



BUNCOMBE COUNTY PLANNING & DEVELOPMENT

STAFF ANALYSIS CONDITINAL USE PERMIT *Quasi-Judicial Hearing*

CASE NUMBER: ZPH2020-00026	PROJECT: SOUTH BEAR CREEK PUD
A. PROPERTY INFORMATION PIN(s): 962789678000000 Addresses: 20 S. Bear Creek Road, Asheville, NC 28806 Owner: GATEWAY AVL LLC Applicant: Catalyst Capital Partners Agent: Warren Sugg, P.E., Civil Design Concepts, P.A. Acreage: 55.40 Maximum Elevation: 2105 feet above sea level Average Natural Slope: 18.39% Zoning: Public Services / Special Flood Hazard Area Current Land Use: Open space Utilities: Public water and public sewer	

B. CONDITIONAL USE PERMIT PROJECT SUMMARY:

Applicant seeks approval for a Planned Unit Development (Level 1) in order to construct the following:

- 660 dwelling units in 14 multi-family structures.

C. APPLICABLE ORDINANCE SECTIONS

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

Sec. 78-678 (b)(6), Uses by right subject to special requirements and conditional use standards – Planned Unit Developments, Level I

D. PUBLIC NOTICE

Notice in AVL Citizen Times legal ad: 11/25/2020
Notice mailed to owners within 1,000 feet: 11/25/2020
Physical posting: 11/27/2020
Notice on BC Website: 11/25/2020
Hearing Date: 12/09/2020

E. CUP FINDINGS OF FACT ANALYSIS

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.

	<i>bike safe access into the development.</i>	One entrance is proposed, with right and left turn lanes.
<p><i>(5) Provision of off-street parking and loading areas where required, with particular attention to the items in section 78-658.</i></p> <p><i>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 discretion as to whether the total development plan does comply with the spirit and intent of this section.</i></p>	<i>Proposed parking layout and associated calculations are shown on the Site Plan. Parking areas will provide landscaping as required by Zoning Ordinance. Project proposes an average of 1.75 spaces per multi-family residential unit, and 1.10 spaces per assisted / independent living unit.</i>	Staff has no concerns with these findings.
<p><i>(6) Provision of adequate and proper utilities, with reference to locations, availability, and compatibility.</i></p>	<i>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.</i>	<p>Proposed utilities appear sufficient. See letters of commitment from MSD and City of Asheville, attached.</p> <p>Staff has no concerns with this finding.</p>
<p><i>(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.</i></p> <p><i>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.</i></p>	<p><i>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.</i></p> <p><i>The proposed project will provide extensive greenspace, landscaping, natural foliage and tree canopies, and expansive open space, as well as constructed retaining walls and barriers, walkways and other amenities typically found in similar multi-family developments. Project</i></p>	<p>Staff has no concerns with these findings based upon the Applicant's proposed conditions.</p> <p>See proposed conditions ("Exhibit A") attached.</p>

	<i>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.</i>	
<i>(8) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.</i>	<i>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 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.</i>	Lighting & signage will be addressed through the zoning permit process, prior to commencement of construction. A comprehensive, photometric lighting plan will be required prior to commencement of construction.
<i>(9) Playgrounds, open spaces, yards, landscaping, access ways, and pedestrian ways, with reference to location, size, and suitability.</i>	<i>The proposed project will have open public green amenity areas, extended public walkways, public trailhead parking, pet walk areas, bike lanes, public trails along Hominy Creek, and fitness centers, community clubhouse, and pools for the residential buildings. Pedestrian paths are located within the project and around the buildings as well as throughout the existing natural areas.</i>	Staff has no concerns with these findings based upon the Applicant's proposed conditions. See proposed conditions ("Exhibit A") attached. The Applicant proposes to construct and dedicate a greenway extension to Buncombe County.
<i>(10) Buildings and structures, with reference to location, size, and use.</i> <i>4.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.</i> <i>4.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.</i>	<i>The proposed buildings will vary in height. 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 buildings to be in keeping with similar building types throughout the market.</i> <i>The proposed project buildings are all a minimum of 20' apart.</i> <i>Site Plan as submitted shows anticipated extents of buildings.</i>	Maximum allowable building height in the PS zoning district is 50 feet. Submitted building elevations indicate that a maximum building height of 55' 8" is proposed. The Board should include a maximum building height in conditions of approval. Staff has no concerns with respect to building envelopes or spacing between structures.

<p>9. <i>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.</i></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 consists of multi-family buildings 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>Staff has no concerns with these findings.</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 55.40 acres allowing 663 units.</i></p>	<p>Density is consistent with the PS zoning district.</p> <p>Staff has no concerns with these findings.</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 multi-family apartments and assisted/independent living for seniors, which is an acceptable use in the PS zoning district.</i></p>	<p>The Applicant proposes a list of allowable lands uses that includes extensive non-residential land uses. Staff does not recommend approval of such list. Such list should be revised to contain a narrower range of allowable land uses that are compatible with a residential setting.</p> <p>See proposed conditions ("Exhibit A") attached.</p>
<p>4.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 whether the total development plan does comply with the spirit and intent of this section.</i></p> <p>6.a. <i>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.</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><i>The proposed buildings meet all exterior setbacks as outlined in the PS district.</i></p>	<p>Staff has no concerns with these findings.</p> <p>As a whole, project meets all applicable perimeter setbacks.</p>

<p>8. <i>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.</i></p>	<p><i>The proposed project consists of buildings with exterior land as amenity open 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 open green amenity areas, extended public walkways, pet walk areas, public trails along Hominy Creek, and fitness centers, 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.</i></p>	<p>Staff has no concerns with these findings based upon the Applicant's proposed conditions.</p> <p>See proposed conditions ("Exhibit A") attached.</p>
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F. ADDITIONAL DOCUMENTATION SUBMITTED

- Metropolitan Sewerage District Sewer Allocation letter is provided.
- City of Asheville Letter of Commitment for Water Availability is provided.

G. SUMMARY OF STAFF COMMENTS AND SUGGESTED CONDITIONS OF APPROVAL

Staff recommends that, if the BOA takes action to approve this project, the following **Conditions of Approval** be included in the Board's Order:

See proposed conditions ("Exhibit A") attached.

H. BOARD OPTIONS

- 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.*

I. ADDITIONAL INFORMATION

Refer to the attachments in this packet, including:

- Application
- Motion Worksheet