

## Department of Permitting & Inspections

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### MEMORANDUM

**TO:** Development Review Board  
**FROM:** Ryan Morrison, Associate Planner  
**DATE:** December 3, 2019  
**RE:** 20-0488SD; 95 Derway Drive

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**ote: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.**

Zone: RL      Ward: 7N

Owner/Applicant: Claire Pointe Owners Association, Inc. / John Larkin, Inc.

**Request:** Preliminary plat application for the subdivision of the Claire Pointe planned community into five (5) parcels. One lot each for Buildings A, B, C and D, and one for the common land parcel. No new development is proposed.

#### **Applicable Regulations:**

Article 2 (Administrative Mechanisms), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 10 (Subdivision Review), Article 11 (Planned Development)

#### **Background Information:**

The applicant has applied for preliminary plat approval to subdivide five lots within the Claire Pointe planned community. The planned community, originally named 'The Bluffs at Northshore', received final Planned Residential Development (PRD) approval in 1999, and currently contains 4 buildings containing a total of 56 residential units, and associated surface parking. The 434,655 sf property will be subdivided as follows: Buildings A-C (Lots 1-3 respectively) will each be 9875 sf; Building D (Lot 4) will be 12,180 sf, and the common land lot (Lot 5) will be 392,850 sf. No new development is proposed in conjunction with this subdivision request.

The proposal has been forwarded to the City Engineer's office, to the Burlington Fire Marshal, to the Director of the Parks & Recreation Department, to Burlington Electric, and to the Burlington School District as required. At the time of staff report preparation, no comments have been received. Should comments be received prior to DRB action, they will be considered as necessary.

Previous zoning actions for this property are noted below.

- **Zoning Permit 98-240;** preliminary plat to construct three 4-story structures containing a total of 60 residential units. Approved November 13, 1997.

- **Zoning Permit 00-245**; final plat review to construct four residential structures, each with under-building parking, for a total of 56 units. Approved October 28, 1999.
- **Zoning Permit 01-462**; amend approved buildings by adding gas meters, vents and hose bibs, smaller light fixtures, add a hip roof above garage exit, add dormers to the buildings, and add roofs over entryways. Approved May 24, 2001.
- **Zoning Permit 02-216**; amend approved building elevations as follows: replace roof with decks; and add skylight windows. Approved November 6, 2001.
- **Zoning Permit 02-339**; amend the building design of the PRD to enclose a deck on buildings B, C, and D only. Approved February 5, 2002.
- **Zoning Permit 03-606**; install a new privacy fence. Approved June 12, 2003.
- **Zoning Permit 04-027**; zoning permit extension request to complete previously approved construction. Approved July 21, 2003.
- **Zoning Permit 07-699CA**; relocation of 5 parking spaces adjacent to building D, including minor site changes (grading, sidewalks). Approved May 18, 2007.
- **Zoning Permit 08-637CA**; construct 14 new parking spaces. Approved April 11, 2008.
- **Zoning Permit 10-0956CA**; replace broken dumpster enclosure with new fence. Approved May 28, 2010.

**Recommendation:** **Preliminary Subdivision Approval** as per the following findings:

## **I. Findings**

### **Article 2: Administrative Mechanisms**

#### ***Section 2.7.8 Withhold Permit***

**Per this standard**, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989, prior to issuance of a Certificate of Occupancy for this permit. Immediate review indicates ZP10-0956CA has not been issued a Certificate of Occupancy.

**Affirmative finding as conditioned.**

### **Article 4: Zoning Maps & Districts**

#### ***Sec. 4.4.5, Residential Districts:***

##### ***(a) Purpose***

##### ***(1) Residential Low Density (RL)***

*The RL district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. The district is typically characterized by a compact and cohesive residential development pattern of the respective neighborhood's development history.*

The property is located in the RL zone. The subdivision will result in new lots within the PRD for each of the four existing buildings, with the remaining lot encompassing all remaining common space. Because the property was approved as a Planned Residential Development, lot size requirements, in terms of density allowance, is not a factor here since it is calculated across the entire PUS itself, rather than for each lot itself. Article 11 (Planned Development) requires no setbacks for internal lots within a PUD (or similarly, the existing PRD). The only setback concerns for such developments exist for the peripheral lot lines of the PUD itself. Since the proposal simply involves placing each existing building onto their own lot, no changes to the existing setbacks to the peripheral development boundary will occur. See Article 11 below.

**Affirmative finding**

***(b) Dimensional Standards & Density***

Because of the PUD status, dimensional requirements apply to the property as a whole, not as individual parcels. Multi-family attached dwellings are also permissible. So technically, the density, lot frontage, lot coverage, and setback requirements of this section do not apply in respect to the placement of the new lots. **Affirmative finding**

***(c) Permitted & Conditional Uses***

No new construction is included in this proposal. Single family dwellings are permitted uses in the RL zone, while duplexes are conditional uses. Multifamily uses are not permitted in the underlying zone. However, multifamily uses can be permitted within a PUD development. See Article 11 below. No changes are proposed to any existing use. **Affirmative finding**

***(d) District Specific Regulations***

***1. Setbacks***

**A. Encroachment for Residential Driveways**

Not applicable.

**B. Encroachment into the Waterfront Setback**

Not applicable.

***2. Height***

**A. Exceptions in the Waterfront RM District**

Not applicable.

***3. Lot Coverage***

**A. Exceptions for Accessory Residential Features**

Not applicable.

***4. Accessory Residential Structures and Uses***

Not applicable.

***5. Residential Density***

Not applicable.

***6. Uses***

Not applicable.

***7. Residential Development Bonuses***

Not applicable.

**Article 5: Citywide General Regulations**

***Sec. 5.2.2, Required Frontage of Access***

Not applicable for the new lots within the PUD. As per Sec. 11.1.4 CDO, frontage requirements apply to the entire project rather than on an individual lot-by-lot basis.

***Sec. 5.2.3, Lot Coverage Requirements***

See Sec. 4.4.5 (b) above.

***Sec. 5.2.4, Buildable Area Calculation***

Not applicable. No new development is proposed.

***Sec. 5.2.5, Setbacks***

See Sec. 4.4.5 (b) above.

***Sec. 5.2.6, Building Height Limits***

See Sec. 4.4.5 (b) above.

***Sec. 5.2.7, Density and Intensity of Development Calculations***

See Sec. 4.4.5 (b) above.

***Sec. 5.5.1, Nuisance Regulations***

Nothing in the proposal appears to constitute a nuisance under this criterion. **Affirmative finding**

***Sec. 5.5.2, Outdoor Lighting***

Not applicable.

***Sec. 5.5.3, Stormwater and Erosion Control***

Not applicable.

**Article 6: Development Review Standards:**

***Part 1, Land Division Design Standards***

***Sec. 6.1.2, Review Standards***

*(a) Protection of important natural features*

The subdivision itself will have no impact on important natural features. **Affirmative finding**

*(b) Block size and arrangement*

Not applicable.

*(c) Arrangement of Lots*

The property, and the adjacent Village at Northshore, are unique in that they were developed as Planned Residential Developments, and do not reflect nearby lot arrangements of those along North Avenue and Hardy Avenue. Since the property is tucked away from other nearby development, there is no standard lot arrangement for the proposed lots to conform with.

*Interior lot lines extending from a street should be perpendicular or radial to the street right-of-way line to the greatest extent possible.*

Not applicable. While Derway Drive is a private street, none of the proposed lots will have frontage on it.

*(d) Connectivity of streets within the city street grid*

Not applicable.

*(e) Connectivity of sidewalks, trails, and natural systems*

Not applicable.

## **Article 10: Subdivision Review**

### ***Sec. 10.1.7, Combined Preliminary and Final Plat***

*For subdivisions that will create fewer than five (5) lots or dwelling units, and are not otherwise subject to consideration under Major Impact Review pursuant to the provisions of Article 3, Part 5 or Planned Unit Development pursuant to the provisions of Article 11, the applicant may request, and the DRB may authorize the hearings on preliminary and final subdivision plats to be combined into a single public hearing.*

*In such cases, the submission requirements for final subdivision plats pursuant to Sec. 10.1.9 shall be met at the time of application, and decisions by the DRB shall be based on the project's conformance with the review criteria for both preliminary (Sec. 10.1.8(d)) and final plats (Sec. 10.1.9(d)).*

The proposed subdivision is for five lots and cannot be considered for a combined hearing. The applicant will have to submit for final plat separately. **Affirmative finding as conditioned**

### ***Sec. 10.1.8, Preliminary Plat Review***

#### ***(g) Time Limits for a Preliminary Plat***

The approved preliminary plat will be valid for a period of one year post DRB decision. A separate final plat application will have to be submitted for review and approval by the DRB.

**Affirmative finding as conditioned**

### ***Sec. 10.1.9, Final Plat Approval Process***

A final plat application that includes all submittal requirements provided under this section must be submitted, and a public hearing with the DRB will be required. **Affirmative finding as conditioned**

## **Article 11: Planned Development**

### ***Part 1 – Planned Unit Development***

#### ***Sec. 11.1.4 Modification of Regulations***

*With the approval of the DRB after a public hearing, the following modifications of the requirements of the underlying zoning may be altered within a planned unit development:*

- *density, frontage, lot coverage, and setback requirements may be met as calculated across the entire project rather than on an individual lot-by-lot basis;*
- *required setbacks may apply only to the periphery of the project rather than on an individual lot-by-lot basis;*
- *more than one principal use and more than one principal structure may be permitted on a single lot; and*
- *buildings may be of varied types including single detached, attached, duplex or apartment construction.*

As noted above, the density, frontage, lot coverage, and setback requirements of Sec. 4.4.5 (b) do not apply. The density, frontage, lot coverage and setbacks will all remain as existing.

**Affirmative finding**

## **II. Conditions of Approval**

1. **Within one (1) year of the date of preliminary approval**, a final plat application shall be submitted for review and approval in accordance with Sec. 10.1.9 of the Comprehensive Development Ordinance. Failure to do so shall render void the preliminary plat approval.
2. No new construction is included in this preliminary subdivision approval.
3. Per **Section 2.7.8, Withhold Permit**, all zoning permits issued after July 13, 1989 must be closed out (issued a Certificate of Occupancy) prior to issuance of a Final Certificate of Occupancy for the final plat permit. See attached permit list. Upon expiration of this new zoning permit, no additional zoning permits may be issued until it, and all prior zoning permits, have been closed out with final certificate(s) of occupancy. It is recommended that certificates of occupancy for the old zoning permits be sought prior to seeking a certificate of occupancy for the new zoning permit.
4. Standard permit conditions 1-15.