



DATE: May 15, 2018

CASE #: Z (CD)-15-17

DESCRIPTION: Zoning Map Amendment
City of Concord Planned Unit Development (PUD) to City of Concord Planned Unit Development (PUD)

APPLICANT/OWNER: George Macon (MPV Properties)/Christenbury Investors, LLC
(Jim Merrifield, mgr)

LOCATION: 9622 Christenbury Parkway

PIN#s: PIN: 4589-27-3952

AREA: +/- 16.955 acres

ZONING: City of Concord Planned Unit Development (PUD)

PREPARED BY: Scott Sherrill, Sr. Planner

BACKGROUND

The subject property consists of one parcel, comprising approximately 16.955 acres on the northern side of the intersection of Christenbury Parkway and Cox Mill Rd. The subject property was annexed along with several other parcels in February 2005. Upon Annexation, the entire property was rezoned to PUD (Planned Unit Development) for the establishment of a mixed-use neighborhood consisting of four residential villages of varying lot sizes and residential types (detached/attached) as well as a future neighborhood commercial village component that could also include residential uses. The entire development, including the commercial component, is governed by a set of “Conditional Notes” providing specific guidance design of each village. The original PUD also included a site plan but left the commercial component without a specific layout. Upon a development proposal, the 2005 PUD required amendment to incorporate the site plan for the commercial site.

The current applicant seeks to amend the previously approved PUD in order to establish the required site design for the commercial village as well as to modify details within the “Conditional Notes.” Modifications to the PUD Conditional Notes document and over all PUD zoning include: to allow residential buildings without a mixture of uses, lower the height limit, reduce the amount of commercial square footage, and solidify a site plan for the parcel.

Specifically, the applicant seeks to have buildings solely for residential use in the Neighborhood Commercial Village, reduce the maximum height from 100 feet to 55 feet, limit commercial uses to a maximum developed square footage of 55,000 square feet instead of 135,000 square feet, and establish a maximum number of 170 residential units in the Neighborhood Commercial Village, which represents a gross density of 10 units per acre: the current entitlement is a net density of 18 units per acre. Applicant also seeks to strike the language that prohibits the mixture of uses on a single floor and the language that enabled conversion of floor uses at a later date.

The applicant proposes the following design standards:

Neighborhood Commercial Village: General Design Standards

- a. All buildings located within the Site will be architecturally integrated to complement one another by using similar or compatible architectural styles, building materials, landscape elements, plants and signage treatments to create a unified and cohesive development.
- b. The buildings constructed on the Site will use a variety of building materials. The building materials used on the buildings will be a combination of the following: brick, stone, precast stone, precast concrete, synthetic stone, cementations siding (such as hardi-plank), stucco, EFIS or wood. At least 30% of each building exterior exclusive of windows, doors and roofs will be constructed of brick, stone, synthetic stone, precast stone, or stucco. Vinyl as a building material may only be used on windows and soffits.
- c. Illustrative building elevations are included to reflect overall design intents and quality levels of the buildings that are to be constructed on the Site. The actual buildings constructed on the Site may vary from these illustrations provided that the overall design intents and quality levels are preserved and the other design features listed in these Development Standards are maintained.

Neighborhood Commercial Village: Residential Design Standards

- a. The scale and massing of residential buildings longer than 150 feet shall utilize a combination of three or more of the following options: (1) varied roof lines through the use of slopes (2) modulated buildings heights, (3) gables, (4) dormers or (5) innovative architectural solutions; (6) horizontal and vertical variations in wall planes; and/or (7) architectural protrusion.
- b. Usable porches and stoops shall form a predominate feature of the building design and be located on the front and/or side of the buildings oriented toward the Site's internal public street. Stoops and entry-level porches may be covered, but not be enclosed.
- c. HVAC and related mechanical equipment located at grade around the buildings will be screened with landscaping from public view and from view of adjacent properties at grade.
- d. Accessory buildings and structures will be constructed utilizing similar building materials, colors, architectural elements and designs as the principal buildings located on the Site.

Neighborhood Commercial Village: Non-Residential Design Standards

- a. The non-residential buildings will be designed to have a store front appearance on all sides including Christenbury Parkway however, primary building entrances may be limited to one side.
- b. The primary storefront (the elevation with the primary building entrances) shall include a minimum of 40% transparent glass, as described below, between two feet (2') and nine feet (9') on the first floor.
 - i. Transparent glass requirements can be met through the following, or similar, architectural treatments:
 - windows and/or doors, shadow or display boxes;
 - walls or gallery style walls offset 2' behind a transparent glass window that can be used as a display space and may be open on both ends to allow light, access and air circulation;
 - interior ½ walls, no less than 4.5' tall, offset 2' behind a transparent glass window that allows visibility into the space while screening back of house elements; and
 - window graphics may be utilized behind the interior side of transparent glass on no more than 50% of the total elevation transparency.
 - Shelving units, fixtures and other elements specific to the tenant may be placed behind the transparent glass.

The applicant also proposes to remove the applicability of the Improvements, Restrictive Covenants, Greenways, Fire Station, Right of Way Acquisition, Access/Road Right of Way Dedication, and Improvements to Christenbury Parkway from the Neighborhood Commercial Village. The proposal strikes the Technical Data Sheet Vested Rights section per the conditions applied at City Council in February 2005, and notes that the required transportation improvements have been completed.

The site plan reflects 7 multi-family buildings containing 24 units each (168 units), and five retail buildings containing a total of 47,400 square feet of retail. Three retail structures would contain 9,800 square feet, and two would contain 9,000 square feet.

HISTORY

The Planned Unit Development zoning was initially applied to the property upon annexation as part of the larger Christenbury Farms project by the Concord City Council on February 10, 2005. The following conditions were attached to the zoning:

1. Development of any kind within the PUD/CUD shall conform to the standards of the City's UDO land development ordinances, unless specifically modified by the approved PUD/CUD documents/plans.
2. Accessory uses are subject to the regulations of Table 4.9-1 and Section 5.2 of the UDO.
3. The statement, "Residential units are not allowed on the ground floor of any building" shall be removed from the proposed development standards.
4. The applicant shall meet the Open Space requirements of Table 6.5-1 of the UDO.

5. No vested rights approved.
6. Applicant shall conduct flood studies for all tributaries (perennial stream channels) on the subject property that discharges to Clarks Creek. Flood studies shall include appropriate hydrologic and hydraulic analyses necessary to identify peak runoff discharges, water surface elevations, and subsequent floodplain delineations for the 100-year storm event along each of the streams, under both existing and proposed conditions. Flood studies shall identify differences between the existing and proposed conditions, and shall document any potential adverse impacts (e.g. increased water surface elevations) upstream of the subject property, if applicable. Flood studies should consider the effective FEMA flood study for Clarks Creek, and incorporate potential backwater effects from Clarks Creek in the hydrologic and hydraulic analyses, if appropriate. The flood studies shall be sealed and signed by a registered professional engineer prior to construction plan approval.
7. The applicant shall submit a scaled plan showing the types of signs and the locations of such signs, to obtain approval of a comprehensive sign package or the applicant shall meet the regulations for signs in the PUD district set forth in Article 12 of the UDO.
8. All development plans are subject to the plan review process through Development Services, including but not limited to, Site Plan Review, Preliminary Major Subdivision Plat review, Construction Drawing review and Final Subdivision Plat review.
9. Applicant shall submit a detailed PUD/CUD site plan, along with the submission of a Preliminary Major Subdivision Plat (for the 10% required commercial area).
10. This PUD/CUD site plan shall include 17 acres (135,000 square feet) of commercial land use(s).
11. Applicant shall receive approval for the Traffic Impact Analysis (TIA) prior to construction plan approve [sic]. The applicant shall provide the improvements recommended by the Traffic Impact Analysis study. The City of Concord reserves the right to require additional improvements, as deemed necessary.
12. The proposed gated community will be reviewed following City consideration and adoption of a gated community UDO amendment. At this time, the proposed gated community is not approved.

From the Original Technical Data Sheet, the following provisions applied to the Neighborhood Commercial Village:

Permitted Uses

Subject to the requirements set out below, a maximum of 650 dwelling units may be constructed on the site, of which no more than 225 dwelling units may be “for sale”, single family, attached type dwelling units.

- a. Single-Family Parcels: Single family detached homes shall be allowed in Villages A, B and D, having minimum widths as specified below, along with any incidental or

accessory uses in connection therewith, which are permitted by right or under prescribed conditions in the PUD Zoning District.

- b. Townhomes: Single-family attached dwelling units shall be allowed in Village C, having minimum front yard and building separations as specified below, along with any incidental or accessory uses in connection therewith, which are permitted by right or under prescribed conditions in the PUD Zoning District. Developer reserves the right to construct in Village C “for sale” single family detached dwelling units having a minimum lot width of 35 feet in lieu of “for sale” single family attached dwelling units.
- c. Neighborhood Village: Retail, commercial and office uses shall be allowed. Residential uses located separate from retail, commercial and office areas in shared buildings shall be allowed.

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Density

Gross Residential density for the project will not exceed 3.0 units per acre. For Villages A, B, and D, Single Family Attached, the Net Residential Density for these unit types shall not exceed 3.5 Du/Acre. For Village ‘C’, the Net Residential Density for these unit types shall not exceed 7.5 DU/Acre. Net Residential Density for the unit types contained within the Neighborhood Village Commercial Center shall not exceed 18.0 units per acre. Open space areas shall be included in the calculations for Gross residential density.

Design Standards

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Neighborhood Commercial Village:

Maximum Village Area:	17 Acres
Maximum Developed Square Footage:	135,000 square feet
Parking Ratio:	One (1) Space per 400 GLA
Maximum building Height:	100 feet

Buffers: Buffers shall conform to standards established on the Technical Data Sheet.

Building Heights: Proposed building heights in Villages A, B, C and D will not exceed 50 feet. Proposed building heights in the Neighborhood Commercial Village will not exceed 100 feet. The project is located in an Airport Overlay Zone and will be subject to

Neighborhood Commercial Village

The 17.0 +/- acre Neighborhood Commercial Village is designated as Future Development with potential retail, office, commercial, or residential units to be developed at a future date. These uses may change with market conditions or other circumstances affecting the project. The

petitioner recognizes that once the development program for the Neighborhood Commercial Village is determined, this area will be subject to City of Concord's site plan review process.

The Neighborhood Commercial Village is intended to provide basic services for the local residents in a pedestrian-friendly development. Development standards will provide for common facades and design features among the buildings of the Village. Sidewalks will connect to the Villages to provide walkable access for the residents.

Services in the Neighborhood Village may include a grocery store, drug stores, professional offices, restaurants, shops and personal service functions. Residential units shall not count towards the overall residential density of the project, and will be calculated as part of the Neighborhood Commercial Village only.

Permitted Uses

All uses that are allowed as a Permitted Use in the C-1 or C-2 Zoning Districts (including hotels, motels, restaurants, taverns, health clubs, parking ramps, bed and breakfast establishments).

Civic and Institutional Uses that are allowed as a Permitted Use in the C-1 or C-2 Districts (including day care centers and dance/music studios, TMCA), except for the following:

- Group Homes
- Religious Institutions
- Schools, Public or Private

Professional Office/Business Uses

All Professional Office/Business Uses that are allowed as a Permitted or Conditional Use in the B-1 District including the following:

- Pet Care Services (excluding kennels)

Retail Trade Uses

All Retail Trade Uses that are allowed as a Permitted or conditional Use in the C-1, C-2 and/or B-1 Districts including the following:

- Hobby Stores
- Dry Cleaners
- ABC Stores

Prohibited Uses

All the following uses are specifically prohibited:

- Adult entertainment establishments
- Stand along (Big Box) retail stores
- Mini-warehouses
- Major Automotive Repair centers
- Bail Bonding services
- Pawnshops

Residential Uses in Neighborhood Commercial Village

Petitioner reserves the right to provide residential uses in the neighborhood commercial village. Residential units are not allowed on the ground floor of any building. No building solely dedicated to residential use shall be permitted. Residential areas may be rental units or "for sale" units. Floors above street level are not restricted to residential uses and may be utilized for commercial/retail for commercial/retail uses Residential uses cannot be mixed with other uses

(e.g. office and residential) on the same floor. This does not prevent future conversion of a floor to a different use, for example, residential units into office space.

On November 10, 2009, the Planning and Zoning Commission approved additional conditions for the Neighborhood Commercial Village:

1. The conditions that are included in Application Z(CD)-27-04 are supplemental and in addition to the approvals, conditions and uses approved on February 10, 2005 as part of Ordinance #05-11. The conditions of Z(CD)-27-04 affect only the “Neighborhood Commercial Village” portion of the Christenbury Planned Unit Development.
2. Full technical site plan and preliminary plat approval shall be submitted in compliance with the Concord Code of Ordinances and the Conditions listed herein.
3. Buildings shall be located as shown on the approved preliminary site plan. Minor modifications may be allowed, pursuant to Concord Development Ordinance (CDO) §5.4.10.
4. The proposed structures shall follow the theme, scale, and architectural guidelines of the provided attached color elevations. Minor modifications may be allowed, pursuant to CDO §5.4.10.
5. Changes in the uses shown on the site plan may require additional site plan review. For example, if apartments are substituted for one of the buildings shown, additional site plan review is required. Minor modifications may be allowed, pursuant to CDO §5.4.10.

UTILITIES/ROADS

6. The applicant shall have received the appropriate Driveway Permit from the N.C. Dept. of Transportation and the City of Concord prior to the issuance of a Zoning Clearance Permit (ZCP) for the commercial development.
7. As indicated on the Christenbury Town Center Preliminary Plan, internal road networks, landscaping, buffers, and associated infrastructure shall be installed with the development of the first parcel within the development. This excludes internal parking lot landscaping and building yard landscaping or buffers for undeveloped parcels.
8. Developer/applicant is to perform sewer capacity analysis to ensure that the pipe size that was installed with the rest of the development is large enough to handle projected wastewater flows from this development as part of the Technical Site Plan submission. This must be completed prior to construction plans being approved. Developer/applicant is responsible for any upgrades required from that analysis as it pertains to this development only.
9. The 12-inch water line that crosses the subject property shall be relocated subject to review and approval of construction documents by the City of Concord generally following a route along Cox Mill Road and Christenbury Parkway, to be determined. Upon approval of construction, the abandonment process can begin for the existing water line.

10. Pedestrian access throughout the site is clearly indicated through the use of materials including, but not limited to, decorative pavers, brick, stamped asphalt, concrete, stamped concrete, or other comparable materials. Pedestrian access throughout the site is indicated on the approved site plan

BUILDING DESIGN

11. The maximum building height shall not exceed 840 feet above sea level.

LANDSCAPING

12. All buffer and landscape yards will be provided per the City of Concord Development Ordinance as each portion of the overall site is developed or as indicated on the Christenbury Town Center Preliminary Site Plan for Parcel 1 and Parcel 2 dated November 4, 2009.
13. The retaining wall and knee wall shown on the drawings including, but not limited to, the Christenbury Town Center Preliminary Site Plan for Parcel 1 and Parcel 2 dated November 4, 2009, all attached at Exhibit A and incorporated in this Ordinance by reference, shall be built of stone or stone veneer to match the existing stone walls in the residential portions of the Christenbury PUD.

SIGNAGE

14. The applicant shall submit a comprehensive sign package to establish a uniform theme for proposed signage prior to the issuance of any sign permits. The comprehensive sign package will require Special Use Permit approval by the Planning and Zoning Commission.

LIGHTING

15. All light fixtures located along the streets within the site will be similar in style to the decorative street lighting currently used in the adjoining areas of Christenbury. Lighting will be designed to direct light into the site and shall be full cut-off type lighting fixtures. No "wall pak" lighting will be installed on any building façade that is oriented toward adjoining residential areas. Architectural lighting on the buildings that may direct light onto the building façade will be permitted.

MISCELLANEOUS

16. The applicant will provide to the City Development Services Department copies of letters instructing all non-residential tenants that all regularly scheduled deliveries, including tractor-trailer trucks, shall be made to the property via Christenbury Parkway. Deliveries shall not include irregular, nonscheduled deliveries such as those made by FedEx and UPS as neither the applicant nor the tenants can control those schedules or routes.

These conditions were tied to a site plan, dated November 4, 2009, which showed two commercial outparcels. There were multiple iterations of Christenbury Farm applications at this time, and it appears that in some instances, language was being incorporated as part of one project, but not part of other projects, which led to differing versions of the technical data sheet being approved, but not merged.

Currently, the parcel is vacant. Christenbury Investors, LLC acquired the property on January 4, 2016 from Christenbury Center, LLC.

SUMMARY OF REQUEST

The petitioner proposes to amend the Planned Unit Development Technical Data Sheet as outlined in the “Background” section.

Property to the north of the subject area is zoned Planned Unit Development (PUD) and is used for single family residential, common open space, and an amenity center. Property to the east of the subject property is zoned Planned Unit Development (PUD) and Cabarrus County Office Institutional and is used for single family attached residential and agricultural purposes. Property to the south of the subject property is zoned Cabarrus County Office-Institutional (O-I) and Low Density Residential (LDR) and is used for agricultural and residential purposes. Property to the west of the subject property is zoned Planned Unit Development (PUD) and is used for single family residential and common open space.

Existing Zoning and Land Uses (Subject Parcel)					
Current Zoning of Subject Property	Zoning Within 500 Feet		Land Uses(s) of Subject Property	Land Uses within 500 Feet	
Planned Unit Development (PUD)	North	Planned Unit Development (PUD)	Vacant	North	Residential, Common Open Space, Amenity
	South	Cabarrus County Office-Institutional (OI) and Cabarrus County Low Density Residential (LDR)		South	Agricultural and Residential
	East	Planned Unit Development (PUD) and Cabarrus County Office-Institutional (OI)		East	Residential and Agricultural
	West	Planned Unit Development (PUD)		West	Residential and Common Open Space

COMPLIANCE WITH 2030 LAND USE PLAN

The 2030 Land Use Plan (LUP) predominately designates the subject property as “Suburban Neighborhood” for which PUD is a compatible zoning district.

From the 2030 Land Use Plan:

The Suburban Neighborhood (SN) Future Land Use category includes single-family areas that are formed as subdivisions or communities, with a relatively uniform housing type and density throughout. They may support a variety of single-family residential types, from low-density single-family homes to denser formats of smaller single-family homes. In areas designated Suburban Neighborhood, homes are typically oriented interior to the neighborhood and are typically buffered from surrounding development by transitional uses or landscaped areas. Single-family attached dwellings are an option for infill development within the suburban neighborhood future land use category. These neighborhoods are often found in close proximity to suburban commercial, office, and industrial centers, and help provide the consumers and employment base needed to support these centers. Lots at intersections of collector and arterial streets within or at the edges of suburban neighborhoods may support small-scale, neighborhood serving, pedestrian-oriented commercial or service uses such as coffee shops, cafes, beauty salons and light retail. Pedestrian oriented uses exclude uses with drive-in, drive-through or automobile related services.

The recommended density for residential uses in Suburban Neighborhood is 6 dwelling units per acre, and non-residential uses are recommended at a .25 Floor Area Ratio. In the overall context of Christenbury Farms, where the gross density is under 3 dwelling units per acre, adding 170 apartments would bring the overall project density slightly over 3 units per acre (approximately 3.04) with +/- 684 units on +/- 225 acres.

SUGGESTED STATEMENT OF CONSISTENCY

- The subject property is approximately 16.955 acres.
- The subject property is vacant.
- The proposed zoning amendment is generally consistent with the 2030 Land Use Plan (LUP) because it encourages a more intensive use than would be supported by the “suburban neighborhood” future land use designation in the context of the parcel, but the proposed zoning classification is less intensive than the current entitlements for the property. The overall density of the Christenbury Farm project remains within the range guidance for suburban neighborhoods.
- The zoning amendment is reasonable as it provides the opportunity for less intensive development adjacent to single family homes than the current entitlements provide.

SUGGESTED RECOMMENDATION AND CONDITIONS

The staff finds the request generally consistent with the 2030 Land Use Plan and the requirements of the Concord Development Ordinance. There is an opportunity at this time to add clarity to the entitlements. The staff has no objections to the petition.

Recommended Conditions:

1. The conditions that are included in Application Z(CD)-15-17 are supplemental and in addition to the approvals, conditions and uses approved on February 10, 2005 as part of Ordinance #05-11. The conditions of Z(CD)-15-17 affect only the “Neighborhood Commercial Village” portion of the Christenbury Planned Unit Development. These conditions and the proposed site plan supersede those approved as part of case Z-27-04 on November 10, 2009.

2. Full technical site plan and preliminary plat approval shall be submitted in compliance with the Concord Code of Ordinances and the Conditions listed herein.
3. Buildings shall be located as shown on the approved preliminary site plan. Minor modifications may be allowed, pursuant to Concord Development Ordinance (CDO) §5.4.10.
4. The proposed structures shall follow the theme, scale, and architectural guidelines of the provided attached color elevations. Minor modifications may be allowed, pursuant to CDO §5.4.10.
5. Changes in the uses shown on the site plan may require additional site plan review. For example, if apartments are substituted for one of the buildings shown, additional site plan review is required. Minor modifications may be allowed, pursuant to CDO §5.4.10.

PROCEDURAL CONSIDERATIONS

This particular case is a rezoning, which under the CDO, is “legislative” in nature. Legislative hearings DO NOT require the swearing or affirming of witnesses prior to testimony at the public hearing.