



CASE NUMBER: ZPH2020-00032

PROJECT: Enclave II

A. PROPERTY INFORMATION



PIN(s): 9658-29-2204

Addresses: Unaddressed on Piney Mountain Dr

Owner: McCall Capital, LLC

Applicant: Warren Sugg of Civil Design Concepts

Acreage: 9.82 ACRES

Elevation: 2225 – 2510 feet above sea level

Average Natural Slope: 35.87%

Zoning: R-2 Residential

Current Land Use: Vacant

Utilities: Public water & public sewer

B. CONDITIONAL USE PERMIT PROJECT SUMMARY:

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

116 unit multi-family residential development

Previously approved Piney Mountain PUD's on adjacent parcel to the north:

- ZPH2016-00066: 232 apartment units (Original approval)
- ZPH2019-00013: 200 apartment units (Revision to reduce number of units to 200)
- ZPH2020-00003: 220 apartment units (Revision to increase number of units to 220)

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.

CUP FINDINGS OF FACT [Sec. 78-677(g) & PUD REQUIREMENTS [Sec. 78-678(6)(b)(6)]	APPLICANT NARRATIVE Application for Conditional Use & Planned Unit Development Permit ZPH2020-00004 The Farm at Pond Road	STAFF REVIEW
<p><i>(1) The proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.</i></p>	<p><i>The proposed project will provide safe access, municipal water and sewer, stormwater management and outdoor amenities for proposed residents.</i></p>	<p>Staff offers no comment with respect to this finding.</p>
<p><i>(2) The proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.</i></p>	<p><i>The proposed multi-family use is approved for the R-2 Zoning District. Project will be served by existing public infrastructure.</i></p>	<p>Staff has no concerns regarding public welfare.</p>
<p><i>(3) The proposed use will not cause or have adverse effects on surrounding properties due to noise, vibration, odor, or glare effects.</i></p> <p><i>(11) Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood.</i></p>	<p><i>The proposed buildings are clustered at the lower portion of the property along Piney Mountain Drive, similar to the existing approved development to the north. Existing topography and vegetation will provide reasonable visual and acoustical privacy for properties to the east and south.</i></p> <p><i>The project is a residential apartment building and therefore not applicable to requirements regarding hours of operation.</i></p>	<p>Staff has no concerns regarding noise, vibration, odor, or glare effects. Lighting compliance will be evaluated and assured through the exterior lighting provisions outlined in the Zoning ordinance.</p>
<p><i>(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.</i></p>	<p><i>Ingress and egress to the property is proposed via Piney Mountain Drive. Pedestrian walkways are provided within the project and around the buildings.</i></p>	<p>Staff has no concerns about this finding.</p>

<p>(5) <i>Provision of off-street parking and loading areas where required, with particular attention to the items in section 78-658.</i></p> <p>7. <i>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>	<p><i>Proposed parking layout and associated calculations are shown on the Site Plan. Parking area will provide landscaping as required by Zoning Ordinance. Project proposes 1.5 spaces per residential unit to provide sufficient parking without additional paved areas.</i></p> <p><i>Parking is provided at 1.5 spaces per unit based on information collected for similar projects. This parking ratio will reduce the amount of built upon area and allow for greater open space.</i></p>	<p>Applicant requests that the PUD approval reduce the required parking by 29 fewer spaces.</p> <p>Minimum required parking: 203 spaces (1.75 spaces per unit)</p> <p>Proposed parking: 174 spaces (1.5 spaces per unit)</p> <p>The Board should include a minimum parking requirement in the conditions of approval.</p>
<p>(6) <i>Provision of adequate and proper utilities, with reference to locations, availability, and compatibility.</i></p>	<p><i>Existing public water and public sewer infrastructure to serve the project. Previous sewer and water availability letters are submitted with this application along with updated allocations requested to each entity.</i></p>	<p>City of Asheville public water and MSD public wastewater allocation letters were provided.</p>
<p>(7) <i>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>5. <i>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 residential in nature and therefore not required by the Zoning Ordinance to provide perimeter buffers, however, the project proposes to cluster along Piney Mountain Drive to provide approximately 5 acres of undisturbed area to the east. Landscaping in the form of trees and shrubs will be provided throughout the site to improve the amenity areas. Parking landscaping will be provided in accordance with the Zoning Ordinance.</i></p> <p><i>The proposed buildings are clustered at the lower portion of the property along Piney Mountain Drive similar to the existing senior living facility to the north. Existing topography and vegetation will provide reasonable visual and acoustical privacy for properties to the north and south.</i></p>	<p>Staff has no concerns regarding buffering.</p>
<p>(8) <i>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></p>	<p><i>The project proposes an identifying monument sign at the entrance drive to the project. Exterior lighting will be provided for safety and to comply with applicable portions of the Zoning Ordinance.</i></p>	<p>Signage and lighting will be evaluated through the zoning permit application phase prior to construction.</p>
<p>(9) <i>Playgrounds, open spaces, yards, landscaping, access ways, and pedestrian ways, with reference to location, size, and suitability.</i></p>	<p><i>The proposed project will include community amenities to the residents within Phase I. Pedestrian paths will</i></p>	<p>No new amenities are proposed within Phase II. Residents will be allowed access to amenities provided on the parcel to the north which was part of Phase I of this</p>

	<p><i>be located within the project and around the buildings.</i></p>	<p>development, however those amenities can only be accessed with a car as the internal sidewalk system does not provide connectivity throughout the development.</p> <p>Staff recommends that the Phase 2 sidewalk system be connected to the Phase 1 sidewalk system in order to provide opportunities for residents to access amenities without a car.</p>
<p><i>(10) Buildings and structures, with reference to location, size, and use.</i></p> <p><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></p> <p><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></p> <p><i>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.</i></p>	<p><i>The proposed multi-family buildings are adjacent to Piney Mountain Drive. The proposed buildings have a height of 62' from highest adjacent grade to roof peak to create a smaller development footprint and minimize impact to the site.</i></p> <p><i>The R-2 district allows for a maximum height of 35'. The project proposes a maximum height of 62' from highest adjacent grade to roof peak to achieve a smaller developed footprint. Due to the existing natural slope the proposed height increase will greatly reduce the proposed grading and limits of disturbance.</i></p> <p><i>The minimum proposed separation for this project is greater than 20' and will meet all North Carolina Building Codes for separation. The separation and layout have been approved by the Fire Marshall.</i></p> <p><i>Site Plan as submitted shows anticipated extents of buildings.</i></p>	<p>The maximum allowed building height in the R-2 district is 35 feet. The application requests building heights of up to 62 feet per the PUD approval process.</p> <p>The Board should include a maximum building height in the conditions of approval.</p> <p>Staff has no concerns with respect to building envelopes or spacing between structures.</p>
<p><i>1. Ownership control. The land in a PUDI 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 two multi-family apartment buildings that will be developed and managed by McCall Capital, LLC.</i></p>	<p>Staff has no concerns with this finding.</p>
<p><i>2. 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</i></p>	<p><i>The proposed development is located in the R-2 Zoning District. The allowable density of the district is 12 units per acre. The project proposes 116 units on 9.82 acres for a proposed density of 11.8 units per acre.</i></p>	<p>Acreage: 9.82 acres Max allowed density: 12 units/acre Proposed density: 11.8 units/acre Staff has no concerns with this finding.</p>

<i>oriented development, the allowed density shall be in accordance with section 78-650.</i>		
<p>3. 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.</p>	<p><i>The project proposes a residential development for multi-family use. This is an acceptable use in the R-2 zoning district.</i></p>	<p>Staff has no concerns with this finding.</p>
<p>4.a. 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.</p> <p>6.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><i>The proposed development is designed to comply with the requirements of the district in regards to property line setbacks.</i></p> <p><i>The proposed buildings meet all setbacks as outlined in the R-2 district.</i></p>	<p>No subdivision is proposed.</p> <p>All structures meet the applicable exterior setbacks of the district.</p>
<p>10. Indicate proposed 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><i>The proposed project consists of two multi-family buildings and associated parking and common areas. Property maintenance to be the responsibility of the management company.</i></p>	<p>Staff will ensure compliance prior to closeout of construction.</p>

F. ADDITIONAL DOCUMENTATION SUBMITTED

- Site plan and Elevation Drawings
- Metropolitan Sewerage District Sewer Allocation letter is provided.
- City of Asheville Letter of Commitment for Water Availability is provided.
- Traffic Impact Study
- NCDOT Final Decision Letter

G. SUMMARY OF STAFF COMMENTS AND SUGGESTED CONDITIONS OF APPROVAL

Staff recommends that, if the BOA approves this project, the following **Conditions of Approval** be included in the Board’s Order:

1. The Board should include a minimum parking requirement in the conditions of approval.
2. The Board should include a maximum building height in the conditions of approval.
3. The Applicant should provide connectivity between the Phase 1 and Phase 2 sidewalk systems in order to improve access to outdoor amenities.

4. The Applicant shall provide an approved NCDOT driveway permit prior to issuance of permits for construction. The final conditions of that permit shall be incorporated into the Board's Order.
5. The Applicant shall obtain E911 Address assignment prior to issuance of permits for construction.
6. The Applicant shall obtain stormwater permit approval prior to issuance of permits for construction.
7. The Applicant shall obtain erosion control permit approval prior to issuance of permits for construction.

H. BOARD OPTIONS

- a) Approval as presented. *Note: An approval decision must be substantiated in the Board's findings of fact.*
- b) 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.*
- c) Denial as presented. *Note: A denial decision must be substantiated in the Board's findings of fact.*
- d) 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