



VILLAGE OF MARVIN

10006 Marvin School Road | Marvin, NC | 28173 | Tel: (704) 843-1680 | Fax: (704) 843-1660 | www.marvinnc.gov

TO: Village Council

FROM: Hunter Nestor, Village Planning & Zoning Administrator

SUBJECT: Public Hearing for Discussion and Consideration of the Heritage Subdivision MHD Rezoning Submittal

DATE: August 1st, 2022

Actions Requested by Village Council

Staff request the Village Council open the Public Hearing on August 9th at 6PM at Village Hall for Discussion and Consideration of Heritage at Marvin Subdivision Marvin Heritage District Conditional Rezoning Submission. A Public Hearing is required for consideration of a rezoning.

Background

Jones Homes USA has submitted an application for a zoning map amendment to rezone the 47.115 ACRES (2 Parcels) on New Town Road from R-Marvin Residential to the Marvin Heritage District (Residential Only). The subject properties are further identified by parcel numbers 06240005 and 06225022. The rezoning is for a major subdivision of 68 single-family homes.

This proposal is a different submittal from their 29 single-family homes major subdivision sketch plan that was approved in March of 2022 by the Village Council. That proposal was a by-right major subdivision submitted in compliance with the regulations in § 151.080 R MARVIN RESIDENTIAL DISTRICT and the sketch plan was approved by the Village Council following § 150.050 PROCEDURE FOR SECURING APPROVAL FOR MAJOR SUBDIVISIONS. The applicant submitted their by-right sketch plan in November of 2021.

The Village Council adopted the Marvin Heritage District Form-Based Code (MHD FBC) in January of 2022 ([OR-2022-01-02](#)). This established the Marvin Heritage Conditional Zoning District and the regulations for the district. The applicant submitted this rezoning application in April of 2022.



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Analysis

	Existing Land Use	Zoning Designations
Subject Properties	Vacant, Wooded Lot	R-Marvin Residential
North	Residential	R-Marvin Residential
South	Residential (Meadowlark)	R-Marvin Residential
East	Residential (Scott Lett Property)	R-Marvin Residential
West	Residential	R-Marvin Residential

General: The rezoning application is to rezone the subject properties from R-Marvin Residential to the Marvin Heritage Conditional Zoning District for 68 homes on 47.12 acres, yielding a density of 1.55 units/acre. There is 19.10 Acres or 40.55% of conservation area (30% Acres Min Requirement). The Applicant is proposing installing a lighted walking trail located in the 100FT buffer between the development and New Town RD. The applicant is also donating .7 acres of land for the 4th leg (access to Meadowlark LN) of NCDOT U-6088 Project (Marvin RD/New Town RD Roundabout). Additionally, the applicant is donating 2.25 Acres of the site to the Village for a future Heritage Park.

Lot Characteristics: The submittal is compliant with the minimum building type requirements for HD-RO Small Lot Homes in the MHD FBC. The lot characteristics are as follows:

- MINIMUM LOT AREA: 10,000 SF
- MINIMUM FRONT YARD SETBACK: 25 FEET
- MINIMUM LOT WIDTH: 70 FEET
- MINIMUM SIDE YARD SETBACK: 5 FEET
- MINIMUM REAR YARD SETBACK: 25 FEET
- MAXIMUM BUILDING HEIGHT: 35 FEET
- AVERAGE LOT SIZE: 12,325SF (0.28 AC)
- DENSITY: 1.55 DUA

CURRENT MARVIN HERITAGE DISTRICT = 7 HOMES / 123 ACRES= DUA OF 0.06

With the proposed development there would be a total of 75 HOMES on 123 ACRES FOR A DUA OF 0.61 in the Marvin Heritage District.



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Staff is providing the following chart to compare this project to other Conditional Zoning Developments in the Village of Marvin.

	<u>Marvin Gardens</u>	<u>Courtyards at Marvin</u>	<u>Amber Meadows</u>
Acreage	15.67 acres	20.5 acres	21.16 acres
Number of Units	25	61	44
Density	1.59 DU/AC	2.98 DU/AC	1.87 DU/AC
Minimum Lot Size	8,000 sq. ft.	5,312 sq. ft.	8,000 sq. ft.
Front Yard	20'	10'	20'
Side Yard	5'	5'	5'
Rear Yard	20'	5'	20'
Open Space/Conservation Land Provided	6.3 AC (40%)	5.069 AC (24.7%)	12.57 AC (52.26%)
Perimeter buffer	Existing Residential on the South and East Side 100' Existing Residential on the North Side 75'	Providence Glen 100' Stream Buffer North – Commercial 20' South – Residential 20'	Tullamore 25' North – 25' East - Stream Buffer

Conservation Land: At this time, the 19.10 ACRES (40.55%) of conservation land is intended to be a mixture of public active recreation with the park and lighted walking trail as well as potential trails around the Stormwater Ponds. The applicant will need to submit, a maintenance agreement that obligates either the property owner of the conservation land or other specified party as provided above, to implement the maintenance plan. This is required and the applicant will provide this prior to approval.

Tree Preservation: The applicant is proposing to disturb as little as possible. A 100 FT Tree Preservation Strip has been provided around the whole development with a 75 no-cut buffer along the existing residential properties in the Meadowlark Subdivision. If existing trees do not provide a fully opaque buffer, vegetative screening must be installed and maintained to enhance the buffer within the 75-foot buffer width. Tree Preservation and Mitigation Plan is required in the Preliminary Plat and Construction Documents Phase.

Water and Sewer: This development will utilize Union County Water and Sewer. The sewer will have a pump station that will serve the development as well as have the potential to serve surrounding properties. This will then be pumped to flow into Mecklenburg County, thus avoiding the current sewer capacity issues in Union County. The full details of the utility plan will be submitted during the preliminary plat and construction document phase if the rezoning is approved.

Buffers: The Developer is proposing a 100 FT Buffer surrounding the property. This complies with buffer requirements in the Marvin Heritage District Form-Based Code for developments abutting a Major Road and Rural Residential.



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Other agency notes (not fully required at this step):

- NCDOT: Applicant has already consulted with NCDOT, and the development now will only have one Primary Entrance and one Fire/Emergency access entrance. NCDOT may require additional road improvements to New Town Road.
- Union County Public Schools: The subdivision would add approximately 23 Pre-K students, 30 Elementary School Students, 16 Middle School Students, and 17 High School Students.
- The development will be served by Westly Chapel Fire, Union County EMS, and the Village of Marvin Deputies

Public Involvement Meeting: The Applicant held 2 Public Involvement Meetings. The first was held on April 28th, 2022, and the applicant held three sessions. The second PIM was held on June 2nd, 2022. Both were at Village Hall and had roughly 10-20 people for each session. The PIM Meetings minutes are attached in the Planning Board Packets.

Compliance with the Marvin Heritage District Form-Based Code and the Village of Marvin Zoning Ordinance

This submittal complies with the regulations and general standards of the Marvin Heritage District – Residential Only (HD-RO). This submittal complies with the regulations of Building Types for Small Lot Homes as outlined in the MHD FBC. This submittal complies with the general standards of the MHD FBC. This development complies with all other applicable sections of the Marvin Zoning Ordinance.

Development Agreement: The applicant has submitted a draft development agreement in compliance with the MHD Application Procedure and Requirements. This agreement is a draft, and the applicant will need to make any necessary revisions once reviewed by the Planning Board and Village Staff. A Final Draft of the Development Agreement will be provided to the Council Prior to the Public Hearing.

The development agreement shall be drafted in a format as directed by the Planning and Zoning Administrator. The development agreement shall then be presented to the Planning Board for a formal recommendation at a regularly scheduled meeting (July 2022). Said meeting shall be held prior to notification for a legislative hearing by the Village Council. The development agreement and the Planning Board recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.



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Land Use Plan and Other Adopted Plans Consistency

State Statute requires that all zoning regulations shall be made in accordance with an adopted comprehensive plan. When adopting or rejecting any zoning amendment, the Council shall approve a statement describing whether its action is consistent or inconsistent with our 2020 Land Use Plan or any other officially adopted plan that is applicable, and briefly explain why the Council considers the action taken to be reasonable and in the public interest. A Planning Board/Village Council can adopt a rezoning that is inconsistent, as long as it's acknowledged in writing and there is rationale for the decision.

The Village of Marvin Land Use Plan and the Marvin Heritage District Small Area Plan designates this area as the Marvin Heritage District. It designated the subject property as Residential Only within the Marvin Heritage District. The scale of the residential development is consistent with these adopted plans. The residential development is a compatible use due to the surrounding properties, transition to future adjacent light commercial and mixed uses, and minimum impacts on public facilities. The residential density on this specific property is found to be inconsistent with the recommendation of the 2020 Land Use Plan plan; however, it furthers it consistency with the maintaining the Marvin Heritage District overall density under one house per acre and consistent with recommended housing allocation percentage of the MHD Small Area Plan. Furthermore, this development is consistent with the goals and purpose of the plan by providing conservation land or fee-in-lieu for future greenway connections, maintaining rural aesthetics, transportation improvements, and economic development to the area.

Conclusion and Next Steps

The Planning Board has 60 days (this meeting and July meeting) to make a recommendation to the Village Council. Once a recommendation is made the Village council will Call for a Public Hearing and a date and time will for the Hearing will be set. After the Public Hearing the Council will vote on the rezoning application submittal. At any time, the applicant can amend his proposal, if they choose, from comments, feedback, and recommendations made by the Planning Board during this review or can agree to make changes as part of Planning Boards Recommendations. Planning Board can also recommend specific conditions of this approval for Council to consider. All conditions will be a part of the applicant's development agreement that is presented to Council when they are considering the application.

Once the public hearing has been held, the Village Council shall take action on the rezoning petition. The Village Council shall have the authority to: Approve the application, deny approval of the application, and approve the application with modifications that are agreed to by the applicant; or send the application to the Planning Board for further study. The Village Council may hold additional public hearings on an application at any time before it takes a final vote to approve or deny that application.



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If the rezoning sketch plan is approved by the Village Council the applicant can move forward with the following required steps:

Preliminary Plat and Construction Plans. After staff review, the Planning Board shall be required to make a recommendation on the preliminary plat/construction plans within 60 days after the date at which the Planning Board first met to review the plat. The Village Council shall then review the preliminary plat/construction plans. Both are reviewing compliance with the requirements of the ordinance and rezoning standards. The Council may be approved (with or without conditions) or deny the preliminary plat/construction plans. During the preliminary plat/construction plan review, elements of the plans may be approved by the Design Review Authority.

Land development permit: authorization to install improvements. Approval of the preliminary plat/construction plans by the Village Council shall be a prerequisite to the land development permit for the developer to install the required improvement in the proposed subdivision as required by the Village Council (this is horizontal work only, not vertical building construction). No clearing, land disturbing activity, or improvement of any kind shall commence until the preliminary plat/construction plan has been approved and Village staff has approved and issued a land development permit. The land development permit shall not be issued until all conditions, if any, on the approved preliminary plat/construction plan, are satisfied.

Final plat submittal. A final plat is required prior to subdividing lots. The Zoning Administrator shall review the plans and submit the final plat to the Planning Board. The Planning Board shall be required to make a recommendation on the final plat within 30 days after the date at which the Planning Board first met to review the plat. The 30 days may be extended by the Village Council upon request of the Planning Board. Approval of the final plat shall be obtained from the Village Council. If approved, the final plat is recorded with the Register of Deeds.

Design Review Authority.

The design review authority shall review the plans prior to issuance of a zoning permit. The plans shall be in conformance with the development standards of the site. The design review process and submittal requirements were amended to allow a thorough review of the site plan, landscape plan, elevations and signage. The Design Review Authority has the ability to review plans to see if they violate any requirements of the Village's ordinances and/or Land Use Plan, including any requirements applicable to the particular conditional zoning district at issue; or cause the development not to be in harmony with its surrounding area or it is not otherwise within the spirit and intent of the village ordinances. A recommendation of approval or denial will be reviewed by Village Council at their next meeting.



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Recommendations

Staff Recommendation

Staff is of the opinion that findings can be made to support this rezoning application for the development at the subject property. The Planning Board and Village Council shall discuss adding conditions of the approval.

Conditions:

- CCR's for the development shall be reviewed and approved prior to construction and preliminary plat approval.
- Require a photometric plan for all pedestrian facilities and signs during zoning permit review.
- Development shall be subject to the Village of Marvin Engineering Standard Manual.
- The maintenance plan shall be submitted for consideration prior to construction and preliminary plat approval.
- Discuss any recommended road improvements and traffic calming with NCDOT prior to construction and preliminary plat approval.

Parks, Recreation and Greenway Board Recommendation:

The PR&G Board reviewed the rezoning submission at their meeting on July 12th, 2022. The motion from that meeting of the PR&G Board is below:

Moved: Vice-Chair Culp

Seconded: Bob Nunnenkamp

To recommend approval with the following conditions:

- Conserve native plants where possible and replant with native species
- Installing lights on timers along paths
- Use of asphalt for paths closer to pedestrian and potential commercial areas and natural materials for internal paths.

Result: Motion Passed Unanimously



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Planning Board Recommendation:

The Planning Board reviewed the rezoning submission at their meeting on July 19th, 2022. The motion from that meeting of the Planning Board is below:

Moved: Michael Lavelle

Seconded: Vice-Chair Holzberg

To recommend approval of the Conditional Rezoning submission with the following additional conditions:

- CCR's for the development shall be reviewed and approved prior to a land development permit.
- Require a photometric plan for all pedestrian facilities and signs during the construction plan phase.
- Development shall be subject to the Village of Marvin Engineering Standard Manual.
- The maintenance plan shall be submitted for consideration.
- Discuss any recommended road improvements and traffic calming with NCDOT.
- No fencing shall be allowed in the front yard.
- Receive comments from Union County Public Schools on school capacity prior to the public hearing.
- Remove the deviation on side and rear setbacks for accessory structures.

Result: Motion Passed Unanimously