an area with a variety of commercial and manufacturing uses currently and the multi-family component offers an acceptable transition in scale and intensity between the single-family uses to the east and the commercial uses to the west. The activation of retail spaces along Fairview Road should enhance the corridor leading to Biltmore Village and should benefit the area.

Again, there remains concern about the development of the land around and how the large retaining walls around the perimeter of the site complement the scale and character of the neighborhood.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*

As enumerated below, elements of the project are directly aligned with the City's plans and objectives as a mixed-use, infill project including multi-modal transportation elements (sidewalks, bike racks, transit shelter) in a walkable location. The applicant has slightly increased the residential density and has indicated a commitment to provide 10 one-bedroom units as dedicated affordable rentals for a period of five years.

While the proposal is considered by staff to be a good use for this location and revisions allow the project to enhance Fairview Road in a way that meets with the purpose and intent of the requested zoning district, the topographic challenges on this parcel still result in a difficulty relating to the Stoner Road frontage and very large retaining walls on three sides.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*

The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately 800 feet from the nearest transit stop (C) at Fairview and Stoner Roads and approximately two tenths of a mile to the S1 route.

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*  
A TIS is required because the volume of traffic is expected to warrant a study and is under review. The project is not expected to create a hazard or undue congestion based on the proposed plans, and the recommendations contained by the Traffic Impact Study.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to transit. Infill development along transit corridors is highlighted and encouraged in various plan chapters. Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, the applicant has indicated a commitment to dedicate ten 1-bedroom units as affordable for a period of five-years.

One aspect where the proposal does not align with the *Plan* is that when considering the retaining walls along the perimeter of the project facing existing residential uses and the lack of activity or integration along Stoner Road; the plan states that "protection, preservation and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction." The walls are proposed to accommodate development on a site with existing topographic challenges.

The revised plan aligns with several of City Council's adopted goals for 2014-2015: from "Economic Growth and Sustainability" is supporting mix-use development and development with multi-modal improvements; and "Affordability and Economic Mobility" stresses expanding Asheville supply of available housing with an emphasis on affordable units close to jobs and

transportation. However, there is some concern as to how the large perimeter retaining walls will impact adjacent single-family properties (relating to the goals on "High Quality of Life").

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does find this request to be reasonable or within the best public interest.

Considerations:

- Revisions to the buildings along Fairview Road result in direct pedestrian access to retail spaces and meet the purpose and intent of the Urban Place zoning district by enhancing the streetscape.
- City-adopted plans and policies support mixed-use development, especially providing residential uses in a walkable location proximate to transit.
- The applicant has offered to place a transit shelter on the site.
- Multi-family residential use would provide a good transition between single-family and commercial uses on either side.
- Application includes dedication of ten 1-bedroom units as affordable for a period of five years
- Due to retaining walls and topographic difficulties, the project does not interact with adjacent single-family neighborhood.

The proposal is for a higher-density mixed-use project in an ideal infill location. Staff feels this is a good use for the site and revisions from the original submittal create the opportunity for an active streetscape environment along the primary frontage. The project complies with a number of City goals and objectives, including inclusion of affordable housing. There is still some concern regarding the lack of integration of the development with adjacent neighborhoods but overall, the project meets the purpose and intent of the requested zoning district and staff recommends approval.

Ms. Bernstein said that neighbors have expressed concerns regarding the overall traffic impact of the area and the impact of this high density development in the residential neighborhood.

In response to M. Carter, Ms. Bernstein said that the developer is willing to come forward with 10 affordable units for 5 years, at this time.

At the request of Chairman Goldstein, City Traffic Engineer Jeff Moore said that a Traffic Impact Study was performed under the previous submittal of 298 units. There is now a change of an additional 11 units. After recalculating, he said there will be about an additional 7 vehicles per peak hour. Based on the study, Fairview Road and Stoner Road can handle the additional traffic. The am peak hour flow is 129 trips leaving the site and 33 entering. The pm peak hour flow is 122 entering the site and 67 leaving. Fairview Road is a busy road, but it is 25 mph (after a study of the road) and there is transit on the Road.

In response to Ms. Hudson, Mr. Moore said there is not a traffic light at Fairview Road and Stoner Road. The only a traffic light is at Fairview Road and Sweeten Creek Road.

When Ms. Carter asked if there was a Traffic Impact Study for the recently-approved multi-family project on Thompson Street, Mr. Moore replied yes; however, he didn't recall the number of trips on Stoner Road to Fairview Road. He did recall that most of that traffic would use Thompson Street. The intersection at Thompson Street and Biltmore Avenue is not signalized, but at some point in time, that intersection will have to be addressed.

In response to Ms. Carter, Mr. Moore said that future projections for the level of service for Fairview Road at Stone Road is "a" and "b." Fairview Road at Sweeten Creek will have a level of service "c."

In response to Mr. Minicozzi, Ms. Bernstein showed where the dedicated bicycle parking areas would be located.

Mr. Lou Bisette, attorney representing the developer, thanked the Commissioners for the input at their October 16 meeting because their comments made this a much better project. He said that the developer recognizes the City's commitment to affordable housing and has dedicated 10 1-bedroom units under the affordable housing rates for 5 years. He hoped the Commission would support this revised project.

Mr. Will Buie, civil engineer for the project, noted that most of the site did not change. The main change is that Buildings 100 and 200 have both been pulled up to and are now adjacent to Fairview Road. The earlier retaining wall was converted into a building wall and they now step. That change now activates even more of the Fairview Road pedestrian infrastructure. He then showed the Commission the original pictures and the revised pictures.

In response to Mr. Minicozzi, Mr. Buie reviewed the grade distances around the project.

Chairman Goldstein opened the public hearing at 4:23 p.m.

Mr. David Ankeney, adjacent property owner on Stoner Road, was concerned about the additional traffic on Stoner Road; and, the large retaining wall that will be visible in his backyard. He felt that the Urban Village District is a more compatible zoning as it integrates more into the spirit of the surrounding area.

Chairman Goldstein closed the public hearing at 4:27 p.m.

In response to Ms. Hudson, Mr. Moore said that Fairview Road is a two-lane road with no center turn lane.

In response to Mr. Minicozzi, Mr. Moore said that the developer is adding a dedicated left turn storage lane (which will hold 3 vehicles) into their main entrance on Fairview Road. Mr. Buie said that changes to the left turn lane and right turn lane at the primary entrance (from the Traffic Impact Study recommendations) will be incorporated into the final plans that have to go back to the Technical Review Committee for final review.

In response to Mr. Minicozzi, Mr. Buie said the square footage for the entire project is 415,000 square feet.

Ms. Carter wondered if we would still have retaining walls on the Stoner Road side even if the site were developed for single-family residential.

Ms. Hudson asked if there was any consideration for creating 3 terraced pads on the property. Mr. Buie said that there were 19 different plans for this property trying to determine how, with the topography, to effectively place the unit count on the property. To terrace would likely require non-surface parking which would require parking structures and other facilities that make the project, from a cost standpoint, prohibited from being developed by his client.

Interim Planning Director Alan Glines recalled some specifics from the Urban Village District proposal that was approved back in 2007 for this property. Ms. Bernstein said she did talk with the developers about creative ways to interact the project with Stoner Road, but there was not much interaction at the street level because of the grade of the site.

In response to Ms. Hudson, Ms. Bernstein said that because the single-family homes will be close to the edge of the project, guardrails will be looked at very closely in the final Technical Review Committee review.

Mr. Minicozzi said that in the Urban Place District standards for entrances, it states that all buildings shall include a well defined operable entrance at regular intervals not exceeding 60 feet. He asked if that standard has been met with this project. Ms. Bernstein said that the buildings along Fairview Road meet that standard. Regarding the other buildings, she said that the intent of that standard is to have that operable commercial experience. If you are not required to have commercial or non-residential uses on the ground level of all buildings, the Planning Department does not want to require those entrances if a multi-family residential building would be more appropriate with a lobby entrance. The Planning Department staff takes that discretion. It's looking at the use and where the building is set.

In response to Chairman Goldstein, Mr. Buie said that the value of this project will be approximately \$25 Million.

Chairman Goldstein said that on this site the idea of adding the residential units with the revisions made from a \$25 Million project are positives for the community. He felt we need to encourage this type of development.

Even though Ms. Carter was concerned about Stoner Road, she felt it would be a concern no matter what was built on that property. A bigger concern is the responsibility of the City to monitor the traffic patterns in this area and be prepared to respond. She felt this is a challenging site but it does come close to meeting the intent of the Urban Place District.

Mr. Minicozzi agreed that development needs to happen on that property, but also as a designer, we go into design with challenges of topography, laws, rules, etc. He felt that the standard that all buildings shall include a well defined operable entrance at regular intervals not exceeding 60 feet is clear. The purpose and intent of Urban Place is to have a wide variety and range of complimentary land uses. There was only 1% of retail and 99% of residential. Now, with the revised plans there is only 2% of retail. That is not significant or a wide range of land uses. The site could have been stepped or tiered with the intent of having connectivity so we don't have a couple of roads handling all of the traffic capacity.

Mr. Minicozzi said that after the vote, he would like to have an opportunity to talk with the development team in general about the process. The Commission is having a meeting with City Council in December and these are on-going discussions the Commission has been having about the process of the higher density standard and meeting the goals of our 2025 Comprehensive Plan.

Ms. Hudson asked if the retaining walls have to be stepped back from the property line or could they be built up to the property line. Ms. Bernstein said that if they are right up to the property line, there may be construction easements that the developer would be responsible for insuring. But in this project, they are stepped back from the internal property line because there is a required property line buffer.

In response to Ms. Carter, Ms. Glines explained the Land Use Incentive Grant policy, which this developer has not requested.

When Ms. Carter suggested that staff review this area in one year in terms of traffic congestion, Mr. Moore said that Stoner Road has been looked at for traffic calming and it's on the next list (not the current back-log list). Regarding Fairview Road, we have looked at with the Road Safety Review Team and they have lowered the speed limit to 25 mph along with some other things.

Mr. Minicozzi respectfully disagreed with staff's interpretation of their discretion that two buildings meet the standard that all buildings shall include a well defined operable entrance at regular intervals not exceeding 60 feet on each primary façade....

Chairman Goldstein moved to approve the conditional request for Biltmore Village Apartments on Fairview and Stoner Roads from Urban Village to Urban Place-CZ and find that the request is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the project proposes an active, pedestrian-accessible enhanced streetscape along Fairview Road, following the intent and purpose of the requested Urban Place zoning district; (2) the proposal is for a higher-density, mixed-use development in a location proximate to transit; (3) ten affordable rental units are included with the proposal. This motion was seconded by Mr. Edmonds and carried unanimously on a 4-1 vote, with Mr. Minicozzi voting "no."

### **Other Business**

Chairman Goldstein said that he will be talking with Vice-Mayor Marc Hunt (liaison to the Planning & Zoning Commission) about the agenda for the December 16 joint City Council/Planning & Zoning Commission meeting.

Mr. Minicozzi said that he would talk with the development team about the process outside this meeting.

Chairman Goldstein announced the next meeting on December 3, 2014, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

### **Adjournment**

At 5:02 p.m., Mr. Edmonds moved to adjourn the meeting. This motion was seconded by Ms. Hudson and carried unanimously on a 5-0 vote.