



MEMO

Date: October 10, 2017
To: Board of Commissioners [Public Hearing]
From: Jason Burdette Planning Director
Re: Narrow Passage, Amendment to a Conditional Planning Area – Staff Analysis

1. INTRODUCTION

APPLICANT INFO

- **Developer:** Jeff Watson, Piedmont Land Development
- **Owners:** Narrow Passage LLC
- **Site Designer:** Woodbine Design, PC (Peyton Woody)
- **Area:** 60.37 acres (Total)
- **Location:** 19615 Shearer Rd. (Parcel ID #00323193)
15201 East Rocky River Road (Parcel ID# 00309201)
15210 East Rocky River Road (Parcel ID# 00725101)
15215 East Rocky River Road (Parcel ID# 00309241) [Requested Addition]

REQUEST

The applicant requests an amendment to the plan approved by the Board of Commissioners on August 13, 2016 to permit the addition of 1.07 acres to the proposed development. Additionally, the request includes a proposed modification to two conditions as well as a new condition: A reduction in the previously-approved payment-in-lieu amount for the multi-use path bridge on the southern parcel; an increase in the amount of non-conforming garages permitted within the development; and, an increase in the amount of allowed construction signs from one to two (one for each road frontage).

SUMMARY OF PETITION

The applicant requests an amendment to the approved Conditional Planning Area that would permit the addition of 1.07 acres to the proposed development. The amendment does not include a request to increase the number of units/lots originally approved (the plan is approved for 40-units, including one duplex). Annexation of the development is required per Condition 5; this includes any land added to the development. Per Condition 9. Open Space Deficiency Contribution, the request would lower the per lot payment-in-lieu for open space required of each future homeowner because the overall open space provided by the development would be increased by 1.07 acres if the request is approved.

2. PLANNING STAFF REVIEW

BACKGROUND

As part of the sewer extension amendment approved in September 2016, the applicant requested the option to expand the amount of open space provided by the development through the acquisition of 15215 East Rocky River Road (Parcel ID#00309240). This action was undertaken by the applicant in December 2016, and staff was informed of the action in the spring of 2017. In the summer of 2017 the applicant met with town staff to understand how to revise the plan, and to propose modifications to two conditions and inclusion of a new condition.

The revised proposal illustrating the additional land area was submitted on August 30, 2017 and was deemed to be complete on September 5, 2017. This review considers compliance with the Davidson Planning Ordinance adopted June 11, 2001, as amended; the Conditional Planning Area plan approved for this project on September 13, 2016; and, applicable plans.

PLANNING AND DEVELOPMENT STANDARDS

As noted earlier, the proposal does not include modifications to the number of lots/units approved or the site's infrastructure layout. Clearing and grading work for the originally approved plan has already begun and this proposal does not seek to modify that work. The only physical modification proposed is the addition of Parcel ID# 00309241, which was purchased by the applicant in December 2016 and lies along the project's southeastern boundary. The proposal would extend the project boundary southeast to the rear of lots that front East Rocky River Road, and would extend the parcel between Lots 34-35 to be dedicated to the Town to the new boundary. No additional modifications, including clearing, to this land area are proposed.

The proposal does not alter the following, previously approved project Conditions, General Notes, or Davidson Planning Ordinance standards as they apply to the approved site design, including: 1. Mix of Building Types; 2. Lot Width; 3. Infrastructure (except 3b. Multi-Use Path Bridge); 4. Affordable Housing; 5. Annexation; 6. Walking Paths & Common Open Space; 7. HERS Rating; 8. Permanent Open Space; 9. Open Space Deficiency Contribution; 10. Sewer Connection; and, all General Conditions. Although the majority of approved Conditions and General Notes are not affected, the proposal requests revision to Condition 3b. Multi-Use Path Bridge; Condition 11. Design Standards; and, the addition of a new Condition 12. Signage.

Note: The approved plan includes a specific condition regarding the amount of open space that the development must provide (70%) – either through land set asides or payment-in-lieu (9. Open Space Deficiency Contribution). Accordingly, any open space land that is reduced or any qualifying land that is acquired – as proposed here – would be factored into the required payment-in-lieu for each lot. This condition will not be modified as a result of this amendment.

PROPOSED CONDITIONS

As put forward by the applicant, the proposal would affect Condition 3b. Multi-Use Path Bridge by lowering the permitted payment-in-lieu; Condition 11. Design Standards by allowing an additional five non-compliant garages; and, add a new Condition 12. Signage permitting the installation of one additional construction sign on Shearer Road where none currently exists.

The proposed conditions are below, with revisions highlighted and staff commentary following each

condition:

3. Infrastructure:

- b. Multi-Use Path Bridge:** As part of the multi-use path that the Developer has agreed to construct on the south side of the East Rocky River Road, as shown on the Plan, Developer is obligated to deposit with the Town a sum equal to its share to construct a bridge across a water course up to the Developer's property line. The Developer's share of the cost to construct the bridge is based upon the percentage of the bridge located on the Developer's property. Accordingly, Developer may either (1) pay to the Town the sum of ~~\$80,000~~ **\$40,000** as a payment in lieu of constructing the bridge over the West Branch of the Rocky River, or (2) if Developer acquires an appropriate easement, Developer may elect to construct the entire bridge. In the event that the Developer elects to construct the bridge as set forth in (2), Developer shall provide to the Town the estimate for such cost and the Town shall reimburse the Developer for the portion of the bridge located on the adjoining property (PID # 00725133) upon completion of the bridge, not to exceed \$15,000. If the Developer elects to construct the entire bridge, but is unable to secure the easement on the adjoining property, the Town will either obtain the easement or will reduce the payment in (1) above from \$40,000 to \$20,000. [Note: the estimated cost for the developer to construct the bridge is significantly lower than the estimated cost for the Town to construct to the bridge, which accounts for the disparity in the above payment amounts.]

Staff Analysis: Staff does not support the proposed reduction in payment. The applicant maintains that the original plan approval included the installation of the path directly along East Rocky River Road, and that the path in this alignment can be constructed at less cost. However, the following points bear mentioning:

- The approved plans' conditions have always referenced the location of the path and attendant facilities on the southern parcel.
- The applicant has not fully explored the bridge construction as requested by staff repeatedly in 2016-2017. Specifically, flood models of any potential bridge have yet to be submitted to Meck. County Land Use & Environmental Services for official review. Therefore, the actual cost of the facility remains unknown.
- The original payment value of \$80,000 is already significantly less than the estimated cost of the applicant's portion of the facility, a point noted during the original approval in 2015 and re-verified with Meck. County Parks & Rec. staff in the summer of 2017.

Given these issues, revision to lower the payment-in-lieu amount is not recommended. However, since at this point the easement for the other side of the bridge is nearly finalized (the plat is under review currently), staff recommends revision to the condition to include only the language related to the required payment-in-lieu: "Developer shall pay to the Town the sum of \$80,000 as a payment-in-lieu of constructing the bridge over the West Branch of the Rocky River."

- 11. Design Standards:** The Developer voluntarily consents to the condition that all homes constructed in the development shall comply with the DPO criteria governing building design, including aesthetics; provided, however, ~~25% of the garages~~ **garages on 12 of the homes** in the development are exempt from the placement criteria listed in DPO Section 5 (Garages & Accessory Structures, Rural Planning Area). To qualify, the garage must be side-loaded (i.e. oriented at least 90 degrees to any road abutting the lot) or rear-loaded.

Staff Analysis: Staff does not support the proposed increase in non-conforming garages. The approved plans currently allow for up to seven non-conforming garages; the requested increase to 12 garages would result in an additional five garages. Because the ten homes at the development's entrance include alley-fed garages, the request effectively pertains to the remaining 30 lots. Therefore, the request for 12 of these lots' garages to be non-conforming represents 40% of the non-alley-fed lots in the development.

The Davidson Planning Ordinance includes standards regulating the massing and location of garages to serve the public interest, including public safety (crossing distance/site lines), impervious coverage, and quality of life through an improved and safe streetscape atmosphere (tree spacing distance, space for sidewalk facilities, etc.). The ordinance applies these criteria equally to all development, including individuals that apply for building permits for home renovations or construction of new dwellings – and that work within the ordinance framework to find feasible, scaled design solutions for each site. To make an exception to these rules and processes would not be consistent with existing policy or regulations. Nor is difficulty in siting a certain size garage on a lot considered worthy of a variance, which are granted for hardships in which owners are deprived of the reasonable/material use of a property.

- 12. Signage:** The Developer may install a second sign on Shearer Road in addition to the sign on Rocky River road which shall not exceed 64 square feet (4x8 2 sided) and shall be approved by TOD through the sign ordinance.

Staff Analysis: Staff supports the proposed increase in allowed construction signs in so far as the signs conform to the Davidson Planning Ordinance regulations. Given the property's frontage along two major roads – including an entrance set back from Shearer Rd. and no entrance/connection along East Rocky River Rd. – this request is reasonable. Staff recommends simplifying the condition language to read: “The Developer may install a second construction sign on Shearer Road, in addition to the sign on Rocky River Road, in accordance with the Davidson Planning Ordinance requirements.”

3. PUBLIC PLANS AND POLICIES

Below is a list of town-adopted plans considered during the proposed Narrow Passage Conditional Planning Area rezoning in 2015. A summary of these plans' and the applicability of each to the project was provided in the Planning Board and Board of Commissioners analyses (June/July 2015).

- The *Davidson Greenprint Plan: Natural Assets Inventory (2008)*
- The *Davidson Walks and Rolls: Active Transportation Master Plan (2013)*
- The *Parks and Recreation Master Plan (2014)*
- The *Mecklenburg County Greenways and Trails Master Plan (2008)*
- The *Davidson Bicycle Transportation Plan (2008)*
- The *General Principles for Planning in Davidson (2001)*
- The *Davidson Comprehensive Plan (2010)*

Since that time the Town has adopted the Rural Area Plan, which aims to accommodate, direct, and manage conservation and growth in its 3,800 acre rural area over the next few decades. The plan was approved in September 2016 and contemplates a standard of development for the Rural Planning Area similar to the proposed plan. Specifically, the Rural Area Plan proposes a revision to

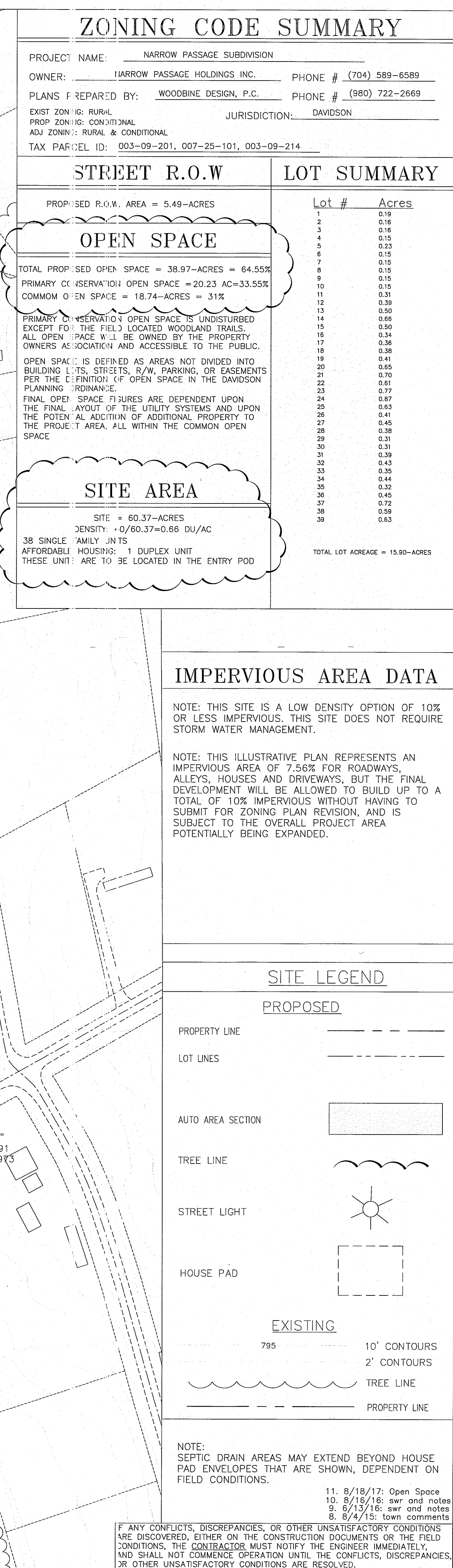
the Rural Planning Area standards that would require a min. of 40-70% open space, with varying levels of density permitted. The proposal to increase the amount of open space provided to move closer towards the approved master plan's target of 70% is consistent with the Rural Area Plan.

4. STAFF RECOMMENDATION

Because the proposal does not include a request to alter the previously-approved project layout, density, or open space criteria, the plan remains – in effect – the same as it was when approved in August 2015. Based on these circumstances, and because the proposal works towards increased compliance with the approved 70% open space target, staff recommends approval of the proposed land addition to the development. Staff also recommends approval of the signage condition, as revised in this analysis; staff does not recommend approval of the proposed bridge payment-in-lieu or garage condition modifications.

5. ATTACHMENTS

- Narrow Passage Plans – Cover Sheet, Concept Plan Sheet 5



8. 8/4/15: town comments

F ANY CONFLICTS, DISCREPANCIES, OR OTHER UNSATISFACTORY CONDITIONS ARE DISCOVERED, EITHER ON THE CONSTRUCTION DOCUMENTS OR THE FIELD CONDITIONS, THE CONTRACTOR MUST NOTIFY THE ENGINEER IMMEDIATELY, AND SHALL NOT COMMENCE OPERATION UNTIL THE CONFLICTS, DISCREPANCIES, OR OTHER UNSATISFACTORY CONDITIONS ARE RESOLVED.