



**PLANNING AND NEIGHBORHOOD SERVICES DEPARTMENT**

**PLANNING BOARD MINUTES**

**October 16, 2012**

**6:30 P.M.**

The following members of the governing body were present:

Patricia Cowan, Cathi Higgins, Robert Rollins, Chip Long,  
Kelly D'Onofrio, Jan Brown and Alan Rosenberg.  
Cheryl Mimy, alternate not seated.

Staff Members: Shelley DeHart, Helen Boich

**Call to Order:** Chair Patricia Cowan called the meeting to order.

**Roll Call** Sidney Sandy and Larry Miller were absent.

**Approval of Minutes**-not available.

**Town Manager Update-** Mr. Fivas gave an update of projects in the Town and thanked the Board for their service.

**Public Items**

**CZ 2012-003 Meridian Apartments:** A request to establish a Conditional Zoning District for Multi-Family Residential (MFR) to support an existing 252 unit multi-family apartment complex as authorized in the Town approved Special Use Permit 2001-012.

Planning Director Shelley DeHart presented the request to establish a multi family residential Conditional Zoning District on a 15 1/2 acre parcel. This property is already developed with a 252 unit apartment complex known as the Meridian Apartments. The intent is a business transaction. The plan is to vest the existing development for future years. This project also includes enhancements of the existing development. The applicant is proposing to install 5 additional streetlights on Faith Church Rd street frontage and a 1500 linear foot greenway which is in the same corridor as the adopted Carolina Thread Trail. The applicant is Attorney Stephen Goodwin, representing the property owner. Ms DeHart stated the intent of a Conditional Zoning is to provide for flexibility in development while ensuring the compatibility with neighboring uses. It is creating a custom zoning district. There are no additional units proposed.

Ms DeHart the Meridian Apartment complex was developed under a Special Use Permit in 2001. The complex was developed around 2003. The complex included parking garages.

Ms DeHart stated the complex is zoned Multi Family. The request is for a Conditional Zoning District for multi family. Under the standard zone Multi Family there is a maximum development of 12 units to the acre. The site, as developed with the extra units, equates to about 16 dwelling units to the acre. The density for the site is considered non conforming. It was legal when it was developed but the Ordinances have changed. The parking is non conforming as well as the architectural requirements. The concern of a property owner perspective, or investor, is if the site were to undergo a disaster that destroyed over 50 percent of the site, the site would have to be redeveloped in compliance with ordinances at the present time. This is with any non conforming issue. A conditional zoning district (customized zoning district) would protect the property owner's investment allowing the project to rebuild as was originally done.

Ms DeHart stated a stairway is proposed for access to the greenway from Faith Church Rd. It is a dedication of a public access use.

The process for a Conditional Zoning requires two community meetings. There were no attendees at either 2 hour long meetings. There were a couple of phone calls and the Traewyck HOA President came into the office to view the plans and talk about the case.

Concerns voiced were:

1. Overall risk and previous vandalism that seems to be tied to the apartment complex – Ashe Croft Resident
2. Incidents of potential forest fires within wooded area – Ashe Croft Resident
3. Security Lights needed between Ashe Croft and the apartments – Ashe Croft Resident
4. Noise associated with the apartment trash compactor, which is located adjacent to the Traewyck neighborhood. This compressor will activate sometimes during the middle of the night. It was suggested that the compactor be relocated towards the open space side of the complex or provide additional screening for adjacent residents.
5. Smell associated with the apartment trash compactor during the peak summer heat – Traewyck resident.

These concerns were transmitted to the applicant via email.

Ms DeHart stated there is a 25 foot buffer from the compactor to the property line of the adjacent owner. She discussed the trees that are included in this buffer. The compactor is within a screened area. She stated the resident can hear the compactor and in the heat of the summer the resident can smell the odor emitted.

The property is located in the Hwy 74 Business Corridor of the Comprehensive Plan. This corridor provides opportunity for a variety of retail, office, entertainment, and lodging opportunities. Supporting high density residential is also a key component to the success of this corridor. The corridor is set up where approximately 15% of the Village is earmarked for multi family residence, ranging from 5% medium to high single family and 5% multi family. The existing apartment complex is already accounted for and represents about 1 ½% of the future

multi family category. The Comprehensive Plan does identify base lines for density as 12 units per acre.

Ms DeHart stated staff has recommended conditions based on public feedback and evaluation of the proposal.

1. The property owner shall record a ten (10) foot wide public easement for the purpose of a greenway. The easement shall be located adjacent to the east property line of the subject property.
2. The property owner shall construct a 10-foot wide greenway path consistent with the requirements of the Carolina Thread Trail. Said greenway shall include a connection to the existing sidewalk located on Faith Church Road.
3. The property owner shall install five (5) street lights adjacent to Faith Church Road. Lights shall be decorative acorn style similar to existing lights located at the developments access driveway.
4. The property owner shall explore the possibility of relocating the garbage compactor towards the east side of the development. If the unit cannot be relocated, supplemental landscaping shall be provided between the compactor and neighboring properties of the Traewyck subdivision.
5. All conditions shall be met within two years of the establishment of the Conditional Zoning District. The Town Council may act to revoke the conditional zoning district designation if the applicant fails to meet the terms of the district. Ms DeHart stated this is standard within the requirements of the UDO

Ms DeHart stated staff is of the opinion, as conditioned, the findings can be made and is consistent with:

*Goal 1.3.1 Quality of Life* - The proposed conditional zoning district will meet the goal of providing a diverse range of housing options in order to provide affordable living opportunities for a wide range of residents. It will also establish the first public greenway segment of the future Carolina Thread Trail providing an opportunity for public recreation within the Town.

The request for this Conditional Zoning District is a reasonable request and is in the public interest because it maintains a needed land use as identified in the Comprehensive Plan and includes improvements that benefit the general public in the area of lighting and greenway trails.

Chair Cowan asked if it is a stairwell or staircase. Ms DeHart replied it will be a staircase to connect the sidewalk to the greenway. She stated there is not enough room to go underneath the bridge.

Member Higgins asked if there would be any more building or parking added. Ms DeHart replied the site is completely built out. Ms Higgins asked if the building material is brick or vinyl. Ms DeHart replied it is brick and vinyl. Ms Higgins asked if all residents were notified of

the community meeting. Ms DeHart replied not individual tenants. There was a public notice to the complex, signage, advertising and notices sent to individual adjacent property owners.

Member Higgins asked who would be responsible for installing street lights on the road if the applicant did not do it. Ms DeHart replied the Town maintains that particular right of way. It was a partnership project between the Benderson Company, NCDOT and the Town. During that project it is not sure of what occurred but when that road was constructed it was not constructed with lights. The Town had to put in more money than thought to put in the curb, gutter and sidewalk.

Chair Cowan asked if this were not approved what would be the next step for installing streetlights. Ms DeHart it would be through a petition, to Town Council and the tax payers would be responsible.

Chair Cowan asked about the trash compactor. Ms DeHart stated the discussion was to relocate it. It is a large container and the utility and access for trash trucks are an issue. If they are unable to relocate it then additional screening could be a solution. Moving to take up any existing parking area is not an option. Ms Cowan asked if there could be a timer installed. Ms DeHart replied the applicant can answer that question.

Attorney Stephen Goodwin, representative for the current owner as it relates to this request, came before the Board. Mr. Goodwin stated the lights on Faith Church Road will be to the standards in design, illumination and 150 ft apart. The location of the stairwell is very steep and in the floodplain. In discussion regarding a ramp, early in the process, it could be problematic due to the length. It can be explored. There are two access points from the apartment complex. Contacting the trash compactor company to explore the installation of a timer can be done. In regards to the relocation, there is not a safe place to relocate it to accommodate service vehicles. Screening may be the solution.

Mr. Goodwin stated this is a business decision. The current lending of money at this time is difficult. When the current loan on the property is coming due and without the ability to have this particular customized conditional zoning in place the lender is unwilling to do anything with the loan when it expires. There is a buyer for the property and their lender has the same difficulty as it relates to the 'what if' the possible destruction of 50% of the building down the road occurs. The current owner takes great pride in the condition of the property but with a remote possibility of not being able to rebuild as it stands now is enough to scare every conventional lender away. This is the issue. Mr. Goodwin stated he believes it is a reasonable request and with the issues being addressed and resolved it meets the goals of improving the community as a whole.

Member Brown asked if a new compactor as been discussed. Mr. Goodwin replied he does not know and that can be looked into.

Member Higgins asked if this is the first time complaints have been heard regarding the trash compactor.

George Van Besien, employee of the management company for the complex, replied he has not had a concern about the noise and stated he believes it is key controlled, he does not believe it is automatic.

Member Higgins asked if it would be difficult to get a loan to totally rebuild the complex and asked if this is what is being said. Mr. Goodwin replied yes. Mr. Goodwin stated again the loan is coming due and the loan could be called in. If the complex needed to be totally rebuilt the requirements would change the dynamics of the cash flow.

Member Higgins commented on the idea of smaller units. Ms DeHart stated there is a requirement for size in the Minimum Housing Ordinance. Ms DeHart stated that every developer she has talked to in the last few years have indicated they would have to develop more than 12 units per acre to make it financially viable. This might be something the Planning Board should look at and make comparisons with other jurisdictions. There is a change in housing based on the generations. This will be something that will be discussed in the Comprehensive update project.

Member Higgins stated a concern with vinyl and asked if the applicant would be willing to rebuild if totally destroyed to the present UDO architectural requirements. Ms DeHart stated the UDO could change and be open for vinyl. If you specifically put a condition specific to architecture it will be challenged legally.

Chair Cowan stated you cannot make a condition based on what the current UDO states.

Member Higgins explained the condition would stated that if the complex was totally destroyed it would be built back to the requirements of the UDO at that time, not 2012.

Chair Cowan stated the current applicant could say yes but the owner could be new. Ms DeHart stated the condition could be to the property owner. She stated the condition could be put in, the attorney could address it and it would then go to the Town Council without having to come back to the Board.

Attorney Goodwin stated putting in that condition would be problematic in a lender making a determination on the amount to lend. You do not know what the materials and the cost will be at any given time in the future. He also stated how would you get insurance coverage on an unknown cost of replacement. Mr. Goodwin stated if the complex burns down in 20 years the owner may make the decision to rebuild to the market conditions.

Member Higgins withdrew the request for the condition.

Member Long motioned to recommend approval with conditions as stated.

Member Rollins seconded the motion.

All members voted in favor.

Ms DeHart stated the Planning staff is available for any questions regarding the Conditional Zoning from members of the public. Town Council will hear the case in a public hearing on November 13<sup>th</sup> at 6:30.

**OTHER BUSINESS**

Ms DeHart reminded the members of the Comprehensive Plan update meeting Thursday October 18<sup>th</sup> at 1:00. She invited the members to participate in some of the National Community Planning Month activities done in the community. School children are taught about planning and stormwater issues.

Ms DeHart invited the members to attend the November 13<sup>th</sup> Town Council meeting for a recognition ceremony for the service of the Planning Board. The library has a display, with pictures, of the Planning Board.

Ms DeHart informed the members of the Cultural Arts center opening and the festival in the park.

**PLANNING REPORT**

Ms DeHart discussed the literary for the Comprehensive Plan update meetings.

**ADJOURN**

**Town of Indian Trail  
Planning Board**

\_\_\_\_\_ **Chair** \_\_\_\_\_ **Date**

\_\_\_\_\_ **Secretary**