



October 18, 2023

Henderson County Planning Board
100 N. King Street, Suite 220
Hendersonville NC 28792

Regarding: Etowah Residential

Dear Members of the Planning Board:

At the August 24th Planning Board meeting we were told there would be no opportunity for Etowah residents to provide comments at the October 19th meeting. But a great deal has changed since that meeting. We received the following updated and new information: 1) a revised Master plan, 2) a Transportation Impact Analysis (TIA), 3) the NCDOT completed analysis of the TIA, and 4) the applicant's geotechnical study of soil conditions. Because so much new information has been received, we are providing our findings in writing. **Our traffic engineer, Chris Cunningham, PE will be present at the meeting should you have any traffic questions or would like a second opinion on any traffic-related statements that are made.**

The accompanying document summarizes our reasons the Master Plan should be rejected: 1) a table documenting Land Development Code (LDC) violation, 2) comments on the traffic analyses, 3) LDC §42-74c – Protect and enhance property ownership and land values, 4) the geotechnical study and potential for flooding, and 5) LDC §42-74g – Promote environmental quality.

We particularly want to call out three items in the LDC compliance table starting on page 6:

- Item 10: §42-88 A. *Open space shall be composed of primary conservation area, secondary conservation area, remaining lands.* Conservation areas are not shown on the plan.
- Item 15: §42-95 C. *Letters showing sufficient capacity to make water and sewer connection must accompany the subdivision application.* As of the time of this letter, the County Planning Dept. has not confirmed a letter of agreement exists between the applicant and owners of the sewer system.
- Item 16: §42-110. *Additional Road Design Standards Applicable to all Road Classification. Acceptable angles of intersections are: (1) 90 to 75 degrees (preferred), (2) 75 to 60 degrees (acceptable under extreme conditions as determined by the reviewing agency).* As the LDC compliance table and map on page 14 show, there are two intersections where this requirement is not met.

We also want to call your attention to the two maps on pages 13 and 14. The first shows the differences between the "Site Plan" approved by the Technical Review Board and subsequent maps which were never formally approved by the Technical Review Committee. The second map shows our analysis of

substandard intersection angles, lots which abut open space, lots on dead end streets, lots within 50 feet of streams.

We have carefully reviewed information provided by the Planning Board on their web site including Section §42-340 (B) stating the purpose of the Master Plan. We have used this information in providing our evidence about land values, environmental quality, County roads, etc.

We understand this is an "Administrative Development Decision." We reviewed the UNC School of Government Coates' Canon NC Local Government Law article posted by the Planning Department by Adam Lovelady. The article clearly states that administrative decisions must be based on clear, **objective criteria**. The article makes it clear the County review process must go beyond just asking if the application is complete. EVPS's "deep dive" technical review of the Master Plan reveals numerous objective LDC violations despite several revisions by the applicant.

Section 42-74(C) of the LDC is another example of a clear, **objective**, review criterion that is not met. It states that one of the purposes of the County's subdivision regulations is to "protect and enhance property ownership and land values." The materials submitted by EVPS, including both a professional property appraisal study and EVPS' own analysis, show objectively that property values will decrease.

Similar to the last Planning Board Meeting, you will hear the applicant's representatives state that you must approve the project because the applicant has the law on their side or they have "checked all the boxes." However, the accompanying document identifies numerous ways the original application and latest plan still do not meet the Henderson County Land Development Codes.

The County and the Planning Board are responsible for ensuring that all of the LDC's regulations are enforced and that the spirit, purpose, and intent of the County's regulations are upheld. If the County's regulations are not met, the "laws" are violated, and the citizens of Etowah are damaged. We respectfully request that you reject the proposal from Tribute Investment & Development, Inc.

Sincerely,



Ward Seguin, Chairman

Etowah Valley Preservation Society

cc: Henderson County Planning, Henderson County Attorney
Tikkun Gottschalk, Deutsch & Gottschalk
Kevin Hornik, The Brough Law Firm
Brady Herman, The Brough Law Firm