

STAFF ANALYSIS

CONDITIONAL USE PERMIT

Quasi-Judicial Hearing

CASE NUMBER: ZPH2019-00044 **PROJECT:** CROSSROADS PLANNED UNIT DEVELOPMENT

A. PROPERTY INFORMATION

PIN(s): 962779712500000, 962789678000000
Addresses: 20 South Bear Creek Road
Owner: CROSSROADS ASSEMBLY FKA WEST ASHEVILLE ASSEMBLY OF GOD & GATEWAY AVL LLC
Applicant: Catalyst Capital Partners
Agent: Warren Sugg, PE, Civil Design Concepts, PA
Zoning: PS Public Service; Special Flood Hazard Area & Floodway
Current Land Use: Place of Worship / Vacant
Utilities: Public water, public wastewater
Acres: 68 acres
Disturbed Area: 40 acres

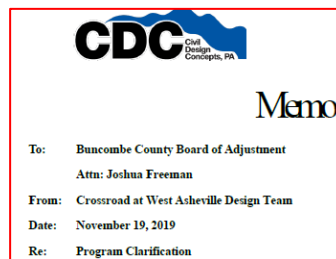
B. PUBLIC NOTICE

BOA Notice in AVL Citizen Times legal ad: 11/27/19
BOA Notice mailed to owners within 1,000 ft: 11/27/19
BOA Physical posting: 11/22/19
BOA Notice on BC Website: 11/27/19
BOA Hearing: 10/09/19 *Continued at Applicant's Request*
BOA Hearing: 11/13/2019 *Continued at Opponents' Request*
BOA Hearing: 12/11/19

C. CUP REQUEST

Applicant seeks a Conditional Use Permit to establish a Planned Unit Development (Level 1) consisting of:

- 802 Multi-Family Units
- 14,400 square feet of Retail
- 50,400 square feet of Office
- 64,000 square feet of Self-Storage



See the following memo, attached:

D. CUP FINDINGS OF FACT ANALYSIS

Sec. 78-677. - Procedure for obtaining a conditional use permit.

(g) Conditions for granting approval. In granting a conditional use permit, the board of adjustment may designate such conditions in connection therewith as will, in its opinion, ensure that the proposed use will conform to the requirements and spirit of this article. If at any time after a conditional use permit has been issued the board of adjustment finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall be terminated and the operation of such use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held. Before any

conditional use permit is issued, the board of adjustment shall make written findings certifying compliance with the specific rules governing the individual conditional use and that satisfactory provision and arrangement has been made for at least the following, where applicable:

FINDINGS OF FACT:	APPLICANT NARRATIVE	STAFF REVIEW / RESPONSE
<p>(1) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.</p>	<p>(1) The proposed project will provide safe access, municipal water and sewer, storm water management and outdoor amenities for proposed residents and business.</p>	<p>Proposed development may impact streams and wetlands, in which case permitting will likely be required from the US Army Corps of Engineers & NCDEQ. Copies of approved USACE / NCDEQ permits must be provided, as applicable, prior to issuance of any development permits by the County.</p>
<p>(2) The proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.</p>	<p>(2) The proposed multi-use project is a mix of uses, all of which are allowed within the PS Zoning District. The project will be served by existing public infrastructure and proposes improvements to the existing public infrastructure and additional proposed private infrastructure, as reviewed and recommend by a Traffic Impact Analysis (TIA) and in accordance with NC DOT standards.</p>	<p>Staff suggests that any approval of Crossroads PUD be conditioned upon the installation, by the Applicant, of a traffic signal at the Wendover Road / Bear Creek Road / South Bear Creek Road / Sand Hill Road intersections. This should be subject to the guidance and concurrence of NCDOT.</p> <p>Staff suggests that any approval of Crossroads PUD be conditioned upon the installation, by the Applicant, of those off-site improvements, which are recommended by the Traffic Impact Study (“TIS”).</p> <p>The conditions of any NCDOT encroachment agreement or driveway permit should be conditions of approval of the Crossroads PUD.</p> <p>Reference applicant’s proposed conditions, attached.</p>
<p>(3) The proposed use will not cause or have adverse effects on surrounding properties due to noise, vibration, odor, or glare effects.</p>	<p>(3) The proposed multi-use projects is largely residential multi-family with a mix of housing unit types, similar to much of the area surrounding the project. As such, this proposed project will have a similar use and not adversely affect the surrounding properties via on-going noise, vibration, odor or glare. The project will maintain as much vegetation as possible surrounding the newly constructed structures to sustain the existing natural setting and act as natural buffering of noise, vibration, odor and glare.</p>	<p>Staff has no concerns regarding noise, vibration, odor, or glare effects.</p>
<p>(4) Satisfactory ingress and egress for the proposed use of the property and proposed structures has been provided. Particular attention has been paid to automotive and pedestrian safety and convenience, traffic flow and control.</p>	<p>(4) Ingress and egress to the property is proposed via a private road, with 2 proposed access points off South Bear Creek Road. A Traffic Impact Analysis (TIA) has been provided with this submittal. Roadway improvements along South Bear Creek Road as recommended in the traffic impact study have been indicated on the master plan. A separate pedestrian pathway will be provided along the road within the private right-of-way to give safe access throughout the development.</p>	<p>Particular concerns relate to exacerbation of existing traffic conditions at the Wendover Road / Bear Creek Road / South Bear Creek Road / Sand Hill Road intersections.</p> <p>Staff suggests, as a condition of approval, the installation, by the Applicant, of a traffic signal at the Wendover Road / Bear Creek Road /</p>

		<p>South Bear Creek Road / Sand Hill Road intersections.</p> <p>Staff suggests, as a condition of approval, construction & dedication, by the Applicant, of a public greenway along Hominy Creek in furtherance of the Buncombe County Greenway Masterplan.</p> <p>Reference applicant's proposed conditions, attached.</p>
<p>(5) Provision of off-street parking and loading areas where required, with particular attention to the items in section 78-658.</p>	<p>(5) Proposed parking layout and associated calculations are shown on the Site Plan. Parking areas will provide landscaping as required by the Zoning Ordinance. Project proposes an average of 1.67 spaces per residential unit and proposes to meet Buncombe County code for the commercial space parking. Due to the commercial and residential units having offset parking uses we propose a shared parking agreement across the commercial parking which would provide a total parking ratio of 1.67 spaces per residential.</p>	<p>Proposed Parking: 1.67 spaces per DU 1 space / 300 sf retail 1 space / 300 sf office Parking sharing for non-residential uses</p> <p>Minimum parking required for residential uses is 1.75 parking spaces per DU.</p> <p>The BOA may approve plans for reduced parking.</p> <p>Staff has no concerns regarding the parking system as proposed. However, specific parking plans shall be considered by Staff on a phase-by-phase basis, and shared parking agreements shall be required, as applicable.</p>
<p>(6) Provision of adequate and proper utilities, with reference to locations, availability, and compatibility.</p>	<p>(6) The proposed project will connect and extend public water and public sewer to serve the project. Water will be provided by the City of Asheville from South Bear Creek Road and sewer will be provided by MSD of Buncombe County that currently runs through the parcel. Current on-site capacity for both water and sewer has been confirmed to be adequate to serve the uses and density of the proposed project, per water and sewer allocations.</p>	<p>Water & wastewater allocation letters provided.</p>
<p>(7) Provision of buffering, if deemed necessary, with reference to type, location, and dimensions. The board of adjustment shall exercise ultimate discretion as to whether adequate buffering has been provided.</p>	<p>(7) The project is surrounded by a river to the north and west, a freeway to the south, and a church to the east; for these reasons perimeter buffering is not required by the Zoning Ordinance. The project proposes to maintain the existing parcel's buffering along with supplemental building and parking landscaping to enhance and buffer the development. Existing trees and undisturbed areas along the perimeter also provide a natural vegetated buffer. Landscaping in the form of trees and shrubs will be provided throughout the site to improve the amenity areas and provide buffering. Parking landscaping will be provided in accordance with the Zoning Ordinance.</p>	<p>Given the scale of the project and the presence of wetlands, floodplains, and streams upon the site, Staff recommends that a landscape plan and tree protection plan be provided for review at time of plan submittal for each project phase.</p> <p>Reference applicant's proposed conditions, attached.</p>
<p>(8) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic</p>	<p>(8) The project proposes an identifying monument sign at the entrance to the project. Exterior lighting will be provided for safety in accordance to the Zoning Ordinance. Final lighting design will be completed by lighting professionals at the time of</p>	<p>Signage and lighting will be evaluated through though zoning permits at the time of construction, for each phase.</p>

effect, and compatibility and harmony with properties in the district.	construction drawings and will be designed to meet all code requirements regarding glare, traffic safety, and economical effect to be compatible and harmonious with surrounding properties as well as those users of the development.	
(9) Playgrounds, open spaces, yards, landscaping, access ways, and pedestrian ways, with reference to location, size, and suitability.	(9) The proposed project will have neighborhood service retailers, open public green amenity areas, extended public walkway, public parking, pet walk areas, public trails, public greenway park along Hominy Creek, and fitness centers and community clubhouse and pools for the residential buildings. Pedestrian paths are located within the project and round the buildings as well as throughout existing natural areas.	Refer to master plan. Staff suggests, as a condition of approval, construction & dedication of a public greenway and associated easements along Hominy Creek in furtherance of the Buncombe County Greenway Masterplan. Reference applicant's proposed conditions, attached.
(10) Buildings and structures, with reference to location, size, and use.	(10) The proposed buildings will vary in height from 1-story to 4-story. Structure heights will max out at approximately 55' to peak of roof pitch. The increase in height from 50' to 55'-8' is to allow for pitched roof systems instead of flat roof systems. This height also allows for the proposed building to in keeping with similar building types throughout the market.	PS allows 50' building height. Applicant requests 55'8" building height. A 5' 8 inch modification to the 50' height limitation is requested by the Applicant. The BOA may approved deviations from the maximum height limitation. Staff has no concerns, provided that sufficient buffering, including the preservation of canopy trees, is provided on site. Reference applicant's proposed conditions, attached.
(11) Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood.	(11) The project consists a mix of residential apartment buildings and community commercial. The expected times of operation would be typical of residential apartment developments and not expected times of operation would be typical of residential apartment developments and not applicable to requirements regarding hours of operation. The community commercial buildings would be expected to be in operation during the normal weekday office hours for the office building and normal neighborhood services business hours for the retail spaces.	Future businesses must comply with Buncombe County Noise Ordinance requirements.

E. PUD STANDARDS ANALYSIS

Sec. 78-678. - Uses by right subject to special requirements and conditional use standards. (b) Conditional use standards. (6) Residential or mixed use planned unit developments.

a. Purpose. The purpose of this section is to afford substantial advantages for greater flexibility and improved marketability through the benefits of efficiency which permit flexibility in building siting, mixtures of housing types, and land use. Residential densities are calculated on a project basis, thus allowing the clustering of buildings in order to create useful open spaces and preserve natural site features.


STANDARDS

b. Land development standards. The following land development standards shall apply for all RPUDs. RPUDs may be

APPLICANT NARRATIVE

Applicant's Narrative. Application for Conditional Use & Planned Unit

STAFF REVIEW / RESPONSE

<p>located in the relevant districts as conditional uses, subject to a finding by the board of adjustment that the following conditions are met:</p>	<p>Development Permit ZPH2019-00044; Crossroads at West Asheville</p>	
<p>1. <i>Ownership control. The land in a RPUD shall be under single ownership or management by the applicant before final approval and/or construction, or proper assurances (legal title or execution of a binding sales agreement) shall be provided that the development can be successfully completed by the applicant.</i></p>	<p><i>The project consist of multi-use development that will be developed and managed by Catalyst Capital Partners, LLC, a Charlotte, NC real estate development and investment company. Catalyst is currently under contract to purchase the property and will close and take title to the property prior to development construction beginning.</i></p>	<p>Application is compliant.</p>
<p>2. <i>Density requirements. There are no density requirements for nonresidential uses as long as the proposed project does not violate the intent of the district in which it is located. The proposed residential density of the RPUD (dwelling units per acre as shown in section 78-642) shall conform to that permitted in the district in which the development is located. If the RPUD lies in more than one district, the number of allowable dwelling units must be separately calculated for each portion of the RPUD that is in a separate district, and must then be combined to determine the number of dwelling units allowable in the entire RPUD. When the RPUD is a community oriented development, the allowed density shall be in accordance with section 78-650.</i></p>	<p><i>The proposed development is located in the PS Zoning District. The standard density of the district is 12 units per acre and the project complies with this density. The project area is 68 acres allowing 816 units.</i></p>	<p>Proposed density is 11.8 dwelling units per acre. Allowable density is 12 dwelling units per acre. Proposed density complies with PS requirements.</p>
<p>3. <i>Land uses. A mixture of land uses shall be allowed in any RPUD. However, within residential districts, nonresidential uses shall not constitute the primary use in the RPUD, and nonresidential uses shall be carefully designed to complement the residential uses within the RPUD. All RPUDs must be compatible with and not violate the intent of the zoning district; however, said uses may include uses not permitted under section 78-641 within the zoning district(s) within which the project is located, provided that the board of adjustment finds that the nonresidential uses do not disrupt the character of the community.</i></p>	<p><i>The project will consist of multiple uses, including multi-family apartments, office, commercial, cottages, senior living, and vacation rentals. These are all acceptable uses in the PS zoning district.</i></p>	<p>Proposed uses are in compliance with the Zoning Ordinance. The Applicant has removed vacation rentals from the list of allowable land uses. See Applicant's proposed conditions, attached. See the following memo, attached:</p> <div data-bbox="1149 1409 1484 1665" style="border: 1px solid red; padding: 5px;">  <p style="text-align: right; font-size: 1.2em; font-weight: bold;">Memo</p> <p>To: Buncombe County Board of Adjustment Attn: Joshua Freeman</p> <p>From: Crossroad at West Asheville Design Team</p> <p>Date: November 19, 2019</p> <p>Re: Program Clarification</p> </div>
<p>4. <i>Minimum requirements. Minimum requirements for land development are as follows:</i></p> <p>a. <i>The normal minimum lot size and requirements for interior setbacks are hereby waived for the RPUD, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to</i></p>	<p><i>The proposed development is designed to comply with the requirements of the district. The project is presented to show that the required exterior setbacks are ample for the site and reductions shall not be needed.</i></p>	<p>Application is compliant. No setback modifications are requested.</p>

<p>whether the total development plan does comply with the spirit and intent of this section.</p>		
<p>4. Minimum requirements. Minimum requirements for land development are as follows:</p> <p>b. Height limitations. The normal maximum structure height may be waived for the RPUD, provided that unique elements of the development impose requirements for additional height that are not universal throughout the zoning district. Additionally, RPUDs in excess of the normal maximum height require that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this section. RPUDs within the Blue Ridge Parkway Overlay District may not contain structures which exceed the maximum height allowed within the overlay district.</p>	<p>The proposed buildings will vary in height from 1-story to 4-story. Structure heights will max out at approximately 55' to peak of roof pitch. The increase in height from 50'-55'-8" is to allow for pitched roof systems instead of flat roof system. This height also allows for the proposed buildings to [be] in keeping with similar building types throughout the market.</p>	<p>PS allows 50' building height. Applicant requests 55'8" building height.</p> <p>A 5' 8 inch modification to the 50' height limitation is requested by the Applicant.</p> <p>The BOA may approved deviations from the maximum height limitation.</p> <p>Staff has no concerns, provided that sufficient buffering, including the preservation of canopy trees, is provided on site.</p> <p>Reference applicant's proposed conditions, attached.</p>
<p>4. Minimum requirements. Minimum requirements for land development are as follows:</p> <p>c. Required distance between buildings. The minimum distance between buildings shall be 20 feet or as otherwise specified by the board of adjustment to ensure adequate air, light, privacy, and space for emergency vehicles.</p>	<p>The proposed project buildings are all a minimum of 20' apart.</p>	<p>Application is compliant.</p>
<p>5. Privacy. Each development shall provide reasonable visual and acoustical privacy for all dwelling units. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise. Multilevel buildings shall be located within a RPUD in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.</p>	<p>The proposed project will provide extensive greenspace, landscaping, natural foliage and tree canopies, and extensive open space, as well as constructed retaining walls and barriers, walkways and other amenities typically found in similar multi-use developments. Project buildings have been placed as far away from adjacent structures to the extent possible while working with the existing site topography and overall natural layout and elements of the property to protect neighboring privacy and the beauty of the natural setting.</p>	<p>Given the scale of the project and the presence of wetlands, floodplains, and streams upon the site, Staff recommends that a landscape plan and tree protection plan be provided for review at time of plan submittal for each project phase.</p> <p>Reference applicant's proposed conditions, attached.</p>
<p>6. Perimeter requirements. Perimeter requirements are as follows:</p> <p>a. Structures located on the perimeter of the development must be set back from property lines and rights-of-way of abutting streets in accordance with the provisions of the zoning ordinance controlling the district within which the property is situated.</p>	<p>The proposed buildings meet all exterior setbacks as outlined in the PS district.</p>	<p>Application is compliant.</p>
<p>7. Parking. Parking requirements may be waived for the RPUD, provided that the spirit and intent of this section are complied with in a total development plan, as determined by the board of adjustment. The board of adjustment shall exercise ultimate</p>	<p>Proposed parking layout and associated calculations are shown on the Site Plan. Parking areas will provide landscaping as</p>	<p>Proposed Parking: 1.67 spaces per DU</p>

<p>discretion as to whether the total development plan does comply with the spirit and intent of this section.</p>	<p>required by the Zoning Ordinance. Project proposes an average of 1.67 spaces per residential unit and proposes to meet Buncombe County code for the commercial space parking. Due to the commercial and residential units having offset parking uses we propose a shared parking agreement across the commercial parking which would provide a total parking ratio of 1.67 spaces per residential.</p>	<p>1 space / 300 sf retail 1 space / 300 sf office Parking sharing for non-residential uses Minimum parking required for residential uses is 1.75 parking spaces per DU. The BOA may approve plans for reduced parking. Staff has no concerns regarding the parking system as proposed. However, specific parking plans shall be considered by Staff on a phase-by-phase basis, and shared parking agreements shall be required, as applicable.</p>
<p>8. Conveyance and maintenance mechanisms. Conveyance and maintenance of open space, recreational areas and communally owned facilities shall be in accordance with G.S. 47-1 et seq. the Unit Ownership Act and/or any other appropriate mechanisms acceptable to the board of adjustment.</p>	<p>The proposed project consists of buildings with exterior land as amenity space area as well as various other amenities. The property and private right-of-ways will be owned and managed by the developer. The proposed project will have neighborhood service retailers, open green amenity areas, extended public walkways, pet walk areas, public trails, a public greenway park along Hominy Creek, and fitness centers and community clubhouses and pools for the residential buildings. Pedestrian paths are located within the project and around the buildings as well as throughout existing natural areas. All areas within the proposed project, even if open to the public, will be owned, operated, and maintained by the developer.</p>	<p>Maintenance of open space and recreational areas will be the sole responsibility of the Owner / Developer. Staff suggests, as a condition of approval, construction & dedication of a public greenway and associated along Hominy Creek in furtherance of the Buncombe County Greenway Masterplan. Reference applicant's proposed conditions, attached.</p>
<p>9. Building envelopes. Building envelopes shall be shown on the submitted site plan. Where flexibility in design of residential units is desired, the building envelope shall indicate the maximum expanse of the proposed footprint of the structure.</p>	<p>Site Plan as submitted shows anticipated extents of buildings.</p>	<p>The submitted development plan shows anticipated extents of building footprints.</p>

F. SUMMARY OF STAFF COMMENTS & SUGGESTED CONDITIONS

Staff Suggests the Following BOA Actions *Prior* to Approval:

The Applicant has submitted proposed conditions to address the concerns identified, above. Reference applicant's proposed conditions, attached.

EXHIBIT A
ZPH2019-00044
CONDITIONS OFFERED

In the Matter of:

ZPH2019-00044
20 South Bear Creek Road
Crossroads Conditional Use Permit & Planned Unit Development

The Applicant must (and has) indicated in writing, their acceptance of these conditions.

THESE CONDITIONS ARE A STARTING POINT FOR DISCUSSION. THE BOA IS IN NO WAY COMMITTED TO, OR LIMITED BY, THESE PROPOSED CONDITIONS.

SEE THE FOLLOWING, ATTACHED MEMO:

MEMORANDUM

To: Nathan Pennington, Director of Planning, Buncombe County
Brandon Freeman, Assistant County Attorney

FROM: Robert W. Oast, Jr., attorney for Applicant

DATE: November 20, 2019

RE: Crossroads at West Asheville Conditions

THE BOARD MAY ACCEPT THESE PROPOSED CONDITIONS, MODIFY OR DELETE THESE PROPOSED CONDITIONS, OR INCLUDE ADDITIONAL CONDITIONS.

Should the Applicant indicate an unwillingness to accept certain conditions, then the BOA must (a) deny the PUD application, or (b) approve it without the disputed condition.

G. BOARD OPTIONS

The following options are available to the Board:

- Approval as presented. *Note: An approval decision must be substantiated in the Board's findings of fact.*
- Approval with conditions. *Note: Conditions of approval must directly relate to the impacts of the project as substantiated in the findings of fact. The Applicant must indicate in writing, their acceptance of these conditions. Should the Applicant indicate an unwillingness to accept certain conditions, then the BOA must (a) deny the PUD application, or (b) approve it without the disputed condition.*
- Denial as presented. *Note: A denial decision must be substantiated in the Board's findings of fact.*
- Continuance to a date certain. *Note: A continuance should serve a specific purpose, such as to provide a party of standing (the Applicant, the County, an adjacent property owner, etc.) sufficient time to gather and provide additional documentation or information.*

H. ADDITIONAL INFORMATION

Refer to the attachments in this packet.