

**WALTON BOARD OF ADJUSTMENT
WALTON SENIOR CENTER
BUSINESS MEETING
December 7, 2015
6:30 P.M.**

Mr. Turner, Chairman, called the meeting to order at 6:30 P.M.

BOARD MEMBERS PRESENT:

Mr. Steve Turner, Chairman
Mr. Robin Baker
Mr. Michael Bryan
Mr. Edward Sedor

BOARD MEMBERS NOT PRESENT

Mr. Thomas Luebbe

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Mr. Turner stated that Mr. Bryan is a new Board member and has been sworn in.

APPROVAL OF MINUTES:

Mr. Turner stated that the Board members received copies of the minutes of the Walton Board of Adjustment meeting of March 16, 2015. Mr. Baker moved that they be approved and Mr. Bryan seconded the motion. Mr. Turner asked for a vote and it carried unanimously.

AGENDA ITEMS:

- 1. Request of Steve Smith for Model Group for a Conditional Use Permit for a three-story, forty-five unit apartment building with accessory parking. The future 3.4923 acre lot is located on the southwest side of Towne Center Drive, is immediately to the south of lot 23 of Walton Towne Center Subdivision, and is approximately 625 feet to the south of the Towne Center Drive/Service Road intersection, Walton, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report).

Mr. Turner asked if the applicant would like to make a presentation?

Mr. Steve Smith, with Model Group, introduced himself. He said they received a Conditional Use Permit from this Board a year ago for another site on Service Road. He

indicated the tax credit application for that project didn't get funded by 1 point. They are extremely optimistic that their project will be awarded tax credits this time. They love the new site they are pursuing because of all its amenities. This site is centrally located in Walton Towne Center Subdivision and has much better topography. The old site also had an easement issue that needed to be worked through. They have no issue using composite siding as was recommended by Staff. The drawings they submitted were mislabeled.

Mr. Smith said they have met with the Mayor and he is very supportive of the project. He submitted a form into the record (see Exhibit 1), which was filled out by Mayor Carnahan. The Mayor's comments were required as part of their application to the Kentucky Housing Corporation. He offered to answer any questions.

Mr. Turner asked if anybody in the audience wanted to speak? Ms. Margaret Rinehart said she lived at 13586 Service Road. She asked if the applicant could explain the tax credits? Mr. Smith said they are applying for Federal tax credits and the building is for the exclusive use of seniors. In the tax credit world, seniors are classified as being 55 years of age or older and have incomes that are at 60% of the area median income or lower. When they agree to construct such a project the Federal Government gives them a tax credit to offset the cost of construction. The tax credits are sold to investors for cash and the cash is used to construct the buildings and minimize debt. The tax credit allows them to keep the debt low and the ability to charge lower rents. The tax credit they receive have no impact on the local tax base.

Ms. Rinehart asked if the project would have a positive impact on the local tax base? Mr. Smith said it would because they will pay property taxes. The development will also free up some housing in the local area. Some seniors will move into the development and younger families will move into their houses. Ms. Rinehart asked what the value of the development would be? Mr. Smith estimated the cost of construction would be about 8.3 million dollars and the tax dollars will go where they should go.

Mr. Dave Trunnel said he lived at 13442 Service Road. He asked what protection the residents on Service Road would have from miscellaneous activities? He said Service Road is suffering with garbage issues and strange people walking up and down the road and through yards. Mr. Turner said there is a significant change in topography in the rear yard of the subject site. Mr. Smith said seniors that are aged 55 years of age or older will live in the development so that will limit the number of walkers. They also have full time caretakers that stay on site and they walk around and pick up the grounds on a daily basis.

Mr. Travis Dykes said he was representing Sparks Contracting. Sparks Contracting is an industrial use located on Service Road and they run trucks in and out of their property all day long. They are concerned about the incomplete sidewalk system in the Walton Towne Center subdivision and seniors walking in the streets to Kroger, Arby's, McDonald's, Walton Pharmacy, etc. He said it could be many more years before the subdivision is fully built out and the sidewalk system is complete. Many industrial businesses and Walton Fire Department have larger vehicles that use the subdivision streets for access.

Mr. Matt Gunderman said he was representing UC Health Air Care and submitted a letter into the record (see Exhibit 2). Just over a year ago, he was here talking about a helicopter base that they will be building right behind Walton Fire Department. They did an extensive search of properties in Boone County and other counties. They looked at where patients needed them based on flight information from the previous 10 years. They specifically looked for properties that were near fire departments or hospitals and removed from residential properties. They determined the Walton Towne Center Subdivision would be a good fit to base an emergency response helicopter. He is not opposed to the apartments on the commercial site but would like to mention the potential impacts on the quality of living and emergency air medical operations. They spoke with the City, County, and Planning Commission before they purchased their site and were told that helicopter noise wouldn't be an issue. The helicopters are loud and generate a lot of wind. They even took a helicopter down to the fire department so people could view it and feel its effect. They plan to take off towards the highway as often as possible and fly along it for noise abatement. This will all depend on the subject flight path and the need to get to patients quickly. They are concerned that the City of Walton, Boone County, and UC Air Care will receive noise complaints, requests to decrease or change flight operations, or requests to leave the site. They are also concerned that complaints could cause negative media coverage. They are asking the Board to consider the impact that UC Air Care will have on the apartment complex and the impact that the apartment complex will have on UC Air Care.

Mr. Ron Mullen said he lives at 2362 Grandview Road and is with Walton Towne Center. They are the current owners of the subject site. He pointed out the location of the future library and indicated they sold that property. When the library is built they will install sidewalks along the street frontage. He does not see residents from the apartment complex walking on Service Road because of the change in grade. They are hoping the economy continues to improve and the rest of the subdivision is built out quickly. The senior apartments are a great project for the subdivision and the City of Walton.

Mr. Travis Dykes, with Sparks Contracting, said they have a large problem with trespassing and people walking from the Towne Center to the doctors office on Service Road. There are no sidewalks on Service Road. He is aware of the grade change behind the proposed apartment building and the doctors building on Service Road. He asked if there were any plans to restrict access so people wouldn't use their property as a cut through?

Mr. Turner asked if anybody else in the audience wanted to speak? There was no response.

Mr. Turner asked if the Board members had any comments or questions?

Mr. Sedor asked Mr. Smith to explain the reason the tax credits weren't approved for the site that is located behind Waffle House. Mr. Smith said their tax credit application fell short by 1 point. He believes the project would have gotten funded this year if they would have pursued the same project on that site. There were three reasons they switched sites. The new site is more centrally located in the subdivision, has flatter topography, and doesn't have any easement issues.

Mr. Turner asked Mr. Smith if he had an answer for the dumpster question, which is found in the Staff Report? Mr. Smith responded there wouldn't be a trash dumpster outside. All trash would stay in the trash room inside the building.

Mr. Morgan asked Mr. Smith if he would address Mr. Dykes question? Is there any thought about installing fencing on the subject site? Mr. Smith said Episcopal Retirement homes provides shuttle vans on all their sites and these vans transport seniors as needed. He does not see a senior walking out the back of the property and cutting through other properties to get to a doctor's appointment. He does see some seniors walking to other sites in the subdivision once the sidewalk system is built out.

Mr. Morgan asked if he would address Mr. Gunderman's comments. Mr. Smith said he was not aware of the UC Health Air Care facility. However, they already were aware that there would be noise impacts from locating so closely to the fire department. The frequency of noise from the fire department will be much greater than the helicopters.

Mr. Turner asked if Walton Fire Department had any comments regarding the proposal? Mr. Morgan replied that he talked with Assistant Chief Roberts and he indicated that he didn't have any preliminary comments. The fire department will normally submit something in writing or attend the meeting if they have concerns.

Mr. Turner asked if any landscaping will be required? Mr. Morgan replied that perimeter landscaping will be required and all the buffers will be need to be a minimum of 10 feet wide. They will also have to provide landscaping in the parking lot because there are proposing more than 50 parking spaces. Mr. Tuner asked if a more intensive landscaping buffer could be required along the rear property line to discourage cut through walking? Mr. Morgan said a more intensive landscaping buffer would have to be a condition of approval. He asked the representatives from Walton Towne Center if they had any plans for the undeveloped property that is to the rear of the subject site? Mr. Jim Wenstrup said they currently don't know what is going to be developed on that property. Mr. Morgan said the adjoining property to the rear is zoned Commercial Two (C-2) and that's why a 10' wide landscaping buffer is required. Mr. Turner asked if some type of restrictive fencing or landscaping would be possible? Mr. Smith said they want to be good neighbors and do something that makes sense. He does not see people cutting through the back of the senior apartment lot to get to Service Road. He said the problem with receiving tax credits is there is a fixed amount that they can spend and they are at the limit. Every extra dollar diverted to fencing or landscaping means they will have take something out of the building. They will do extra landscaping if it's required but they would rather not install it. Mr. Morgan added that the adjoining property to the southwest will have to provide a 20' buffer along its rear property line at the time it develops. The 20' buffer would be required because the developing property is zoned C-2 and the adjoining property on Service Road is zoned Industrial One (I-1).

Mr. Turner asked if they would give full disclosure to the tenants regarding the potential noise impacts before they signed a lease? He said there would be noise from the fire department and air care. Mr. Smith said they would disclose that information.

Mr. Dykes asked if UC Health Air Care would have a helicopter stationed at the facility and if trips would be more than random? Mr. Gunderman said there should be several take-offs and landings every day.

Mr. Sedor said they keep speaking about noise but the citizens of Walton are used to noise because there are two rail lines. He doesn't think the helicopters will have much impact.

Mr. Turner asked if they will be providing a sidewalk system or benches in their rear yard? Mr. Smith said they would like to provide something back there. With other projects they have provided walking trails, landscaping beds, or benches. They have not committed to anything specific at this point because of the tax credits. Mr. Morgan said the amenities would need to be conditioned if that is something the Board wants them to provide.

Mr. Sedor asked what will happen if they do not get the funding? Mr. Smith indicated the project will not be constructed.

Mr. Sedor asked what security provisions they have on the entrances? Mr. Smith said during business hours the entrances are monitored by Staff. During non-business hours the doors are locked and there are buzzers and an intercom system. There are also security cameras.

Mr. Turner said he would entertain a motion if there were no more questions.

Mr. Sedor made a motion to approve with the request with the following conditions:

- 1. Unless modified by other conditions, the approval is based on the preliminary plans and elevation drawings. Minor changes can be approved by the Zoning Administrator.**
- 2. The vinyl siding shown on the building shall be replaced with hard board or composite siding.**

Mr. Baker seconded the motion. Mr. Turner called for the vote and it carried unanimously.

- 2. Request of Jonesboro Investments Corp. for a Conditional Use Permit for a three-story, forty-eight unit apartment building with accessory parking. The approximate 4.3 acre property is located on the north side of Service Road, to the south of Waffle House (185 Mary Grubbs Hwy.), and to the east of the I-75/Mary Grubbs Hwy. northbound exit ramp, Walton, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a PowerPoint presentation (see Staff Report). He stated he received an email today from Phyllis Sparks and has made copies. The email is part of the record (see Exhibit 3).

Mr. Turner asked if the applicant would like to make a presentation?

Mr. Tim Morgan said he was the President of Jonesboro Investments. Their project is for senior apartments and they are asking for a total of 48 units. They will be applying to the Kentucky Housing Corporation for an award of housing tax credits. This is a very competitive process and awards are not guaranteed. He said he would address the Staff questions.

- A. Will the project be constructed if the tax credits are not approved?** He replied that they would not move forward with the project if they weren't awarded tax credits.
- B. Will any amenities, such as a sidewalk system or park benches, be provided in the rear portion of the site?** They often provide walking trails with their senior projects. They will evaluate if they want to install a sidewalk system or other amenities before they submit the Major Site Plan application.
- C. Could the vinyl horizontal and board and batten siding be converted to a composite siding?** Yes.
- D. Will the dumpster be constructed with masonry that matches the building and solid gates?** The current plan shows an external dumpster. They have made a revision and are willing to move the dumpster inside the building.

Mr. Tim Morgan offered to answer any additional questions that the Board had.

Mr. Turner said a Conditional Use Permit was approved last year to allow senior apartments on the subject site. He asked what conditions they couldn't meet. Mr. Tim Morgan said they were concerned about the location of the building on the site so they decided to change the site layout. Due to the topography of the site, they decided to pull the building closer to the road. Another change is the prior approval only permitted 45 units and their proposal is for 48 units. Mr. Todd Morgan said they would also be eliminating condition 5 because the apartment driveway no longer aligns with the Sparks Contracting driveway. Mr. Tim Morgan said they like the new curb cut and parking lot design better because it places more parking in close proximity to the building. This is a concern because many seniors have mobility problems.

Mr. Turner asked if building access was proposed on the sides of the building. Mr. Tim Morgan said they have a main entry and doors at the ends of the building.

Mrs. Gloria Trunnel said she lived on Service Road. She asked if Service Road was going to be widened? There is already truck traffic on the road and the residents have trouble getting past them. The road is also falling apart from the truck traffic. She would like to see the road improved and more room provided so Sparks Contracting could get in an out of their site. Mr. Todd Morgan said Service Road is a city street. The City of Walton would have to decide to widen or improve the street. Mr. Wilson said he agrees. The Board cannot commit the legislative body to spend money on road improvements.

Mr. Travis Dykes, with Sparks Contracting, asked if the Board has the authority to condition the project and require it to go before City Council before this application is approved? He added that Service Road is like a one-way road. The road condition has not changed since they moved onto their lot. He doesn't believe the City and taxpayers should have to pay for improvements because of the apartment building. He believes a lot of utility poles will need to be relocated if the road is ever widened. Mr. Todd Morgan said the Board would need to table the application if they wanted Walton City Council to discuss the possibility of making road improvements. Mr. Wilson said the U.S. Constitution talks about exactions. The Board cannot make a developer of property correct a problem which already exists. The only way a condition like that can be imposed is if the proposed development is contributing in a proportionate way to an existing condition. Mr. Dykes said the road condition barely gets by now. He believes the project will have an impact on the road because 48 two-bedroom apartment units are being proposed. Most people have their own vehicle so there will be a lot of additional traffic on the road. Mr. Tim Morgan responded that senior apartments are typically very low traffic generators. He added that a lot of seniors do not drive and that many of their two bedroom units are occupied by a single person. One of the reasons they chose this site is its proximity to public transportation. He does not believe the proposed development will exacerbate the traffic problem on the road.

Mr. Dykes asked if the apartments would have restrictions that would prevent a senior's 30 year old son from living in the apartment? Mr. Tim Morgan said they require every person on the lease and living in the unit to be 55 years of age or older. He added that the school board had the same concern and they echoed the same response.

A woman in the audience asked about the traffic impacts from families and friends visiting the seniors? Mr. Tim Morgan said those trips are transient and normally occur during non-peak hours. They have done Traffic Impact Studies for other locations and senior developments are at the low end of generating traffic versus commercial uses.

Mr. Dave Trunnel said he lived on Service Road. He heard that the apartment sites were chosen based on their proximity to public transportation. He questions this. He has never seen a bus come down Service Road. The seniors will have to walk all the way up to Mary Grubbs Highway. Mr. Tim Morgan said the bus service could also be used by someone that wants to visit the senior. He agrees that it would be a good walk from the apartments to the bus stop on Mary Grubbs Highway but it is not outside the ability of some seniors.

Mr. Sedor said within the last month he has become a partially disabled senior and there is no way he could walk from the proposed building to Mary Grubbs Highway. He said if public transportation isn't located on site then they don't have access to public transportation. Mr. Tim Morgan said he agrees that many seniors will not contemplate that walk. But conversely, there will be many that will. There will be many seniors, aged 55 or older, that will not have mobility impairments. In addition, they typically work with Northern Kentucky Community Action Commission and additional transportation services could be provided.

Mr. Baker said that TANK buses provide pickup and drop off as long as you call ahead. A gentleman from the audience said that service wasn't convenient. His mother had to use it and she had to make arrangements two weeks ahead of time.

Mr. Turner asked if anybody else wanted to speak?

Mr. Baker asked about the required landscaping? Mr. Morgan said they will need to show they are meeting all the requirements when the Site Plan is submitted for review.

Mr. Turner asked Mr. Morgan if he had heard from the fire department regarding this proposal? Mr. Morgan said the fire department prefers the current site design over last year's proposal because it gives them better access to the building. Mr. Turner said he prefers the current layout as well because there are no entrances facing the road.

Mr. Dykes asked what landscaping would be required along Service Road? Mr. Morgan said a minimum 10' wide street frontage buffer is required. He added that the building needs to be setback a minimum of 30' from the front property line.

Mr. Turner asked what will happen if the road is ever widened? Mr. Morgan reviewed an aerial map and indicated that there appears to be sufficient right-of-way for the road to be widened in the future. It doesn't look like future road widening would effect the senior apartment property or the street frontage buffer.

Mr. Turner asked if the future Walton Towne Center Subdivision sign concerned the applicant? Mr. Tim Morgan said he would prefer the subdivision sign not to be constructed. However, he understands that it was approved in 2009 and can be constructed. He added that they have no concern about accepting the Staff recommendation regarding their freestanding sign.

Mr. Sedor said the new proposal is better in many ways than the proposal they approved last year. However, they already have an senior apartment complex approved in Walton Towne Center and they have no idea how it is going to work. Now, they are being asked to quickly approve a second senior apartment project. He believes they are moving too fast. Although the project has been well presented, he is opposed to approving a second senior housing development in the subdivision. Mr. Turner said the Board doesn't know if either project will be receive the tax credits and be constructed.

Mr. Margaret Rinehart asked if both developments would be constructed? Would the second project be constructed if the other was already under construction? Mr. Tim Morgan said both groups are aware of the other proposal. Kentucky Housing Corporation will ultimately decide whether one, both, or neither project receives tax credits.

Mr. Turner asked how they should address the dumpster concern if the project is approved? Mr. Todd Morgan said another condition could be drafted stating that trash had to be stored inside the building. Mr. Tim Morgan said that is their intent.

Mr. Todd Morgan said he is also recommending that sidewalks should be required along the Service Road frontage of the subject lot.

Mr. Turner asked if landscaping would need to be conditioned because it is a code requirement? Mr. Todd Morgan responded it would only need to be conditioned if the Board wanted to require something above and beyond what code requires.

Mr. Dykes said the project is proposed directly across from an industrial zone and use. He would hate to see the industrial property owners troubled in the future because of the proposed apartments. He doesn't believe the Board would allow an industrial use across from apartments if the apartments were there first. Mr. Turner said he appreciate that. He added that the way roads seem to work is that they have too much activity on them before improvements are made. Mr. Todd Morgan added that if a property is zoned a certain way certain uses are principally permitted and this Board doesn't have a say in the matter.

Mr. Turner made a motion to approve the request with the following conditions:

1. Unless modified by the conditions below, the approval is based on the preliminary plans and elevation drawings. Minor changes can be approved by the Zoning Administrator.
2. The vinyl horizontal and board and batten siding shall be replaced with composite siding.
3. An external trash dumpster shall not be permitted. All trash shall be stored inside the building.
4. Freestanding signage shall be limited to a 10' tall, 100 square foot monument sign. The base of the sign shall be constructed with brick that matches the building.
5. Sidewalks shall be provided along the Service Road frontage so a continuous sidewalk system can be provided between the front door of the apartments and Chestnut Drive.

Mr. Bryan seconded the motion.

Mr. Turner called for a roll call vote. Mr. Turner, Mr. Baker, and Mr. Bryan voted "yes" and Mr. Sedor voted "no". The motion carried 3 - 1.

OTHER

Mr. Turner welcomed Mr. Bryan as a new Board member.

ADJOURNMENT

Mr. Turner asked for a motion to adjourn. Mr. Sedor so moved and Mr. Baker seconded the motion. The motion carried by unanimous consent and the meeting adjourned at 7:58 P.M.

APPROVED

Steve Turner
Chairman

Attest:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibits

1. Portion of Tax Credit application that was filled out by Mayor Carnahan
2. Letter From Matt Gunderman
3. Email From Phyllis Sparks