



**CASE NUMBER:** ZPH2021-00043

**PROJECT:** McIntosh Apartments

**A. PROPERTY INFORMATION**

**Application Submitted:** 11/5/2021

**PIN(s):** 9627-53-4731, 9627-63-1729

**Addresses:** Unaddressed lots on McIntosh Road, north of & across the street from PIN 9627-53-3181

**Owner:** Brenda McIntosh, Pamela Nicholson, Laura Sharpe

**Applicant:** Gary Hall of Hall Group, LLC

**Agent:** Warren Sugg, PE of Civil Design Concepts, P.A.

**Zoning:** R-2 Residential (no Overlay, Flood, Watershed)

**Current Land Use:** Vacant

**Utilities:** Public water and sewer extensions

**B. PROJECT SUMMARY:**

Applicant proposes 228 residential apartments within 14 multi-family structures, a clubhouse and pool, 2 garage structures, maintenance facility.

**C. STAFF COMMENTS**

1. Applicant requests approval of a 46' 4' maximum building height, as opposed to 35' as required within the R-2 zoning district. The Board has the authority to grant such request if consistent with findings of fact.
2. At this time, this project is not proposed for subdivision of land or sale of individual dwelling units. Subsequent proposals to do so would precipitate a revised SUP/PUD review before the BOA.
3. Staff is concerned about traffic safety at the project entrances along McIntosh Road, particularly given the presence of IC Imagine Charter School, directly across McIntosh from the project site. See graphic, below, for specific points of concern. Staff encourages the BOA to carefully evaluate the project in the context of site access and impose reasonable conditions as necessary to support findings of fact and protect public safety. Note that Staff does not have knowledge as to the status of NCDOT's review of the TIS.



4. The Site Plan does **not** indicate a sidewalk connecting the project to McIntosh Road at either of the proposed entrance. Such a sidewalk would improve pedestrian safety to & from the site and set the stage for connections to future pedestrian infrastructure along McIntosh Road.

#### D. 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.*

## E. 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.

Staff recommends, if the Project is approved, that the following **Conditions of Approval** be included in the Board's Order:

1. A playground shall be provided within the project site, in a location that is accessible to all residents and guests. Such playground, which shall be constructed prior to issuance of a certificate of compliance for the first apartment building, shall be designed to serve elementary school age children and be designed in accordance with the best practices of the American with Disabilities Act, the American Society for Testing and Materials (ASTM), and the U.S. Consumer Product Safety Commission.
2. Prior to commencement of land disturbance and construction activity within the Project, the Applicant / Owner / Developer shall obtain all necessary permits and approval from Buncombe County, including but not limited to, E911 Address assignment, Zoning, Erosion Control, Stormwater, and Floodplain Development. The Applicant shall also provide a copy of approved permits from the United States Army Corps of Engineers and the North Carolina Department of Environmental Quality, where applicable to the Project.
3. The requirements and conditions of any North Carolina Department of Transportation ("NCDOT") Driveway Permit or Encroachment Agreement, which may be issued or granted for the Project, shall be conditions of this Conditional Use Permit. The County shall not issue final zoning approval or a certificate of compliance for any structure within the Project until such time as all off-site roadway improvements, as required by NCDOT, are completed, approved, and accepted in writing by the NCDOT.
4. Applicant shall construct a 5', ADA-compliant, NCDOT-compliant pedestrian sidewalk along one side of each drive entrance, to their point of intersection with McIntosh Road.
5. The requirements and conditions of any permit or approval, which may be issued or granted for land disturbance or improvements within the Project, including but not limited to those referenced in this document, shall be conditions of this Conditional Use Permit.
6. The Applicant shall submit lighting plan for consideration as part of the permitting process construction within the Project. Such plan shall demonstrate that outdoor lighting, including street lighting, will be in compliance with Sec. 78-668 of the Buncombe County Zoning Ordinance.
7. The site plan, which is attached hereto and incorporated herein by reference as Exhibit B, and the general layout of roads, structures, and other improvements as depicted thereon, and the general height, mass, shape and size of structures as depicted thereon, is a condition of this CUP.

However, any sketches or architectural renderings of the proposed structures are illustrative only and are not binding architectural designs.

8. Landscaping and Buffering:

- a. The Applicant shall submit a landscape and tree protection plan for consideration as part of the permitting process for construction within the Project.
  - b. Such landscaping shall serve to provide substantial green space within the developed areas of the Project site, and to provide substantial buffers between the Project site and adjacent properties.
  - c. Generally, landscaping shall be provided throughout the site. At least 10 percent of the Project area, exclusive of perimeter buffers and areas utilized for stormwater detention, shall be landscaped with a mix of large shade trees, small trees, large shrubs, and smaller shrubs to provide variable height screening, and a variety of plantings and seasonal color.
  - d. Newly installed trees and landscaping shall, to the maximum extent possible, be comprised of native species.
  - e. Buffering along the perimeter of the Project, and parking lot landscaping within the Project, shall be in general compliance with *Sec. 78-667. Buffering and parking lot landscaping*, of the Buncombe County Zoning Ordinance or its successor standard. Existing vegetation within the buffer, including existing canopy trees, shall be preserved. The Zoning Administrator may approve removal of existing canopy trees within the buffer when removal is necessitated by the installation of infrastructure, to protect life or property, or to improve the overall health and functionality of the buffer.
2. Other conditions of approval as may be identified by the Board and agreed upon by the Applicant.