



AGENDA

Regular Town Board Meeting

August 1, 2022 - 6:00 PM

TOWN HALL (101 Huntersville-Concord Road)

Persons desiring to address the Board during a public comment period or a public hearing shall list their full name, address, telephone number, and subject matter to be discussed on the speaker sign-up sheet as provided by the Town Clerk prior to the beginning of the meeting. Once the meeting has begun, a person may not sign up to speak.
(Public Comment and Public Hearing Policy - Adopted April 19th 2021)

- 1. Call to Order**
- 2. Invocation/ Moment of Silence**
- 3. Pledge of Allegiance**
- 4. Staff Questions**
- 5. Public Comments, Requests, or Presentations**
 - 5.A. Livestream Platform Update. *(Kim Strickland)*
- 6. Agenda Changes/Adoption of Agenda**
- 7. Consent Agenda**
 - 7.A. Approve the minutes of the May 16, 2022 Regular Town Board Meeting. *(Janet Pierson)*
 - 7.B. Call a public hearing for Tuesday, September 6, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-10, a request by the Huntersville Planning Department clarifying that single family detached homes and duplex house types are not permitted on multi-building sites. *(Nathan Farber)*
- 8. Public Hearings**

- 8.A. Conduct public hearing on Petition #S22-02, Novant Health Special Sign District, a request by Lockwood Identity Inc. (Sign Art) to amend the plan for the Special Sign District Zoning Overlay for Novant Health Hospital located at 10030 Gilead Rd, Tax Parcel 01716601. *(Kayleigh Mielenz)*

9. Other Business

- 9.A. Consider a decision on Petition #TA22-05, a request by the Huntersville Town Board to amend the Subdivision and Zoning Ordinance by changing subdivision sketch plan decisions from a quasi-judicial process (Planning Board recommendation, Town Board decision) to an administrative process (staff decision) including miscellaneous ordinance clean-up adjustments. *(Jack Simoneau)*
- 9.B. Consider recognizing Juneteenth as staff holiday. *(Lara Cagle)*

10. Mayor and Commissioner Reports/Closing Comments

11. Adjourn

Special Accommodations: Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format please contact the Town Clerk. The Clerk can be reached by phone or fax: 704-875-6541, email: clerk@huntersville.org or at 101 Huntersville-Concord Rd, Huntersville, NC 28078. We request at least 72-hours' notice prior to the meeting to make the appropriate arrangements.

The Board reserves the right to deviate from the agenda.

**Town of Huntersville
Town Board
August 1, 2022**

To: Town Board

From: Janet Pierson, Town Clerk

Date: August 1, 2022

Subject: Approval of Minutes - May 16, 2022

EXPLAIN REQUEST:

Consider approving the minutes of the May 16, 2022 Regular Town Board Meeting.

ACTION RECOMMENDED:

Approve Minutes

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Draft Minutes

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**May 16, 2022
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

The Huntersville Board of Commissioners held a Pre-meeting at Huntersville Town Hall, 101 Huntersville-Concord Road, at 5:15 p.m. on May 16, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the Pre-meeting to order.

Affordable Housing Discussion. Bobby Williams, Assistant Town Manager, presented information concerning affordable housing. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

Laura Belcher, President and CEO of Habitat for Humanity of the Charlotte Region, provided information on Habitat's affordable housing programs, including the critical repair program.

Mr. Williams will continue to gather information on how the programs could work for Huntersville, including land availability.

Introduction of ElectriCities Manager. Jackie Huffman, Deputy Town Manager, introduced David Lucore, the new manager of the Town's electric system, replacing Don Mitchell who retired April 30.

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on May 16, 2022.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the meeting to order.

Mayor Bales called for a moment of silence.

Mayor Bales led the Pledge of Allegiance.

STAFF QUESTIONS

Commissioner Boone requested Staff follow-up on information that was requested from the North Carolina League of Municipalities and CATS when they made their presentations to the Town Board.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Police Week Proclamation. Mayor Bales proclaimed May 15-21, 2022 as National Police Week.

Town of Huntersville Proclamation

Whereas, every day across the Town of Huntersville, police officers bravely and courageously risk their well-being to protect and serve our community and preserve the peace and order to which every citizen is entitled; and

Whereas, May 15th – 21st, 2022 has been designated as “National Police Week” to honor the police officers who put their lives on the line to keep our communities safe; and

Whereas, the Huntersville Police Department consists of 102 full-time sworn police officers and 15 law enforcement support staff. The Police Department is responsible for 24-hour community wide law enforcement and responds to all requests for emergency services. The Police Department responds to an estimated 65,000 calls for service per year; and

Whereas, the members of the Huntersville Police Department are dedicated to ensuring public safety and enhancing the quality of life in the Town of Huntersville by serving as leaders and mentors, educating the community about the importance of public safety; and

Whereas, we appreciate the extraordinary efforts and sacrifices made by officers and their family members daily, to protect our schools, workplaces, roadways, and homes.

Now, Therefore, I, Melinda Bales, Mayor of the Town of Huntersville, North Carolina, do hereby proclaim May 15th – 21st, 2022 as “National Police Week” in the Town of Huntersville and on behalf of the Huntersville Board of Commissioners do hereby honor and thank all the police officers in the Town of Huntersville during this week and commend those officers for their willingness and dedication to protect and serve our community.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 16th day of May 2022.

National Public Works Week Proclamation. Mayor Bales proclaimed May 15-21, 2022 as National Public Works Week.

Town of Huntersville Proclamation

Whereas, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Huntersville; and

Whereas, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

Whereas, it is in the public interest for the citizens, civic leaders and children in Huntersville to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

Whereas, the year 2022 marks the 62nd annual National Public Works Week sponsored by the American Public Works Association.

Now, Therefore, I, Mayor Melinda Bales, Mayor of the Town of Huntersville, do hereby proclaim May 15 – 21, 2022 as “***National Public Works Week***” in Huntersville and urge all citizens to join with representatives of the American Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town of Huntersville to be affixed, this the 16th day of May 2022.

National Kids to Park Day Proclamation. Mayor Bales proclaimed May 21, 2022 as Kids to Parks Day.

Town of Huntersville Proclamation

Whereas, May 21, 2022, is the twelfth Kids to Parks Day organized and launched by the National Park Trust held annually on the third Saturday of May; and

Whereas, Kids to Parks Day empowers kids and encourages families to get outdoors and visit local parks, public lands, and waters; and

Whereas, we should encourage children to lead a more active lifestyle to combat issues of childhood obesity, diabetes, hypertension, and hypercholesterolemia; and

Whereas, Kids to Parks Day will broaden children's appreciation for nature and outdoors; and

Whereas, Kids to Parks Day will recognize the importance of recreating responsibly while enjoying the benefits of the outdoors.

Now, Therefore, I, Melinda Bales, Mayor of the Town of Huntersville, do hereby proclaim May 21, 2022, as **Kids to Parks Day** in the Town of Huntersville and encourage all of our residents to celebrate by taking the children in their lives to a neighborhood, town, state or national park.

In Witness Whereof, I do hereby set my hand and cause the Seal of the Town to be affixed, this the 16th day of May, 2022.

Non-discrimination Ordinance Discussion. Commissioner Munger said I just want to give a brief PowerPoint presentation. *PowerPoint attached hereto as Exhibit No. 1.* There's actually only eight slides to it. I'm going to kind of run through it. There will be a Q&A at the end, so if we can hold questions until that point. I'll have a couple of people make some comments along the way.

Just a quick background. In December 2020, a key section of HB142 expired which lifted the moratorium on North Carolina municipalities passing non-discrimination ordinances. With that, we can now pass the NDO's with the authority under 160A-174 or in some instances specific charter authority or local legislation.

To the best of my knowledge, and someone may end up correcting me, I believe there are 19 different municipalities within North Carolina that have passed an NDO. The questions I am going to try and address tonight will be don't existing laws provide these protections, how would enforcement be handled, what type of acts would be prohibited, and are there any exemptions. This is a lot of information as you will notice.

One of the things we do hear is aren't these classes already protected by existing laws. Some are, but especially in the realm of public accommodations which are the two further columns, they are not by and large as you can see. Everything in red means those specific protected classes are not covered under public accommodations and you just kind of quickly go through everything – age, color, creed, disability, ethnicity, familial status, gender expression and gender identity, marital status, national origin, political affiliation, pregnancy, protected hairstyles, race, religion, sex, sexual orientation and veteran status. It does give you a good overall view because a common theme I'm hearing is we don't need to pass an NDO because it's protected. As you can see for public accommodations, it is not.

Public Accommodation Prohibited Acts. This is essentially taken from the Charlotte NDO and we would be looking to pass something very similar to this. It shall be unlawful to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of a protected class. It shall be unlawful to make, print, circulate, post, mail or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, or denied any person because of a protected class or that any person's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a protected class provided, however, this section does not apply to a private club or other establishment not, in fact, open to the public. These are the two specific things for prohibited acts under public accommodations.

This is the existing process that the City of Charlotte uses. They use what's called a Community Relations Committee and we are fortunate enough to have the Executive Director of the Community Relations Committee, Willie Ratchford. Mr. Ratchford, if you could just kind of walk us through this process.

Willie Ratchford said thank you for the opportunity to come and talk about the process for receiving and investigating complaints of discrimination under the Charlotte NDO. I work as the Executive Director with the City's Community Relations Department and I have been investigating these types of complaints for 42 years now and I've worked with the City of Charlotte for the past 47 years. If you will look at the process map that's on your screen, one of the first things that we want to do when we receive a complaint is to make sure that it is not a frivolous complaint and that people who are filing the complaint are serious and they understand the nature of what it is that they are doing. Before we will actually receive a complaint, we need to make sure that complaint is jurisdictional and the questions up on the left-hand side of your presentation are the five questions that we ask. If the answer to all five of those questions is yes, the more likely than not we have jurisdiction and we can open and receive that complaint. However, if the answer to any of the five questions is no, then more likely than not, that complaint is not jurisdictional and we would not receive it. We want to make sure that the complainant or the person who is actually filing the complaint has standing to file and secondly, that the respondent who is the entity against whom the allegation is being made against, is covered under the ordinance. For instance, when Commissioner Munger was reading earlier, he mentioned that it does not cover private businesses, so if someone filed a complaint against a private entity, we could not receive that complaint because it's not necessarily a place of public accommodation. Now in this instance we have that employment related transaction is covered under the city ordinance. One of the things that's different with the city ordinance and what you all are considering is that the city's Non-discrimination Ordinance in addition to covering public accommodations, it also covers employment discrimination, but employment discrimination and public accommodation complaints are investigated just the same.

The subject matter is covered under the ordinance and then the complaint has to be timely filed. If you are going to allege a complaint under the NDO to our office, you have a 180-day statute of limitations and so we would want to know the date that the incident actually happened and if it's more than 180 days, then at that point we determine that it's not jurisdictional and we could not receive it. Again, we want to make sure no one is filing frivolous complaints and that they are in fact serious when they file the complaint. If they are successful in filing the complaint, if you look over to the far right again, it has to be filed within 180 days. After they file with us, we will actually open a case within 5 business days and the case is considered to be received when I, as the Director, sign off on the necessary forms that have been completed. Within 10 days of my signing off on it and assigning it to an investigator, we will mail an interrogatory questionnaire and notice of complaint to the respondent and the complainant has two choices – they can respond to the questionnaire that we've sent, or they can engage in conciliation. If we are able to conciliate the matter successfully with the respondent prior to the investigation, we then have the ability to close the complaint administratively without a finding of fact and it's done. And then we also have 100 business days to actually complete our investigation.

If you look at the more colorful graphics here down the middle, once an investigator completes his or her investigation of the complaint, they would submit it to me as the Director and I have to review it and make a determination as to whether I think, based on that investigation, discrimination has or has not occurred. If I feel that it has not occurred, we would make what's called a no cause finding and we would close the complaint out at that point. If I determine that it is a cause finding, which means that the evidence that we have gathered in the case leads us to believe that there was some disparate

treatment of an individual because of their protected status, then we would make what's called a cause finding. By ordinance, or by law, after a cause finding is made, we are required to attempt conciliation again. If we are successful, then we close the complaint out at that point. If we are not successful, then we would set up a public hearing, we go to the public hearing and the officers in the public hearing will determine whether the investigation of the Community Relations Committee staff was sufficient to sustain a cause finding or not. If they decide not, then there's no cause at point and we would close the complaint out again. If they determine that it is, then we again would attempt conciliation. If that conciliation is unsuccessful, we would then refer the matter to the City Attorney's office for appropriate action. That is a quick review of the manner in which we investigate.

Commissioner Munger said I just want to make two points of clarification at this point. The Town of Davidson is actively working on the possibility of using Charlotte's Community Relations Committee. My understanding is the proposed fee for that would be \$2,500 per case. Is that accurate?

Mr. Ratchford said yes and no. We have been having conversations with the Town of Davidson about the possibility of our staff investigating their complaints. We did not propose that fee. They offered that fee and it sounded very attractive, so I said yes.

Commissioner Partee said I would just like to ask a question while we are on this subject here. At the bottom of the investigation, it says the CRC shall refer to the City Attorney's office for appropriate action. What other action now can the City Attorney impose on this particular respondent.

Mr. Ratchford said that will be determined by the City Attorney.

Commissioner Partee said is it criminal or is it civil.

Mr. Ratchford said it's all civil matters.

Commissioner Munger said the only other question I had, my understanding is at this point, year-to-date the number of complaints you've actually had filed are two.

Mr. Ratchford said there's been some misinformation about that. We have a total of nine complaints received at this point since January. We got a question the other week about the number of complaints that we had received in which a member of the LGBTQIA+ community had filed a complaint and there are two of those. However, the total number of complaints under the Non-discrimination Ordinance at this point is nine and we expect that to go up dramatically in the coming months because we have started a very aggressive public education and information campaign to inform folks of their rights and as people learn of the protections that they have, those complaints will come in on a more regular basis.

Commissioner Munger said on Employment Prohibited Acts which Mr. Ratchford also referred to, one of the things that we are looking at doing here is we have a possibility of putting this to the CRC or we could also switch it up and be able to use the existing Equal Employment Opportunity Commission, the EEOC, and I'm going to let our Town Attorney, Ms. Sloop, kind of address how we are looking at swapping and beyond this.

Emily Sloop, Town Attorney, said in some preliminary conversations when I was first reviewing the Charlotte NDO language, I noticed that one of the options that they had was stating that in lieu of the Community Relations Department investigating if they felt that there was a more appropriate agency such as the EEOC that had jurisdiction over the claim that they could, in their discretion, send it to the

EEOC first. If this Town Board does choose to move forward and adopt or direct staff to draft an ordinance for consideration, I would suggest that if there is a more appropriate agency identified, that it always go to that agency first rather than to the Community Relations Department.

Commissioner Munger said NDO exemptions. Common refrain that I have heard is this would put undue burdens on religious organizations and the first thing you will notice there is (a) A Religious Organization that employs an individual to perform work associated with the religious organization that insists employees adhere to the tenets of the religious organization as a condition of employment. An employee may express the employee's sincerely held religious or moral beliefs and commitments in the workplace in a reasonable, non-disruptive and non-harassing way on equal terms with similar types of expression of beliefs or commitments allowed by the employer in the workplace, unless the expression is in direct conflict with the essential business related interests or needs of the employer.

There are specific exemptions, and I understand the need for these, so we are open to the possibility of certain exemptions, and these are the ones that we actually have listed. Again, this is taken from the Charlotte Non-discrimination Ordinance. This is just transportation related prohibited acts. No for-hire company, for-hire vehicle owner, and/or for-hire driver shall refuse or neglect to transport any person on the basis of a protected class as that term is defined in Chapter 12 of the Charlotte Non-discrimination Ordinance.

Before I do open it up for questions, I'd like to introduce two people in the audience. Mr. Kyle Luebke, you could probably describe it better than me, but you were one of the people that helped draft the original Charlotte Non-discrimination Ordinance. I also have Tarik Bokhari. He is a Charlotte City Council member who actively worked on passing the Charlotte NDO as well. Between the three people here they should be able to address most of the questions and if we have questions that go unanswered, I will hunt them down and find an answer for you.

Commissioner Kovacs said I wanted to clarify, is it just private clubs that this would not pertain to or also private businesses.

Mr. Luebke said the private club exemption would be for private clubs. Places of public accommodation are generally those areas open to the public, so a restaurant, for example, would be a place of public accommodation, even if it is privately owned, unlike the Charlotte City Club, they would not be bound by this because that is a private club.

Commissioner Kovacs said what about the store across the street.

Mr. Luebke said the store across the street would be a place of public accommodation.

Mayor Bales said we do have some public signed up to speak on this topic. We will open it up after this presentation and after that Board's discussion.

Commissioner Boone said I heard a number of nine cases in Charlotte so far and more pending. Are you aware of any documented cases from the Town of Huntersville.

Mr. Ratchford said I am not aware of any documented cases from the Town of Huntersville.

Commissioner Boone said do you think if this ordinance passes, it would help or hinder local businesses.

Mr. Ratchford said I think it would help local businesses. If you are in the business of discriminating against people because of their protected status, it might hinder what you are doing. But if you are in the business of treating people fairly and making sure that everyone regardless of their identity or their protected status have access, then it would actually increase business I believe.

Commissioner Boone said if I'm a business owner and somebody brought a case against me and it was approved, I would be responsible for hiring an attorney and getting litigation, there would be a cost to that business, correct.

Mr. Ratchford said if you were a business owner and a case were filed against you, you would have the option of hiring an attorney to protect you or you might do that yourself. In the cases I've done over the past 42 years, about half of the entities hired an attorney and the other half handled it themselves.

Commissioner Munger said I would just like to say if you guys could hang out for a little while, once we have public comments, that would be much appreciated, because there may be additional questions.

Mayor Bales said there will not be back and forth once we move into public comments.

Commissioner Munger said I would assumed that the public would be able to make their comments, run through the entire length of their comments and once that is done if there are lingering questions, which it sounds like there may be from Commissioner Boone, they would address them after – it would never be a back and forth and that's for everyone.

Mayor Bales said again, once the discussion, the way that it is on our agenda, and once the discussion....

Commissioner Munger said I'm just trying to figure out what Commissioner Boone wants to do after.

Mayor Bales said I understand, and it may be that those questions need to come up the next time we have discussion around this. We typically don't go back to an item once the item.....

Commissioner Munger said I wanted far more discussion at this point, and I wanted the questions now. If you have the questions now, we have the bodies here to answer those questions.

Mayor Bales said I hear you.....we do have individuals that came up here to answer your questions. I would encourage the Board to continue to jot what they hear from the public and then reach back out to Commissioner Munger, Commissioner Phillips, and I'm sure we can get our speakers this evening, their email addresses, and get your questions answered at that point.

Commissioner Munger said I do want to say thank you all so much for coming.

Mayor Bales said we will now move to public comments.

BeeJay Caldwell, 14521 New Haven Drive, addressed the Board. *Refer to written comments attached hereto as Exhibit No. 2.*

Mayor Bales requested Police Chief Bence Hoyle update the Board on the incident Ms. Caldwell referenced.

Chief Hoyle said we've been investigating this case since it started. The officer that is working this case is trying to piece together evidence. Our goal is to identify a suspect. We have not been able to do that. Our cameras don't read tag numbers. Sometimes we get lucky if the conditions are right and we can see a tag number, but it was at night, it was rainy, and I don't anticipate they've gotten that from the cameras yet. I will tell you, it's a white work truck. We don't have an exact time he came through the intersection, so it's taking them a little while to work through that. I talked to the officer about that tonight after I talked to Ms. Caldwell, and he is working that case actively and has got a request for video analysis out. Unfortunately, the road rage stuff is not extremely uncommon. We see a lot of that happen and we investigate every one of them very actively. Hopefully, we'll have a resolution of this one as well.

Al Medino, 8218 Coristar Place, said I'm here to address the David Kenney Farm Road cut-through. I know there's been a lot of discussion. I know obviously that has to be voted on to see if it's going to stay in the budget or not. We had done an impromptu survey with the neighborhood and 85 percent of the people were against it and we do understand that eventually it's going to have to go through. If it can be tabled for a while until 73 gets underway, that for us would be ideal because David Kenney Road is a narrow two-lane road. It has no lights, no sidewalks, and no speed humps at all. It was built 35 years ago, so it's an extremely narrow road and there's a blind curve on that road. I understand there was an accident last week involving a school bus on that road because it's so narrow and the speeding issue in there is really getting to be out of control. We were asked what safety features we would need when we attended a board meeting that discussed David Kenney for the cut-through. We were given the impression that those particular issues that we were requesting were speed humps to slow that traffic down, a sidewalk and lights for safety because there are no lights on that street at all. And then when I talked to Ian Fowler, he said that it's not going to be a part of a whole package, it's going to be separate issues that have to be voted on by the Board. We would like those issues taken into consideration. Also, we've been on the sidewalk list. I've been a resident in there for 20 years and we've been on the sidewalk list for over 15 years. We haven't had any progress on that issue either. We failed the traffic calming study twice. That was three years ago. I've got a letter from Stephen Trott with his recommendations to put in a phase to put in the speed humps to slow traffic down and nothing's been done. If this particular project does get shelved and we put it off for several years down the road or whatever it might be, we're requesting if we can at least get the speed humps in there to slow the traffic down. We've called the police and they have gone and talked to the people, but the neighbors themselves are stopping trucks and we're stopping neighbors that are flying through that neighborhood and it's really getting out of control, so we need some help as a community. Basically, that's why I'm here, just to ask if that project does get delayed, if we can at least get some help with that speeding issue that's going on in the community.

Dennis Golden, 13420 Fremington Road, said we purchased property here in 1997, built a house in 1998, but we moved here in 2014 after I finally retired after 25 years as the vice president of student affairs of three different universities and as the university president for 20 years, so the kind of considerations that Mr. Munger and others are speaking about are not new to me. I do have some questions as a citizen of this community. To what degree right now here in the Town of Huntersville do we have a pressing need for this particular ordinance to be organized and established? What changed recently? I know, Mr. Munger, what you said about the state government. When did that happen to allow the towns to do it? As a town of approximately 57,000 – 60,000 people, do we really need a community relations office and a commission of multiple people and to what degree will that cost the city for those people to be assigned or welcomed aboard to be on that commission? Regarding the community relations committee conciliation division, who is it accountable to and how will the Town identify appointees to that commission? What are the criteria and qualifications needed for people to serve on

that type of very important commission? I think that needs to be carefully looked at. For the community relations committee of this ordinance merely end up being a very large bureaucracy that can be politized and subject to pressure regarding these cases. I would trust not ever. I don't get that sense necessarily in the presentation that was made by our distinguished guests here this evening, but I certainly am careful about those kinds of considerations because I've been through those things many times.

Joe Gragg, 17428 Invermere Avenue, said a couple of questions that I have is as of September 2021 out of 552 municipalities that are in our state, only 12 cities Charlotte, Raleigh, Durham, Chapel Hill, Asheville, cities of kind of similar size, mainly blue cities, have passed these ordinances and one of the questions that I have is this more towards a political statement or more towards a problem that actually exists. Could this community relations committee and the conciliation division actually create divisions that are leading to unity and equality. As Ms. Caldwell spoke earlier, and I'm a native North Carolinian, a lot of these problems we've never seen and now we are creating a forum for these problems when the problems aren't even there. Is it a solution or is it a problem that's being created. In other cities it's been said that non-discrimination ordinances help attract businesses. Has Huntersville had problems attracting business and has this data existed to support this assumption about Huntersville to where this has actually been a problem. Going further, how would this controversial ordinance in other localities increase the burden on certain businesses address the problem and nationally are businesses now pulling away from some of these hot button issues. In other words are some of the businesses actually leaving places where this is actually being brought forward and causing more hardship on the businesses, in addition to taxation and the whole bit.

Glenn Yellico, 13834 Foxlyn Trail Court, said I'm a resident of the Town of Huntersville. Regarding the proposed ordinance, I just have a few points I would like to make here. Each person has dignity and should be treated with respect including those who identify themselves by sexual orientation or gender. My faith teaches that discrimination should be overcome as it is against God's will. This proposed ordinance, however, would actually discriminate against people whose belief about gender and sexuality run different from what is described in this ordinance. Over the past decade non-discrimination ordinances have been used to target small business owners who oppose discrimination yet simply hold beliefs, including religious beliefs, counter to the ordinance and now Huntersville business owners could be exposed to suffer from this discrimination. Why would the Town wish to subject business owners to the risk and harm in the business climate. People's conscience rights and sincerely held beliefs are protected under the first amendment that have been harmed by such ordinances. People of faith live out their religious beliefs not just inside their homes of worship, but in the community. We have seen this beautifully in the many instances where residents have helped those in need or even founded organizations to assist a broader group in our community. Will these groups now be subject to investigations for living out their religious beliefs in public. The Charlotte ordinance does not appear to protect religious businesses. What will this community relations committee do if it has no cases. Will it start looking for some that don't exist. Whatever the original intention of this non-discrimination ordinance was, it would actually create more discrimination and coerce small business owners into accepting a view different than one's conscience or sincerely held religious beliefs. Does the Town wish to increase discrimination or reduce it. It will harm those who live by their conscience rights and sincerely held religious beliefs. Passing this ordinance I believe would seem to go against the long standing principle in this town to respect the rights of conscience leaders. I would ask the city to consider the first amendment implications before considering this ordinance.

Tarik Bokhari, 3320 Sharon Road, Charlotte, said it's important for me to tell you why we did this in Charlotte and I'll just tell you what we did in Charlotte which is unique to Charlotte perhaps. We were

at a spot where I knew it was coming, a non-discrimination ordinance was on the way, it was going to happen and I knew that after trying multiple times with my colleagues on the other side of the aisle, they were not going to collaborate in order to build it. We were in a spot where I knew it was coming and I knew that the approach that was going to be taken was going to be one of pandering towards groups without a lot of logic towards it which really scared me. I pulled together a group of Kyle and other young Republicans in town and we went to work of saying how do our principles that define us enable us to take a position and we settled on freedom, individual liberty. It was very simple and that's where we set to the hard work of saying how would we craft this to make sure we are respecting that. And we did an approach based on expressive behavior in the business world where if you are a small business that bakes cakes, I am infringing on your individual liberty and freedom if I ask you to bake a cake that you don't believe in because you are doing expressive active behavior. However, if you are a business that has a standard menu and you're just having people coming in ordering off that menu, well you are infringing on my individual liberty by saying I don't like the way you look, you can't come in here. Same with housing. I can't say you can't rent this apartment because that's the same for everyone, but I can say I'm an interior decorator that's not going to do that for you because I don't believe in that, so we took this scalpel approach making sure that it was always centered around not putting someone in a position where you are infringing on my rights making me believe or endorse something over there and by doing this proactively, we were able to take our principles in a manner that made a lot of sense and I've worked with the faith community, worked with Raleigh and others to say do you guys buy this because we can take the lead in a city like Charlotte and that's where at the end of the day I think you guys if you are interested could take it even steps further and make it stronger. I tried to convince my colleagues to say political affiliation, do we believe all discrimination is bad, therefore if I'm a republican and my boss finds out that I'm a republican on the weekend and fires me because of that, is that okay. They did not agree that discrimination wasn't okay, but the point of the matter is we should be against all discrimination and you can see by the counts, just as we expected, this is not a high volume thing. It was something, though, where we knew it was coming and we could put something that made more sense in place by being proactive. Hopefully, that gives you a little context on why we did it and the reason.

AGENDA CHANGES

Commissioner Phillips made a motion to adopt the agenda.

Commissioner Kidwell seconded motion.

Motion carried unanimously.

CONSENT AGENDA

Contract – Installation of Underground Facilities. Commissioner Kidwell made a motion to approve contract with new underground contractor for installation of underground facilities for FY23. Commissioner Phillips seconded motion. Motion carried unanimously.

Contract attached hereto as Exhibit No. 3.

Resolution Authorizing Increase to Returned Check Fee. Commissioner Kidwell made a motion to adopt Resolution authorizing changes to the Town's Fee Schedule. Commissioner Phillips seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 4.

Budget Amendment – HFFA Rental of A/C Units. Commissioner Kidwell made a motion to approve budget amendment appropriating Fund Balance in the Tourism fund in the amount of \$200,000 for the rental of air-conditioning units to improve air quality and decrease humidity in the 50M pool at the Huntersville Family Fitness & Aquatics facility during the summer and into the fall months. Commissioner Phillips seconded motion. Motion carried unanimously.

Accept Portion of Ramah Church for Town Maintenance. Commissioner Kidwell made a motion to accept a portion of Ramah Church Road for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Ramah Church Rd. (Ext)	N Old Statesville Rd (115)	Dead End	215

Accept Streets in Bellington Phase 1 for Town Maintenance. Commissioner Kidwell made a motion to accept streets in Bellington Subdivision Phase 1 for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Bellington Drive	Huntersville-Concord Rd	Union Square Dr	391
Union Square Drive	Tilesford Ln	100' E of Bellington Dr	367
Tilesford Lane	Oxford Glenn Dr	Union Square Dr	663
Rushwick Drive	Tilesford Ln	350' N of Tilesford Ln	350
Oxford Glen Drive	62' W of Caldeford Ln	273' N of Tilesford Ln	566
Caldeford Lane	Oxford Glenn Dr	Bellington Dr	665

Accept Streets in Bellington Phase 2 for Town Maintenance. Commissioner Kidwell made a motion to accept streets in Bellington Subdivision Phase 2 for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Union Square Drive	130' W of Oxford Glenn Dr.	100' E of Bellington Drive	1718
Union Square Drive	300' W of Bellington Dr	Union Square Drive	469
Oxford Glenn Dr	Union Square Dr	289' S of Union Square Dr	289
Rushwick Dr	202' N of Union Square Dr	281' S of Union Square Dr	483
Fullbrokk Dr	Union Square Dr	End of Road	366

Accept Streets in Farrington Phase 1 for Town Maintenance. Commissioner Kidwell made a motion to accept streets in Farrington Subdivision Phase 1 for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Longford Crossing Place	McIlwaine Road	Journeys End Trail	875
Slievroe Court	Longford Crossing Pl	Longford Crossing Pl	595
Journeys End Trail	121' W of Longford Crossing Pl	145' E of McDowell Crossing Pl	790
McDowell Crossing Place	Journeys End Trail	550' S of Journeys End Trail	550

Accept Street Segments of Holbrook Street Extension Project for Town Maintenance. Commissioner Kidwell made a motion to accept street segments constructed by the Town as part of the Holbrook

Street Extension Project for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Holbrook Street	179' E of Margurite Ln	856' W of Margurite Ln	1035
Margurite Lane	110' N of Holbrook St	Holbrook Street	110
Commerce Centre Drive	327' N of Holbrook St	Holbrook Street	327

Accept Hunstad Boulevard for Town Maintenance. Commissioner Kidwell made a motion to accept Hunstad Boulevard for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Hunstad Blvd	Statesville Rd / NC-21	465' E of Statesville Rd	465

Accept Jamesburg Drive for Town Maintenance. Commissioner Kidwell made a motion to accept Jamesburg Drive for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Jamesburg Drive	Sam Furr Rd / NC-73	2,300' N of NC-73	2,300

Accept University City Church Drive for Town Maintenance. Commissioner Kidwell made a motion to accept University City Church Drive for Town maintenance. Commissioner Phillips seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Len
University City Church Dr	Sam Furr Rd / NC-73	765' N of NC-73	765

Resolution – Accept Carver Avenue from NCDOT for Town Maintenance. Commissioner Kidwell made a motion to adopt Resolution to accept maintenance of Carver Avenue from NCDOT. Commissioner Phillips seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 5.

Resolution – Accept Overhill Road from NCDOT for Town Maintenance. Commissioner Kidwell made a motion to adopt Resolution to accept maintenance of Overhill Road from NCDOT. Commissioner Phillips seconded motion. Motion carried unanimously.

Resolution attached hereto as Exhibit No. 6.

PUBLIC HEARINGS

Proposed Budget for FY23. Mayor Bales called to order public hearing to receive comments on the proposed budget for FY23.

Anthony Roberts, Town Manager, presented the Manager's Recommended Budget for FY23. *Refer to PowerPoint attached hereto as Exhibit No. 7.*

Rachel Zwipf, 13021 Central Avenue, said I just wanted to address the Board real quick about the budget and the Waymer Park and the upgrades. I spoke to my son and about 15 other kids that spend most of their time between my house and the park every day. I would have brought them today, but they were at the park. They were really excited to hear that you guys want to upgrade the park and wanted to provide you with some of their input. They would like monkey bars, a bigger area, stuff to climb on, to change the floors from the woodchips to something rubber, bigger slides and swings and a splash pad. For everybody that doesn't know, in Pottstown where I live at there is no pool. The community is elderly and a lot of the kids are being watched by their family members over the summer and access to something like a small splash pad would really impact that community. I encourage that when the development starts, reach out to me, come sit down with the kids. I guarantee you I can get 20 kids to meet to provide input for you guys and to look at plans and please just include them and the rest of the Pottstown community when you are re-doing the Waymer Park.

Commissioner Kovacs said I was at the meeting but via phone which was slightly a disservice to myself and the rest of you, so I just wanted to get clarification. I know we talked about the raises and we talked about COLA and merit. Is what we decided upon merit across the board or is that the highest it can go and it's up to Manager discretion based off of a rubric or something along those lines.

Mr. Roberts said if the merit stays at 4 percent, that's an average.

Commissioner Kovacs said I did not do much talking because I didn't have a voice as you heard, but my intentions during that vote was for 4 to be the max and then a pot set aside for each department and then a rating correlate with the raises but not for everyone to get a full 9 percent raise.

Mr. Roberts said if it stays like it is, everyone would get the 5 percent COLA, but the merit would be based on performance only. If the Board says 4 percent is the max merit, not everybody is going to get 4 percent. We would have to set some criteria of how you would get 2 percent, 3 percent, 4 percent, to give guidance so that every department head doesn't give 4 percent max to every person.

Commissioner Kovacs said I'm sure those that would have to help with that criteria would hate me for saying this, but I would feel more comfortable with that. I also wanted to ask about David Kenney Farm Road. I know we are going to shelve it, but we are going to get it to a stopping point. Does that stopping point happen to include sidewalks.

Mr. Roberts said on the David Kenney Farm project, it would just get it to right-of-way stage and then it would set up on the shelf. I haven't seen the plan. If David Kenney Farm wants streetlights now, that's something we can address now.

Stephen Trott, Director of Engineering said the street lighting request process is totally separate. Sidewalks along the length of David Kenney Farm is not currently included in the project. The only thing included in that project right now is the intersection and the roundabout.

Commissioner Kovacs said Mr. Medino stated that they received information that they should get traffic calming and they have not.

Mr. Trott said the neighborhood went through the traffic calming process and there was a public hearing and then it came time for the Board to make a decision. The Board at that time decided to hold off on making a decision.

Commissioner Kovacs said to reinstate that process, would they have to do.

Mr. Trott said it would be up to the Board to decide what they would like to do. No direction has been given to staff on the next steps.

Mayor Bales said I think the conversation from that past board was to look at installing those once the connection was made, since it's a dead-end street. Once the connection was made then the next steps would be to upfit David Kenney with the sidewalks and speed humps etc. because at that point then it would be a through street.

Commissioner Kovacs said even if it's not a through street, it could still be pretty dangerous. I would like for us to think about holding the public hearing again or deciding what we need to do.

Mayor Bales said I don't know that we need a public hearing again since the study was already done.

Mr. Roberts said why don't we pull it out and then Stephen can send an email here's what happened, it qualifies, it doesn't qualify and if it qualifies we can lay out a plan to bring it back to the Board if that's what the Board wants to do and make that happen.

Commissioner Kovacs said can we get it on the agenda for the next meeting.

Mr. Roberts said I don't see why we can't. We just need to pull it out and see whether it qualifies, doesn't qualify. I remember the Board pushed it out waiting on the connection.

Commissioner Kovacs said I know we will be approving a new roof for Town Hall for the new fiscal year and we had put a new Town Hall on hold. Is it until June, if I recall.

Mr. Roberts said there is no funding in FY 23. I saw some public comment about we are funding Town Hall in FY 23. No, unless the Board tells us to, but we are bringing it back in June to kind of tell you where we are. As you know we've purchased some additional land, so the goal was to come back to you and seek some direction on where we move forward, but as of right now there is no funding in FY 23 for Town Hall.

Commissioner Kovacs said I just wanted to make sure we weren't going to do a new roof and then all of a sudden decide to demolish the building or something.

Mr. Roberts said if the Board says hold off, we are not doing a new town hall for years, then we would probably move forward. But if the Board said let's move in a different direction, I'd put MJ up there to throw down some tar.

Commissioner Kidwell said is this public hearing open until our next meeting.

Mayor Bales said no, I was getting ready to close it.

Commissioner Kidwell said I would like for it to stay open until our next meeting and then close it then and vote on it as needed.

Commissioner Kidwell made a motion to keep the public hearing open until June 6 at 6:00 p.m. at Huntersville Town Hall.

Commissioner Boone seconded motion.

Commissioner Boone said the very first page of the presentation, the \$217,000, that's the increase over Mr. Roberts' budget. What we did is we sat down here as a group and everybody picked and chose what I wanted and what you wanted and this thing has grown quite a bit. You have to have three votes to make this pass, so my thing is do we need to take a straw vote now to see if we need to have another meeting on this, or do you think it's ready to go to be passed after the June 6 public hearing.

Mayor Bales said the question to the Board then would be do you want another workshop and we can hear from you now or the Board can make that decision after this meeting and we can then turn around and promote it.

Commissioner Boone said do you think we should have a straw vote to see where everybody kind of stands with this budget and I think if there's four people that like this budget, there's no reason to have another meeting. I'm personally not going to be able to vote for this budget as it's stated right here.

Mayor Bales said so are you recommending a workshop.

Commissioner Boone said I am.

Mayor Bales said can we get with staff and schedule another time for a workshop.

Mr. Roberts said we'll do another doodle poll and feel out some dates and times and hopefully we can get everybody together.

Motion to keep public hearing open carried unanimously.

OTHER BUSINESS

Petition #S22-01. Petition #S22-01, Birkdale Landing Special Sign District, is a request by Firebirds International, LLC to create a Special Sign District Overlay for Birkdale Landing located at 16641 Birkdale Commons Parkway, Tax Parcel 00917184.

Kayleigh Mielenz, Planner I, entered the Staff Report into the record and reviewed request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 8.*

Staff recommends approval based on the Master Sign Plan being consistent with the Huntersville 2040 Community Plan Policies LU-7, LU-7.2, LU-8 and LU-8.1. It is reasonable and in the public interest to approve this Special Sign District because it is consistent with the greater flexibility and form, style and design desired by the 2040 Community Plan. The Planning Board recommended approval at their April 26 meeting.

Commissioner Boone made a motion in considering the proposed Petition #S22-01, Birkdale Landings Special Sign District, the Town Board recommends approval based on the Master Sign Plan being consistent with the Huntersville 2040 Community Plan, specifically Policies LU-7, LU-7.2, LU-8 and LU-8.1. It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility form style and design desired by the 2040 Community Plan.

Commissioner Partee seconded motion.

Motion carried unanimously.

Petition #TA22-03. Petition #TA22-03 is a request by the Town of Huntersville Planning Department to amend Article 8.9.1 and 12.2.2 related to clear sight triangles in order to comply with HB489.

Nathan Farber, Planner I, entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 9.*

The Planning Department, Huntersville Ordinances Advisory Board and the Planning Board all recommended approval.

Commissioner Partee made a motion in considering the proposed Amendment #TA22-03, the Town Board recommends approval based on the amendment being consistent with Policy T-4 of the 2040 Huntersville Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because it improves necessity to maintain land development regulations in compliance with the State Statute 160A-306 Building Setback Line which was amended with the passing of HB489.

Commissioner Munger seconded motion.

Motion carried unanimously.

Petition #TA22-04. Petition #TA22-04 is a request by the Town of Huntersville Planning Department to remove the special use requirement for street facing solar panels in Article 9.54.1 and to reorganize and clean up Article 9.54 to bring the ordinance into full compliance with State Statute 160D-914.

Nathan Farber, Planner I, entered the Staff Report into the record and reviewed request. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 10.*

The Planning Department, Huntersville Ordinances Advisory Board and Planning Board all recommended approval.

Commissioner Boone made a motion in considering the proposed Amendment #TA22-04, the Town Board recommends approval based on the amendment being consistent with Policy EOS-9.1 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the proposed text amendment would make it easier on the application to apply for a minor solar facility within the Town of Huntersville.

Commissioner Kovacs seconded motion.

Motion carried unanimously.

MAYOR COMMISSIONER REPORTS/CLOSING COMMENTS

Mayor Bales

- Commended staff on success of the Farmer's Market.
- Lake Norman Economic Development Corporation is currently working 45 projects, 22 of which are in Huntersville.

- LNEDEC was awarded the Cross Community Collaboration award by the Centralina Regional Council for its workforce development initiatives.
- Next Metropolitan Transit Commission meeting is next week.

Commissioner Munger

- Encouraged anyone who did not do early voting, to vote in the primary tomorrow.
- Public Arts Commission met on May 11. The Sculpt Tour was approved for the ElectriCities Smart Communities Grant.
- Consider supporting local non-profits.

Commissioner Partee

- Recognized family present at meeting.
- Next meeting of the Greenway, Trails and Bikeway Commission is May 17.
- Next meeting of the Parks & Recreation Commission is May 18.
- Waymer Center will have African dance lessons for Juneteenth.
- Huntersville Police Department has gun safety locks available.
- Bring awareness to Cool Kids Clubhouse.

Commissioner Phillips

- Provided update from Visit Lake Norman.
- Provided update from Ada Jenkins.

Commissioner Kidwell

- Next meeting of the Charlotte Regional Transportation Planning Organization is this Wednesday.
- North Mecklenburg Move Makers is looking for volunteers for Pottstown clean-up day on May 21.

Commissioner Kovacs

- Commended Parks & Recreation for success of the adult recess program.
- Provided update from Huntersville Chamber of Commerce.
- Provided update from Lake Norman Chamber of Commerce.

Commissioner Boone

- Congratulated area graduates.

There being no further business, the meeting was adjourned.

Approved this the ____ day of _____, 2022.

**Town of Huntersville
Town Board
August 1, 2022**

To: Town Board

From: Nathan Farber, Planner I

Date: August 1, 2022

Subject: #TA22-10 One Principle Building on a Lot

EXPLAIN REQUEST:

Call a public hearing for Tuesday, September 6, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #TA22-10, a request by the Huntersville Planning Department clarifying that single family detached homes and duplex house types are not permitted on multi-building sites.

ACTION RECOMMENDED:

Call the Public Hearing.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. Article 8.2 Text Amendment
2. TA22-10 Application

**AN ORDINANCE AMENDING ARTICLE 8.2 OF THE ZONING ORDINANCE AMENDING THE USES
PERMITTED ON A MULTI BUILDING LOT**

Section 1. Be it ordained by the Board of Commissioners of the Town of Huntersville that Article 8.2 “One Principle Building on a Lot; Exceptions” of the Zoning Ordinance be amended as follows:

Only one principal building and its customary accessory building(s) may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described by building and lot type. Requirements of Subdivision Ordinance Section 6.800 apply. **The multiple building exception shall not apply to single family homes and duplex house types that are not a part of a retirement community or congregate care facility.**

Section 2. That these amendments shall become effective upon approval by the Town Board of Commissioners.

Huntersville Ordinance Advisory Board: August 4, 2022

Public Hearing Date: September 6, 2022

Planning Board Meeting: September 27, 2022

Town Board Meeting: October 17, 2022



Text Amendment Application

Date of Application July 1

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

- ☒ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other
- ☐ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Zoning Article(s): 8.2 Section(s): _____

Current Ordinance See attached

Proposed Text See attached

Reason for Proposed Change To prevent single-family detached homes from multi-building sites on one lot, except for age restricted developments.

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Jack Simoneau

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature Jack Simoneau Date July 1, 2020

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant 105 Gilead Road

Property Owner (if different than applicant)

* Printed Name _____

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: July 1, 2022

Staff Initials: JS

**Town of Huntersville
Town Board
August 1, 2022**

To: Town Board

From: Kayleigh Mielenz, Planner I

Date: August 1, 2022

Subject: Public Hearing on Petition #S22-02 Novant Health SSD

EXPLAIN REQUEST:

Conduct a public hearing for Monday, August 1, 2022 at 6:00 p.m. at Huntersville Town Hall on petition #S22-02 Novant Health Special Sign District, a request by Lockwood Identity Inc. (Sign Art) to amend the plan for the Special Sign District Zoning Overlay for Novant Health Hospital located at 10030 Gilead Rd, Tax Parcel 01716601.

ACTION RECOMMENDED:

Conduct Public Hearing.

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

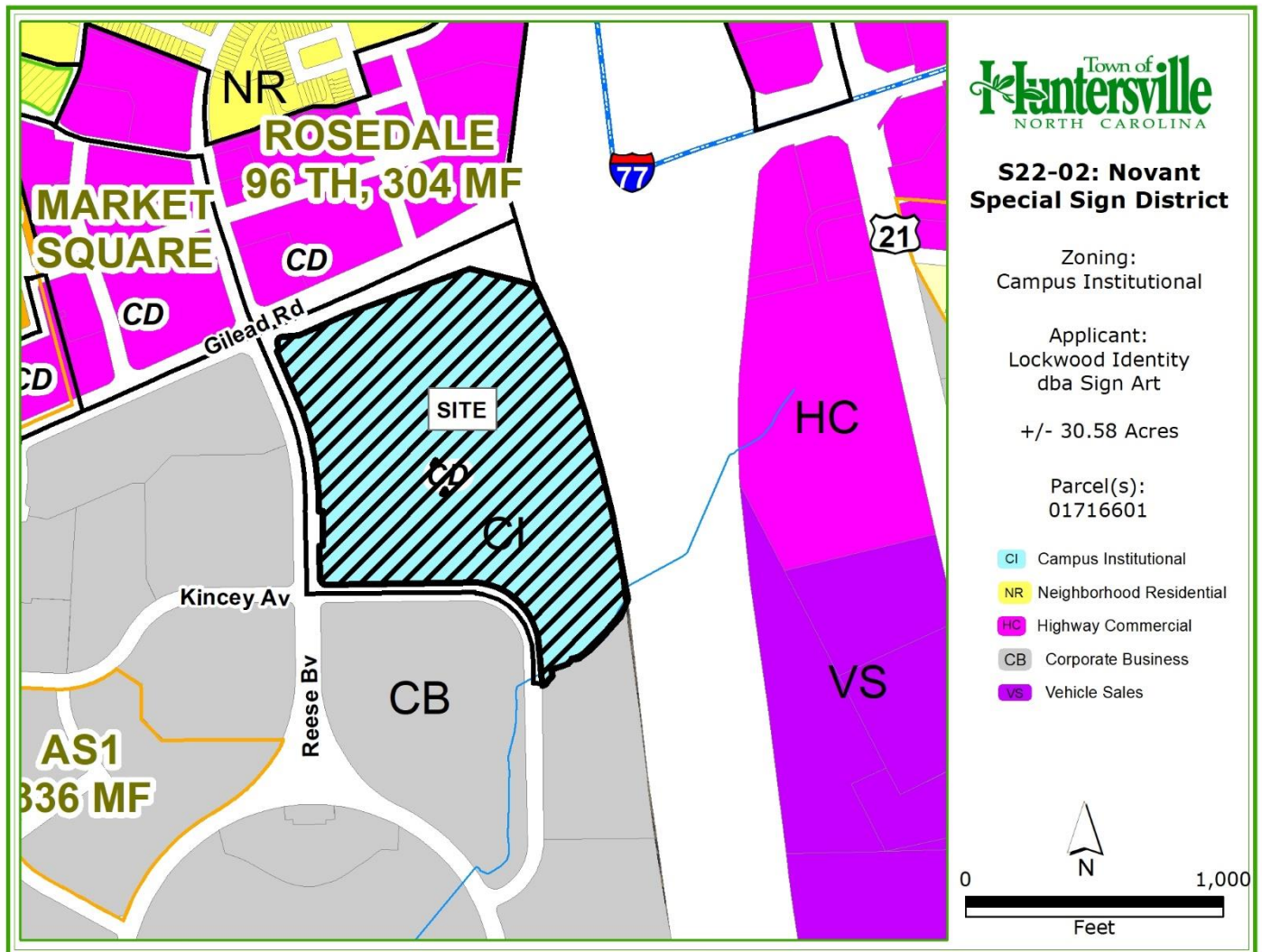
1. Novant Health Staff Report
2. General Application
3. Minutes of NH Special Sign District Neighborhood Meeting
4. 10.11_Zoning Ordinance_11.29.2021
5. NH HMC Master Sign Plan
6. Presbyterian Sign Program Amended 4-20-05

Novant Health Hospital Special Sign District Overlay

PROJECT DESCRIPTION

Lockwood Identity (Sign Art) is requesting on behalf of the property owner, Novant Health Inc, to amend the Master Sign Plan for the Special Sign District Overlay for Novant Health Hospital. Novant Health Hospital is located at 10030 Gilead Rd at the intersection of Gilead Rd and Reese Blvd. The subject property is zoned Campus Institutional (CI).

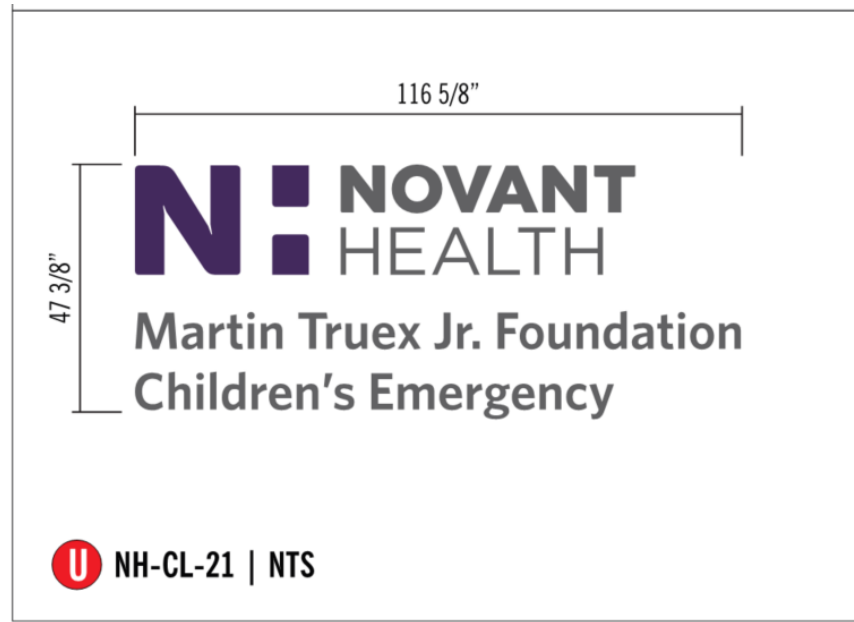
A Special Sign District is intended to impose sign regulations which provide greater latitude or more stringent limitations than those provided in Article 10 of the Zoning Ordinance. The Special Sign District requires Town Board approval, any major amendments require Town Board approval as well.



SPECIAL SIGN DISTRICT DETAILS

Below are the major highlights of the amendment to the Special Sign District.

Novant Health Martin Truex Jr Sign. Lockwood Identity (Sign Art) is requesting to designate an exterior wall of a newly completed addition as eligible for a wall sign. Currently, the Master Sign Plan does not indicate this wall is eligible for a wall sign. A sign on the proposed wall would be allowed 10% of the wall area, up to 128 SF. Currently proposed is a 38 SF wall sign pictured below.



STAFF RECOMMENDATION

In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with the Huntersville 2040 Community Plan policies:

Policy LU-8: Emphasize form and flexibility in Mixed-Use Centers, Employment Centers, the Town Core, and Activity Centers.

- LU 8.1: Continue to emphasize form and flexibility in development regulations for these areas.

It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.

NEIGHBORHOOD MEETING

The Applicant held a virtual Neighborhood Meeting on 07/21/22 at 5 pm. No one from the public attended.

PUBLIC HEARING

The Public Hearing is August 1, 2022.

PLANNING BOARD RECOMMENDATION

August 23, 2022.

TOWN BOARD DECISION

September 19, 2022

ATTACHMENTS

1. Application
2. Neighborhood Meeting Minutes
3. Zoning Ordinance Article 10.11
4. Novant Health Master Sign Plan (Proposed)
5. Novant Health Master Sign Plan (Current)

STATEMENT OF CONSISTENCY – S22-02

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, Staff recommends approval based on the Master Sign Plan being consistent with Huntersville 2040 Community Plan policies LU-8 and LU 8.1. It is reasonable and in the public interest to approve the Special Sign District because it is consistent with the greater flexibility in form, style, and design desired by the 2040 Community Plan.	APPROVAL: In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, the Town Board recommends approval based on the Master Sign Plan being consistent with <u>(insert applicable plan reference)</u>. <u>It is reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>	APPROVAL: In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, the Town Board recommends approval based on the Master Sign Plan being consistent with <u>(insert applicable plan reference)</u>. <u>It is reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>
	DENIAL: In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, the Town Board recommends denial based on the Master Sign Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>. <u>It is not reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>	DENIAL: In considering the proposed rezoning petition S22-02, Novant Health Special Sign District, the Town Board recommends denial based on the Master Sign Plan being <u>(consistent OR inconsistent) with (insert applicable plan reference)</u>. <u>It is not reasonable and in the public interest to approve the Special Sign District Plan because... (Explain)</u>



General Application

INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED. PLEASE CHECK ALL ITEMS CAREFULLY.

1. Application Type

Please indicate the type of application you are submitting. In addition to the application, the submission process for each application type can be found at <https://www.huntersville.org/528/Permits-Process>

- ☐ Change of Use
- ☐ Commercial Site Plan
- ☐ Conditional Rezoning
- ☐ General Rezoning
- ☒ Master Signage Program
- ☐ Special Use Permit
- ☐ Revision to
Original Project # _____
- ☐ Other _____

- SUBDIVISION CATEGORIES: Per the Huntersville Subdivision Ordinance
- ☐ Sketch Plan
 - ☐ Preliminary Plan
 - ☐ Final Plat (Includes Minor Subdivision)
 - ☐ Exempt Subdivision
 - ☐ Final Plat Revision
 - ☐ Farmhouse Cluster

2. Project Data

Date of Application 7/6/22

Name of Project Novant Health - Huntersville Medical Center Phase # (if subdivision) _____

Project Address 10030 Gilead Rd.

Parcel Identification Number(s) (PIN) 01716601

Current Zoning District CI (CD) Proposed District (for rezoning only) _____

Property Size (acres) 30.58 acres Street Frontage (feet) 1060' along Gilead Rd; 923' along Reese Bv
1130' along Kinsey Ave; 1272' along I-77

Current Land Use Hospital

Proposed Land Use(s) Hospital

Is the project within Huntersville's corporate limits?

Yes ☒ No ☐ If no, does the applicant intend to voluntarily annex? _____

3. Description of Request

Explain the nature of this request. If a separate sheet is necessary, please attach to this application.

Amend the master sign plan for Huntersville Medical Center for the following: Update all signs to Novant Health standards, remove (2) directionals and add (2) directionals, and add (4) wall signs

4. Site Plan Submittals

Consult the particular type of *Review Process* for the application type selected above. These can be found at <https://www.huntersville.org/528/Permits-Process>.

5. Outside Agency Information

Other agencies may have applications and fees associated with the land development process. The *Review Process* list includes plan documents needed for most town and county reviewing agencies. For major subdivisions, commercial site plans, and rezoning petitions please enclose a copy of the Charlotte-Mecklenburg Utility *Willingness to Serve* letter for the subject property.

6. Applicant

Printed Name Lockwood Identity Inc. dba SignArt Phone 704-597-9801
☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

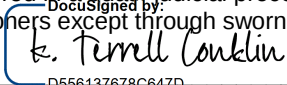
☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature Wendi Ferguson Printed Name: Wendi Ferguson
Title Project Manager Email wendi@signartsign.com
Address of Applicant 6225 Old Concord Rd., Charlotte, NC 28213

7. Property Owner (if different than applicant)

*Printed Name Novant Health Inc. Phone 704-361-6618
☒ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Commissioners except through sworn testimony at the public hearing. (Applicable for Special Use Permits and Subdivisions)

Signature  Printed Name Terrell Conklin
Title Senior Manager, Design & Construction Email kconklin@novanthealth.org
Address of Property Owner 200 Hawthorne Ln., Charlotte, NC 28204

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this application MUST be accompanied by a notarized Limited Power of Attorney signed by the property owner (s), specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

8. Development/Design Firm Contact Information

Development Firm	Name of Contact	Phone	Email
Design Firm	Name of Contact	Phone	Email

Contact Information

Town of Huntersville	Phone:	704-875-7000
Planning Department	Fax:	704-992-5528
PO Box 664	Physical Address:	105 Gilead Road, Third Floor
Huntersville, NC 28070	Website:	https://www.huntersville.org/228/Planning-Department



Minutes of Special Sign District Review Neighborhood Meeting Held July 21, 2022 @5pm Submitted by SignArt

I. Individuals in Attendance

Conklin, K. Terrell
Riley, Mike
Howard, Todd
Martin, Daniel E
Monroe, Bill
Ferguson, Wendi
Long, Randy
Mielenz, Katie

II. The zoom teleconference software recorded attendees. No one else joined the call.

III. The attached presentation was on the screen awaiting attendees. Time of twenty minutes was allowed to pass to wait for other attendees to arrive, however, no one signed on. Decision was made to adjourn the meeting at 5:25pm.

10.11 Master Signage Programs

Master signage programs establish two alternatives in providing latitude to develop appropriate signage designs for new or existing areas with special unifying features. The alternatives are the Special Sign Districts and the Planned Development Flexibility option. Special Sign Districts require approval by the Board of Commissioners following review and recommendation by the Huntersville Planning Board.

10.11.1 Special Sign Districts

For the purpose of establishing, enhancing, preserving, and developing the character, quality, and property values of areas of unique character and special development potential, districts in which signs are regulated by special provisions may be established subject to the following conditions:

- .1 As a prerequisite to the establishment of such a special sign district, it must be determined that the modified rules established for said district shall:
 - a) Preserve and enhance the special character of the particular area; and
 - b) Not contravene the intent of this ordinance; and
 - c) Cause no disturbance to neighboring property lying outside the proposed district.
- .2 Without changing the basic structure of this ordinance, the modified rules for a special sign district may impose sign regulations which provide greater latitude or more stringent limitations than those provided elsewhere in this ordinance.
- .3 The special sign district constitutes an overlay district and shall conform to the procedures of Article 11 for purposes of adoption and administration. Districts for which special sign regulations may be imposed include, but shall not be limited to the Town Center District, the Neighborhood Center District, the TND-U and TND-R districts.

10.11.2 Planned Development Flexibility Option

For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this ordinance may be approved by the Zoning Administrator, subject to the following:

- .1 The development is: a planned residential, nonresidential, or mixed-use development, 10 acres or greater in size; a hospital or other large-scale institutional complex; a large-scale cultural, civic or recreational facility; or a similar large-scale development.
- .2 A Master Sign Program that includes the following information in booklet form is submitted:
 - a) Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
 - b) Proposed number and location of signs.
 - c) Sign Illumination Plans.
 - d) Plans for landscaping or architectural features to be used in conjunction with such plans.
- .3 The proposed signs meet the following criteria:
 - a) All signs are coordinated in terms of design features.
 - b) The maximum amount of allowable wall mounted signage per individually constructed tenant space of one non-street fronting wall shall not exceed 25% of the area of the street fronting sign, up to a maximum of 32 square feet. This 25% increase may only be used on one non-street fronting wall.
 - c) Marquee and Hanging/Blade Signs may be increased by 25%, however they may project no more than 4 feet from the building wall, and no more than 3 feet over a sidewalk in a town-maintained right-of-way.
 - d) The maximum size of detached signs is not increased by more than 25%.
 - e) The number of detached signs along a street frontage does not exceed 3.
 - f) The maximum height of a detached sign does not exceed 12 feet.

- g) Multi-information directional signs are no greater than 16 square feet and are located in the interior of a development.



Huntersville Medical Center

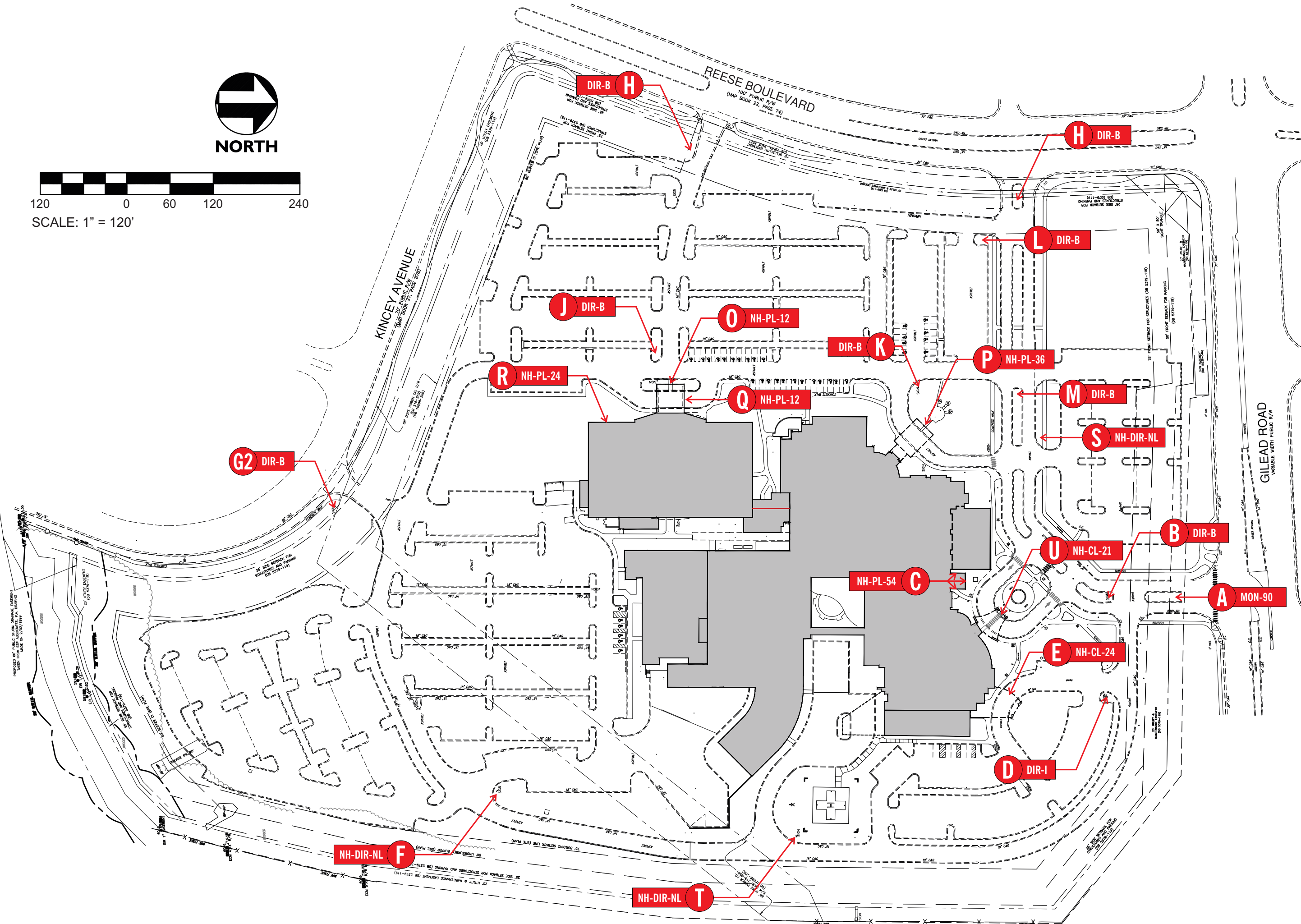
**Master Sign Plan
July 2022**



NORTH



SCALE: 1" = 120'



www.signartsign.com

10030 Gilead Rd
Huntersville, NC

Management\permit

PM: ____

UNLESS OTHERWISE NOTED

Page 2 of 4



SignArt

6225 Old Concord Road
Charlotte, NC 28213
P: 704.597.9801
F: 704.597.9808
www.signartsign.com

JOB ID

30496

CUSTOMER

NH/HMC Phase 3

LOCATION

10030 Gilead Rd
Huntersville, NC

SALESPERSON

RL

ISSUE DATE

07/05/22

REVISIONS

1

2

3

4

5

6

DESIGNER

JA

FILE PATH

N:\Novant Health 2017\
Huntersville\10030 Gilead Road\
30496 HMC ED Phase 3\Project
Management\permit

APPROVED FOR PRODUCTION

Approved As Drawn
Approved As Noted
Revise & Resubmit

Date: _____
Client: _____
Sales: _____
PM: _____

NOTICE

ALL SIGNS MANUFACTURED
FOR 120v ELECTRICAL SERVICE
UNLESS OTHERWISE NOTED

© 2018 SignArt. All Rights Reserved.
This drawing and the designs, plans, layouts
and accompanying information contained
herein, are the sole property of SignArt and
may not be copied, recreated or distributed
without the express written consent of
SignArt.

Page 3 of 4

118 5/8"

12"

Physicians Plaza

Q

NH-PL-12 | NTS

116 5/8"

47 3/8"

N: NOVANT
HEALTH

Martin Truex Jr. Foundation
Children's Emergency

U

NH-CL-21 | NTS

189"

24"

N: NOVANT
HEALTH

Huntersville
Outpatient Surgery

R

NH-PL-24 | NTS

2'-6"

3'-4"

Visitor Parking
←

S

NH-DIR-NL | NTS

2'-6"

3'-4"

→ Ambulance

T

NH-DIR-NL | NTS

SignArt

6225 Old Concord Road
Charlotte, NC 28213
P: 704.597.9801
F: 704.597.9808
www.signartsign.com

JOB ID
30496
CUSTOMER
NH/HMC Phase 3
LOCATION
10030 Gilead Rd Huntersville, NC

SALESPERSON
RL
ISSUE DATE
07/05/22
REVISIONS
1
2
3
4
5
6

DESIGNER
JA

FILE PATH
N\Novant Health 2017\
Huntersville\10030 Gilead Road\
30496 HMC ED Phase 3\Project
Management\permit

APPROVED FOR PRODUCTION

Approved As Drawn

Approved As Noted

Revise & Resubmit

Date: _____

Client: _____

Sales: _____

PM: _____

NOTICE

ALL SIGNS MANUFACTURED
FOR 120v ELECTRICAL SERVICE
UNLESS OTHERWISE NOTED

© 2018 SignArt. All Rights Reserved.
This drawing and the designs, plans, layouts
and accompanying information contained
herein, are the sole property of SignArt and
may not be copied, recreated or distributed
without the express written consent of
SignArt.

Presbyterian Hospital Special Sign District

Staff Recommendation
3-23-04

Project Description

The petitioner of the proposed Presbyterian Hospital Special Signage District is requesting 18 total on premise signs. This includes 3 detached ground mounted signs (1 monument which will front upon Gilead Road and 2 directories which will front upon Reese Blvd.), 5 attached wall mounted signs (all are flush wall signs), and 10 directional & instructional signs which will be located throughout the site. The petitioner is requesting to deviate from the signage requirements as stated in Article 10 of the Town of Huntersville Zoning Ordinance by adding a second directory sign oriented towards Reese Blvd and by increasing the size of the proposed monument sign on Gilead Road by almost three times the allowable amount; the petitioner is also requesting directional and instructional signage which exceeds the requirement between two and four times the allowable size requirement and all of which exceed the maximum height requirement; the petitioner is also requesting to front the proposed attached signage towards the parking lots.

The Presbyterian Hospital is located on the south side of Gilead Road, west of I-77, and is across the street from the Rosedale Shopping Center. The subject property is zoned Campus Institutional - Conditional District (CI-CD).

Characteristics of the Amendment

- The first request is to propose an additional directory sign on Reese Blvd. Article 10 allows one directory sign per street front.
- The second request is to increase the size of the proposed monument sign on Gilead Road by almost three times the allowable amount (32 square feet to 91 square feet).
- The third request is to add multiple directional and instructional signs throughout the site, which will exceed the total sign size requirement (max 6 square feet) between two times (12 square feet) and four times (24 square feet) the allowable size and all of which exceed the maximum height requirement (4').
- The fourth request is to front the proposed attached signage towards the parking lots. The approved rezoning plan allowed the building to be centrally located on the site and allows parking within the front yard between the hospital and Gilead Rd, Reese Blvd, and I-77. The proposed signage will front the parking areas on all three sides of the tower (an architectural feature on the front façade of the building) and not directly on the street as required by the ordinance.

Staff Recommendation

The Special Sign District was designed to allow some modification to the regulations of the zoning ordinance, and to provide the opportunity for unique developments to propose signage criteria that would be to scale and compatible with the approved development. All of the proposed changes will preserve and enhance the development's unique character. The proposed amendments to the Presbyterian Hospital Special Sign District will meet the standards of Article 10 of the Zoning Ordinance, and staff recommends approval.

L-8.1

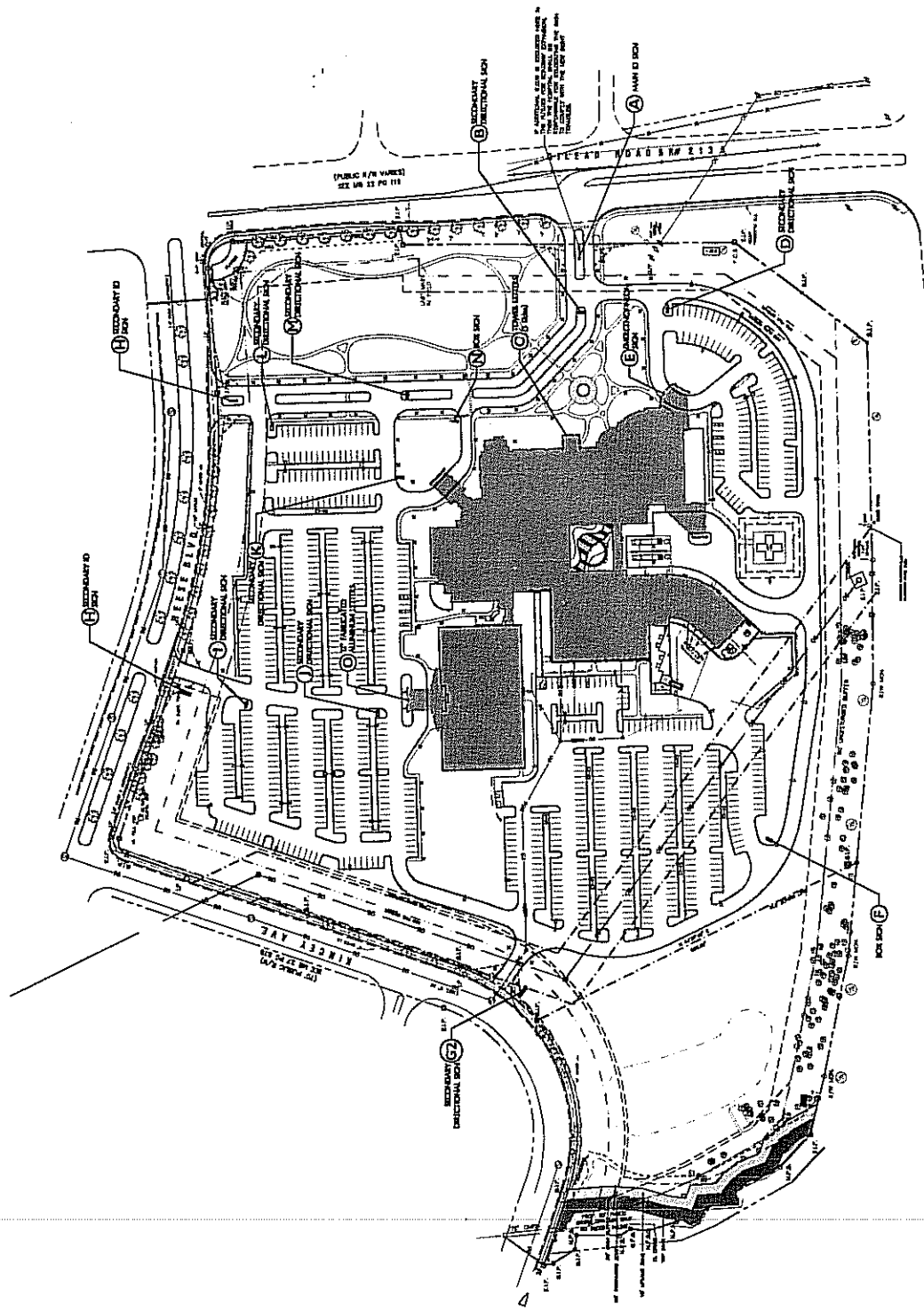
PRESBYTERIAN
HUNTERSVILLE

Presbyterian Healthcare
10030 Gilman Rd., Huntersville,
North Carolina

Project Name	Special Storage District Plan
Client	McGILL
Scale	1" = 100'
Author	McGILL
Date	10/14/03

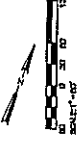


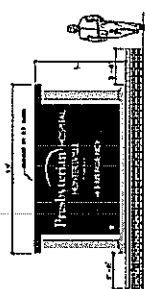
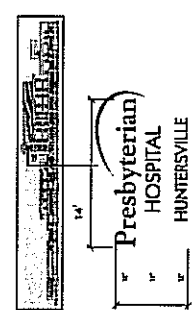
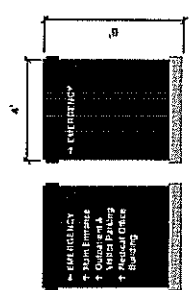
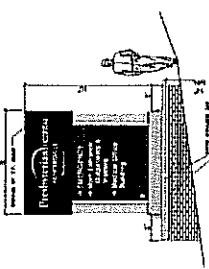
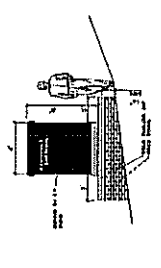
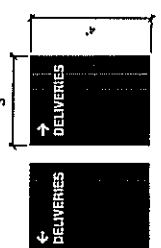
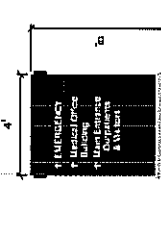
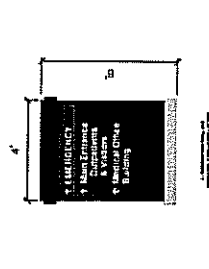
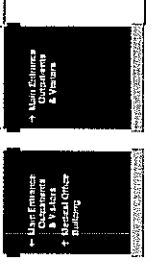
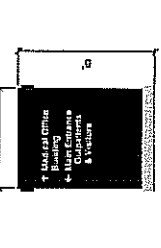
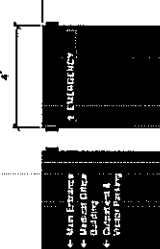
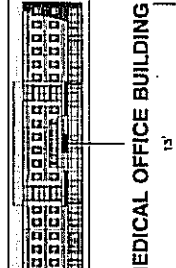
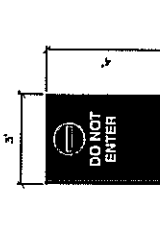
McGILL
ENGINEERING
ASSOCIATES
ARCHITECTS

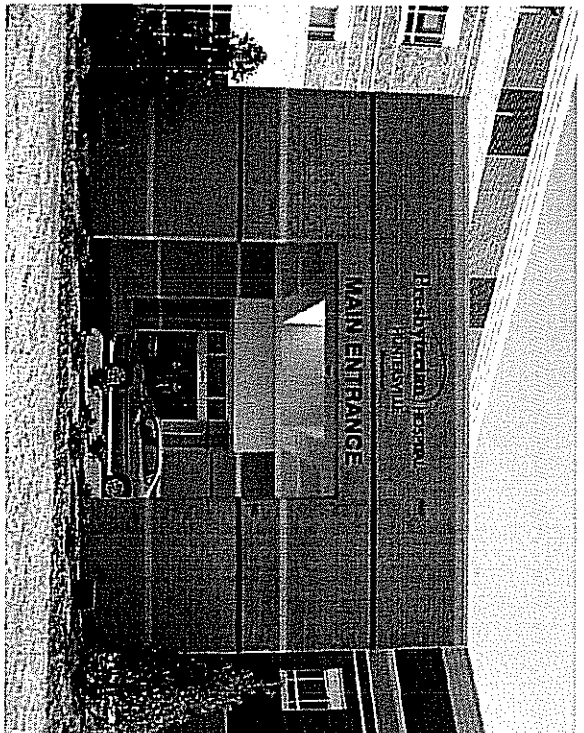
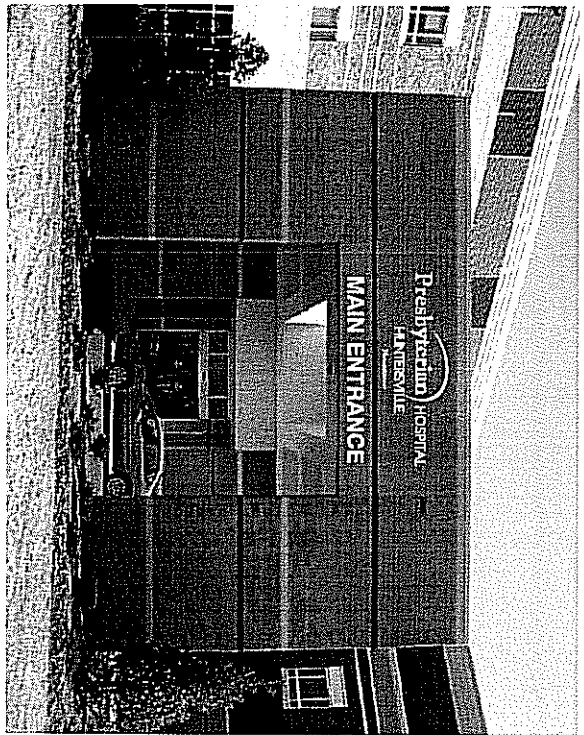


Proposed Sites
1 - DETACHED SITES (VARIOUS LAYOUTS)
2 - ATTACHED SITES (VARIOUS LAYOUTS)

INTERSTATE HWY. #77
HUNTERSVILLE
HUNTERSVILLE PROJECT



 A Main ID Sign SCALE: N.T.S.	 C Tower Letters SCALE: N.T.S.	 B Secondary Directional Sign SCALE: N.T.S.	 E Emergency Neon Sign SCALE: N.T.S.
 H Secondary ID Sign SCALE: N.T.S.	 GZ Secondary Directional Sign SCALE: N.T.S.	 F Box Sign SCALE: N.T.S.	 I Secondary Directional Sign SCALE: N.T.S.
 H Secondary ID Sign SCALE: N.T.S.	 K Secondary Directional Sign SCALE: N.T.S.	 J Secondary Directional Sign SCALE: N.T.S.	 M Secondary Directional Sign SCALE: N.T.S.
 H Secondary ID Sign SCALE: N.T.S.	 O 12" Etched Aluminum Letters SCALE: N.T.S.	 N Box Sign SCALE: N.T.S.	 M Secondary Directional Sign SCALE: N.T.S.



OPTION A
WHITE LOGO & LETTERS

OPTION B
PRESBY BLUE & GREEN LOGO & LETTERS

12.5"

7.5"

4"

12"

Presbyterian HOSPITAL
HUNTERSVILLE
NOVANTHEALTH

7.5"

MAIN ENTRANCE

147"

ALUMINUM LETTERS FOR MAIN ENTRANCE CANOPY
MOUNTED IN 192" WIDE SPACE



RP SIGNS

1101 Central Avenue
Charlotte, N.C. 28204
Ph: 704.344.8552 Fax: 704.375.8081
www.rpsigns.net

CUSTOMER: Presbyterian Hospital Huntersville

PROJECT: Interior / Exterior Sign Additions

CUSTOMER CONTACT: Terry Fair

FAX # / EMAIL:

DATE: 2/16/05

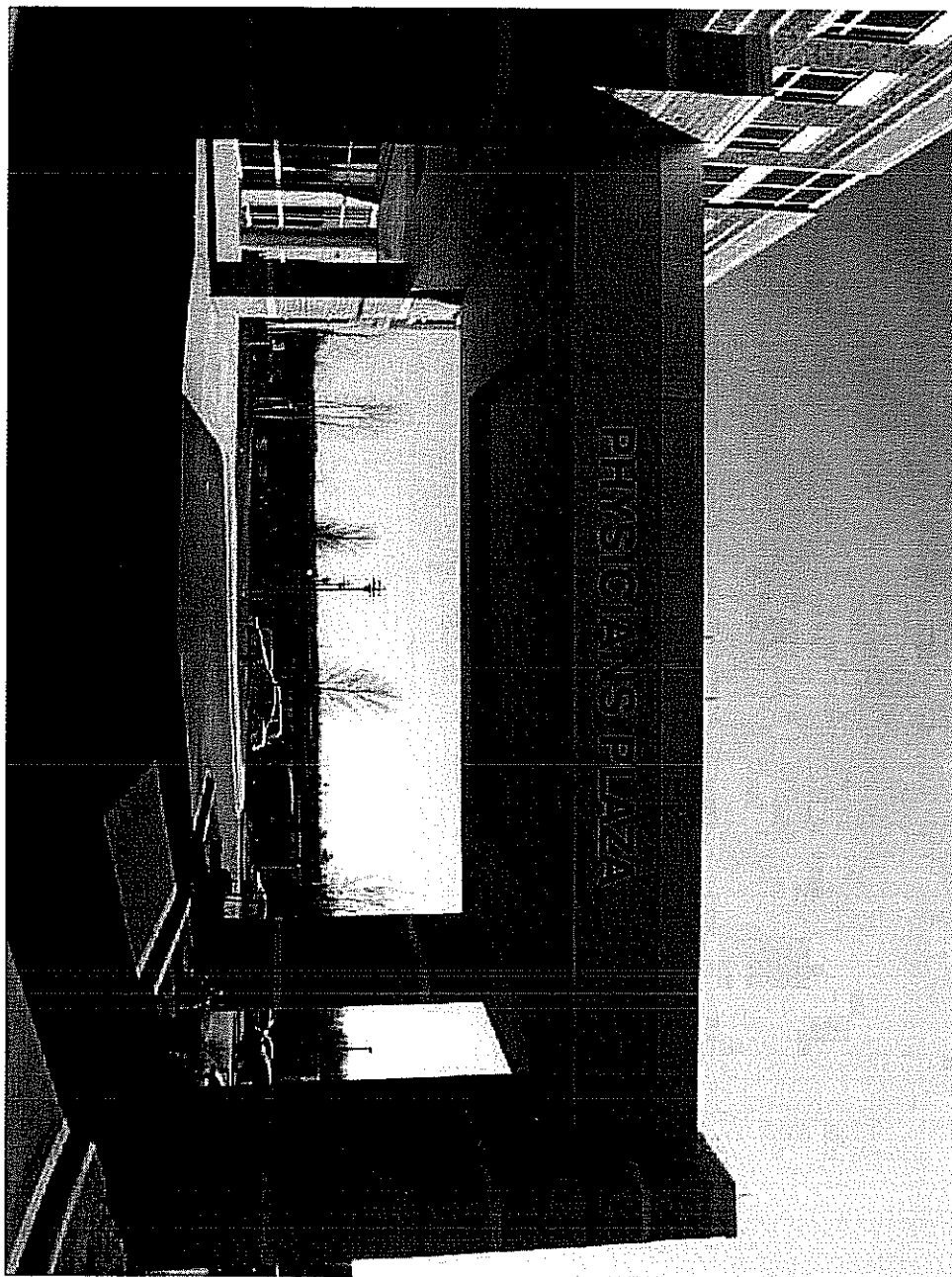
QUOTE #:

All ideas, designs and arrangements expressed on this drawing are the exclusive property of RP Sign Systems until purchased and any reproduction or use without written consent is prohibited.

PHYSICIANS PLAZA

161'

12" ALUMINUM LETTERS FOR CANOPY



RPSIGNS

1101 Central Avenue
Charlotte, N.C. 28204
Ph: 704.344.8552 Fax: 704.375.8081
www.rpsigns.net

CUSTOMER: Presbyterian Hospital Huntersville

PROJECT: Interior / Exterior Sign Additions

CUSTOMER CONTACT: Terry Fair

FAX # / EMAIL:

All ideas, designs and arrangements expressed on this drawing are the exclusive property of RP Sign Systems until purchased and any reproduction or use without written consent is prohibited.

DATE: 2/16/05

QUOTE #:

**Town of Huntersville
Town Board
August 1, 2022**

To: Town Board

From: Jack Simoneau, Planning Director

Date: August 1, 2022

Subject: #TA22-05 Subdivision Quasi-Judicial Process

EXPLAIN REQUEST:

Consider a decision on Petition #TA22-05, a request by the Huntersville Town Board to amend the Subdivision and Zoning Ordinance by changing subdivision sketch plan decisions from a quasi-judicial process (Planning Board recommendation, Town Board decision) to an administrative process (staff decision) including miscellaneous ordinance clean-up adjustments.

ACTION RECOMMENDED:

Take Action

FINANCIAL IMPLICATIONS:

N/A

ATTACHMENTS:

1. TA22-05 BOC Action Staff Report 8-1-22
2. Subdivision Ordinance with Administrative Approval Process Action
3. Zoning Ordinance Amendments April 2022
4. TA 22-05 Text Amendment Application
5. School of Government Survey
6. Subdivision Process of Neighboring Areas
7. April 7, 2022 Minutes
8. May 2022 HOAB Minutes
9. June 2022 Minutes
10. TA 22-05 Amendments Exlcuding Quasi-Judicial Change
11. June 28 Planning Board Minutes

TA 22-05 – Town of Huntersville: Changing Subdivision Process from Quasi-Judicial to Administrative

PART 1: DESCRIPTION

TA 22-05 is a text amendment to the Subdivision and Zoning Ordinance sponsored by the Huntersville Town Board to consider changing the subdivision sketch plans process from a quasi-judicial decision to an administrative decision. In addition, the proposed ordinance amendments also contain minor grammatical/formatting/citation/consistency adjustments that are not substantive in nature.

PART 2: BACKGROUND

If any subdivision standard requires judgement and discretion, then the subdivision must be considered under a **quasi-judicial process** (i.e., develop in a way that is advantageous to the neighboring area). If all subdivision standards are objective, then the subdivision will be considered under an **administrative process** (i.e., density shall not exceed “x” units per acre).

Because some current subdivision standards require judgement and discretion, **subdivision sketch plans follow a quasi-judicial process in Huntersville** (Planning Board makes a recommendation, Huntersville Town Board holds a quasi-judicial hearing). Among the concerns expressed by the Town Board with the quasi-judicial process is the inability to discuss cases with applicants, staff or interested citizens outside sworn testimony at the quasi-judicial hearing. Elements of a quasi-judicial hearing are as follows:

- All subdivision Sketch Plans in Huntersville are handled as **quasi-judicial** evidentiary hearings at the **Town Board** meeting.
- As a quasi-judicial hearing, all testimony provided is **sworn under oath**.
- The Huntersville Town Board **cannot** speak to the applicant, town staff, or anyone else on the subject **except under sworn testimony at the hearing**. It is recommended the Planning Board also observe this practice.
- The burden of producing **competent, material, and substantial evidence** establishing the proposed subdivision sketch plan **meets or does not meet** all applicable zoning/subdivision standards is **on the person taking that position**.
- Only persons who have **standing** in a particular subdivision sketch proposal will be recognized as a party to the hearing. Other interested persons who do not have standing may testify but will not be allowed to offer opening or closing statements, call witnesses, or cross examine witnesses.
- Below is a guideline as to who would be considered as having **standing**:
 - A person with a legal interest in the subject property
 - The applicant before the decision-making board
 - A person who will suffer special damages as a result of the decision (i.e., proximity to subdivision, typically adjacent; property value damage as determined by **expert** and not an opinion; secondary adverse impacts such as noise, traffic, stormwater runoff, as determined by an **expert** and not an opinion)
 - An association organized to promote the interests of a particular area (i.e., homeowners association) so long as one member has **standing**
- Examples of **expert** opinion include a **qualified appraiser** when determining property value impact and a **transportation engineer** when determining traffic impact.
- Testimony provided at a quasi-judicial evidentiary hearing on which decisions are made must be **factual**, not **personal opinions**.

The Huntersville Town Board requested an amendment to the Subdivision Ordinance and related Zoning Ordinance provisions be prepared changing sketch plan decisions from a quasi-judicial process to an administrative process (Attachment 1, 2). To achieve this, there can be no subjective standards requiring judgement and discretion. All subdivision sketch plan standards will have to be objective. A comparison summary of the existing and proposed subdivision sketch plan regulations is provided below.

CURRENT Some Subjective Standards (follow <u>quasi-judicial</u> process)	Sketch Plan Application	Neighborhood Meeting	Planning Board Recommendation	DECISION Town Board Quasi- Judicial Hearing
PROPOSED All Objective Standards (follow <u>administrative</u> process)	Sketch Plan Application	Neighborhood Meeting (used to inform neighbors; with objective standards, subdivision plan must be approved if standards met)	N/A	Staff Decision (NC School of Government recommends staff approval since no room for policy choices or discretion; could be Planning Board or Town Board)

A 2018 survey by the UNC School of Government showed that 72% of the 275 jurisdictions who responded had objective subdivision standards and 28% had discretionary standards like Huntersville (Attachment 4). Further, a review of subdivision processes of neighboring areas showed that Huntersville was the only jurisdiction using a quasi-judicial process for subdivisions (Attachment 5).

In addition to modifying the Subdivision and Zoning Ordinance making subdivision sketch plan consideration an administrative decision, the proposed ordinance amendments also contain minor grammatical/formatting/citation/consistency adjustments that are not substantive in nature (see Attachment 9).

PART 3: RELEVANT SECTIONS OF THE HUNTERSVILLE 2040 COMMUNITY PLAN

The proposed text amendment **could be supported** by the following policies in the Huntersville 2040 Community Plan:

Policy LU-1: Encourage a development pattern that follows the Future Land Use Map.

Policy LU-2: Encourage residential development that follows the pattern outlined in the future land use map.

Policy LU-3: Manage residential growth in the eastern and western parts of Huntersville's planning jurisdiction.

Policy LU-4: Limit the scale of new development in Critical Watersheds.

STAFF COMMENT: Existing Zoning and Subdivision regulations are consistent with these policies. Therefore, it is not necessary to requires a quasi-judicial process for subdivision sketch plan approval

The proposed text amendment **may not be supported** by the following policy in the Huntersville 2040 Community Plan:

Policy LU-11: Protect Existing Housing Stock.

LU 11.1: Protect and enhance the unique character of Huntersville's neighborhoods by using planning tools to safeguard from potentially negative impacts of development and redevelopment.

STAFF COMMENT: Subjective criteria in the subdivision ordinance, such as requiring subdivisions "... to facilitate the most advantageous development of the entire neighboring area" could provide the ability to negotiate modification of the subdivision in light of adjoining development.

PART 4: STAFF RECOMMENDATIONS

Per details outlined in Part 9 below, staff recommends approval of TA 22-05 making subdivision sketch plan approval an administrative process in addition to minor grammatical/formatting/citation/consistency adjustments that are not substantive in nature.

In the event to Town Board does not approve changing subdivision sketch plan approval from a quasi-judicial process to an administrative process, staff still recommends the minor grammatical/formatting/citation/consistency adjustments that are art of TA 22-05 as found in Attachment 9.

PART 5: HUNTERSVILLE ORDINANCE ADVISORY BOARD

First heard on April 7, 2022 (Attachment 6). On May 5, 2022, by a 5-4 vote, the HOAB recommended making subdivision sketch plan an administrative staff approval subject to the text being thoroughly reviewed at the June meeting (Attachment 7). On Wednesday, June 1, 2022, the HOAB reviewed the text (see Attachment 8).

PART 6: PUBLIC HEARING

May 2, 2022, and June 6, 2022

PART 7: PLANNING BOARD RECOMMENDATION

On June 28, 2022, the Huntersville Planning Board voted to recommend **APPROVAL**. In considering the proposed amendment TA22-05, the Planning Board recommends approval of TA22-05 **clean up language amendments listed in Attachment 9** to the Zoning and Subdivision Ordinance **and to disapprove changing** the subdivision approval process from quasi-judicial to administrative as this is not in keeping with policy LU 11 of the Huntersville 2040 Community Plan. Motion made by S. Swanick and seconded by F. Gammon. The motion passed unanimously (9-0).

PART 8: ATTACHMENTS

1. Subdivision Ordinance Amendments
2. Zoning Ordinance Amendments
3. Application
4. UNC School of Government Survey
5. Comparison of Local Jurisdiction Subdivision Process
6. Huntersville Ordinances Advisory Board April 7, 2022, Minutes
7. Huntersville Ordinances Advisory Board May 5, 2022, Minutes
8. Huntersville Ordinances Advisory Board June 1, 2022, Minutes
9. TA 22-05 Minor Grammatical/Formatting/Citation/Consistency Adjustments
10. Huntersville Planning Board June 28, 2022, Minutes

PART 9: STATEMENT OF CONSISTENCY

Planning Department	Planning Board	Board of Commissioners
APPROVAL: In considering the proposed amendment TA22-05, the Planning Staff recommends approval based on the amendment being consistent with policies LU 1, LU 2, LU 3, and LU 4 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because the Huntersville Town Board has determined that subdivision sketch plans should be considered under an administrative process as opposed to a quasi-judicial process.	APPROVAL: In considering the proposed amendment TA22-05, the Planning Board recommends approval of TA22-05 <u>clean up language amendments listed in Attachment 9</u> to the Zoning and Subdivision Ordinance <u>and to disapprove changing</u> the subdivision approval process from quasi-judicial to administrative as this is not in keeping with policy LU 11 of the Huntersville 2040 Community Plan. Motion made by S. Swanick and seconded by F. Gammon. The motion passed unanimously (9-0).	APPROVAL: In considering the proposed amendment TA22-05, the Town Board recommends approval based on the amendment being consistent with <u>(insert applicable plan reference)</u> of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the Zoning Ordinance because...(Explain)
		DENIAL: In considering the proposed amendment TA22-05, the Town Board recommends denial based on the amendment being <u>(consistent OR inconsistent)</u> with <u>(insert applicable plan reference)</u> of the Huntersville 2040 Community Plan. It is not reasonable and in the public interest to amend the Zoning Ordinance because.... (Explain)



Subdivision Ordinance

Adopted November 19, 1996
As Amended Through June 21, 2021 (1-7-22)

Commented [ES1]: Update

SECTION 1.	<u>44</u>
1.000 PURPOSE AND APPLICABILITY	<u>44</u>
1.100 SHORT TITLE	<u>44</u>
1.200 PURPOSE	<u>44</u>
1.300 JURISDICTION	<u>44</u>
1.400 SEPARABILITY	<u>44</u>
1.500 COMPLIANCE WITH ORDINANCE	<u>44</u>
1.600 EFFECTIVE DATE	<u>4</u>
2.000 DEFINITIONS AND RULES OF CONSTRUCTION	<u>4</u>
2.100 DEFINITIONS	<u>4</u>
2.200 RULES OF CONSTRUCTION	<u>10</u>
3.000 DECISION MAKING AND ADMINISTRATIVE BODIES	<u>10</u>
3.100 TOWN STAFF	<u>10</u> 11
3.200 PLANNING BOARD	<u>11</u>
3.300 TOWN BOARD OR DESIGNATED ADMINISTRATIVE AGENT	<u>12</u> 12
3.400 STAFF TO THE PLANNING BOARD	<u>12</u>
4.000 APPEALS AND VARIANCES	<u>12</u>
4.100 AUTHORITY	<u>12</u>
4.200 INITIATION	<u>12</u>
4.210 FILING OF NOTICE OF APPEAL	<u>12</u> 13
4.220 STANDARDS FOR GRANTING AN APPEAL	<u>13</u> 13
4.300 FILING OF VARIANCE PETITION	<u>13</u> 13
4.400 STANDARDS FOR GRANTING A VARIANCE	<u>13</u> 13
4.500 PLANNING BOARD REVIEW	<u>13</u>
4.600 ACTION BY TOWN BOARD	<u>13</u>
4.700 REHEARING	<u>13</u> 14
4.800 EFFECT OF GRANT OF VARIANCE	<u>14</u> 14
5.000 AMENDMENTS	<u>14</u>14
6.000 THE SUBDIVISION PROCESS	<u>14</u>
6.100 COMPLIANCE REQUIRED	<u>14</u>
6.200 GENERAL REQUIREMENTS	<u>14</u>
6.300 SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS	<u>18</u> 18
6.310 SKETCH PLAN ALSO REQUIRED FOR MINOR SUBDIVISIONS	<u>19</u>
6.315 SKETCH PLAN NOT REQUIRED FOR CONSERVATION SUBDIVISIONS	<u>19</u>
6.3.16 SKETCH PLAN NOT REQUIRED FOR EXPEDITED SUBDIVISION REVIEW	<u>20</u>
6.320 REVIEW OF MAJOR SUBDIVISION SKETCH PLAN	<u>20</u>
6.400 PRELIMINARY PLAN REQUIREMENTS	<u>23</u> 22
6.500 PROCEDURES FOR APPROVAL	<u>25</u> 24
6.510 PRELIMINARY PLAN: SUBMISSION AND APPROVAL	<u>25</u> 24
6.520 EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED	<u>24</u>
6.530 EFFECT OF APPROVAL OF PRELIMINARY PLAN	<u>26</u> 25
6.540 RELEASE OF GRADING PERMIT	<u>25</u>
6.550 FINAL PLAT: SUBMISSION AND APPROVAL	<u>25</u>
6.600 FINAL PLAT REQUIREMENTS	<u>27</u> 26
6.700 PLATS ALREADY ESTABLISHED BY SURVEY AND RECORD	<u>29</u> 28
6.800 MULTI-BUILDING SITES	<u>28</u>
6.810 PRE-APPLICATION CONFERENCE	<u>28</u>
6.820 PRELIMINARY PLAN REQUIREMENTS	<u>28</u>
6.830 PRELIMINARY PLAN REVIEW CRITERIA	<u>28</u>

6.840-PRELIMINARY PLAN APPROVAL AND FINAL PLAT	29
6.850 TRAFFIC IIMPACT ANALYSIS	29
7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.	29
7.100 DESIGN STANDARDS FOR STREETS	29
7.110 RIGHT-OF-WAY	31 30
7.120 FREEWAYS (NEW)	30
7.130 ARTERIAL STREET RIGHT-OF-WAY (NEW STREETS)	32 31
7.135 TRANSFER OF DEVELOPMENT RIGHTS — R/W DEDICATION	31
7.150 CUL-DE-SAC	31
7.170 STREET OFF-SETS	31
7.180 BLOCK LENGTHS AND WIDTHS	31
7.200 DESIGN STANDARDS FOR LOTS	31
7.210 FRONTAGE ON STREET	31
7.220 SIDE LINES	32
7.230 LOT SIZES	32
7.240 BUILDING LINES	32
7.270 DRIVEWAY CONNECTIONS	32
7.280 LOTS SUBJECT TO FLOODING	32
7.290 LOTS WITHIN THE MOUNTAIN ISLAND LAKE WATERSHED PROTECTION AREA	33
7.295 LOTS WITHIN THE LAKE NORMAN WATERSHED PROTECTION AREA	38
7.300 DESIGN STANDARDS FOR S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS	40
Table of Minimum Buffer Widths by Basin Size and Buffer Zone	42
Upland Zone	44
8.000 REQUIRED WORK ON THE GROUND	51
8.100 STANDARDS AND SPECIFICATIONS	51 48
8.110 STREET IMPROVEMENT RESPONSIBILITY	48
8.115 RESPONSIBILITY FOR STATE ROADS	50
8.120 DRAINAGE	50
8.130 CURB AND GUTTER	54 51
8.140 SIDEWALK	54 51
8.150 STREET TREES	51
8.160 STREET LIGHTS	51
8.170 STREET MARKERS AND BARRICADES	55 52
8.200 NO SERVICE UNLESS STREET ACCEPTED/APPROVED	52
8.300 OTHER PUBLIC FACILITIES	52
8.400 MODIFICATION OF REQUIREMENTS; BOND	56 53
8.500 INSPECTION	53
9.000 ENFORCEMENT	57
10.000 APPLICATION AND PROCESSING FEES	54
SECTION 2	58

Commented [ES2]: Once we get a final draft, we should double check that all of these pages and headings are still accurate. I changed a few headings below.

SECTION 1.

1.000 PURPOSE AND APPLICABILITY

1.100 SHORT TITLE

This ordinance will be known and may be cited as the Huntersville Subdivision Ordinance.

1.200 PURPOSE

The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160D-801 through Section 160D-808 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Huntersville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate transportation networks and utilities within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; to ensure the proper legal description, monumentation, and recording of subdivided land; and to create conditions that substantially promote public health, safety, convenience, and the general welfare.

1.300 JURISDICTION

The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 2.100 of this ordinance, within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Huntersville, North Carolina as now or hereafter established. Any subdivision for which a preliminary plan has been approved by Mecklenburg County prior to becoming subject to the Huntersville Subdivision Ordinance, may, at the option of the developer, be developed in its entirety in accordance with the Mecklenburg County Subdivision Ordinance. Any subdivision for which a preliminary plan has been submitted to Mecklenburg County, but not approved prior to becoming subject to the Huntersville Subdivision Ordinance, shall comply with Huntersville ordinance standards.

1.400 SEPARABILITY

If any section, paragraph, subdivision, clause, or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause, or provision so adjudged, and the remainder of this ordinance will be deemed valid and effective.

1.500 COMPLIANCE WITH ORDINANCE

All plats for the subdivision of land must conform to the requirements of this ordinance and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended, nor any permit be issued by an administrative agent of the Town of Huntersville for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.

1.600 EFFECTIVE DATE

This ordinance shall become effective November 1, 1989.

2.000 DEFINITIONS AND RULES OF CONSTRUCTION

2.100 DEFINITIONS

As used in this ordinance, the following terms will have the meanings indicated in this section:

Alley.

A vehicular way used for providing service access along rear or side property lines of lots which are also served by one of the listed street types defined herein or in Article 5 of the Huntersville Zoning Ordinance. An alley may be accepted for public maintenance only if it serves a broad public function. Residential alleys will generally remain private.

Administrative Decision.

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Appeal.

An action requesting reversal or modification of an interpretation or decision made by Town Staff or Administrative Agent in the application of these regulations.

Board of Adjustment.

The Zoning Board of Adjustment of the Town of Huntersville.

Build-to line.

A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building Setback Line.

A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

Conservation Easement.

A conservation agreement as defined by N.C.G.S. § 121-35(1) in the form of an easement.

Consulting Engineer.

A North Carolina Registered Engineer appointed from time to time by the Town Board of Huntersville.

Corner Lot.

A lot which abuts the right-of-way of two streets at their intersection.

Designated Administrative Agent (also Designee).

A government agency or consulting professional which has been designated by the Huntersville Board of Commissioners through contract or agreement to administer the Subdivision Ordinance.

Easement.

A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

Expedited Subdivision Review.

The review and approval of the division of a tract or parcel of land in ~~single-ownership~~ [single ownership](#) for which only a Final Plat Review is required. Any subdivision of land, whether major, minor, or other will qualify for Expedited Subdivision Review if in single ownership and all of the following criteria are met:

1. The tract or parcel to be divided is not already exempt as a division of land under Section 2.100 DEFINITION, "Subdivision", paragraph 2 of the Subdivision Ordinance (which

- exempts the division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved).
2. No part of the tract of parcel to be divided has been divided under this subsection in the 10 years prior to division.
 3. The entire area of the tract or parcel to be divided is greater than five acres.
 4. After division, no more than three lots result from the division.
 5. After division, all resultant lots comply with all of the following:
 - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

Land Development Standards Manual.

The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual, which sets forth standard details for the design and construction of various aspects of development.

Lot.

A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

Lot Front.

That side of a lot which fronts on a street. In the case of a corner lot, the subdivider shall designate the front of the lot for purposes of these regulations and the Huntersville Zoning Ordinance by labeling the front and side building lines as such on the final plat.

Open Space.

Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Unless specifically allowed by this ordinance in the Farmhouse Cluster, Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.

Planning Board.

The Planning Board of the Town of Huntersville established pursuant to [N.C.G.S. § 160D-301](#).

Plat

A map or plan of a parcel of land which is to be, or which has been, subdivided.

Streets (by classification).

Freeway.

High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users.

Boulevards.

Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context.

Other Major Thoroughfares.

Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users.

Minor Thoroughfare.

~~Generally, Usually~~ two-lane roadways with low to moderate speeds depending on context.

Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users.

Collector.

A roadway which assembles traffic from local streets and distributes it to the nearest thoroughfare street. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

Local.

This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds.

Cul-de-sac.

A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround. Cul-de-sacs may not exceed 350 feet in length and must be accessed from a street providing internal or external connectivity. They are permitted where topography makes a street connection impracticable.

Marginal Access Street.

A public or private street adjoining or parallel to an arterial street to relieve the arterial street of the necessity of providing access to abutting property.

Town Streets.

Town Street classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of [Article 5](#) and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

Street, Private.

An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street Right-of-Way.

Street right-of-way shall mean any public right-of-way set aside for public travel which has been accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville or has otherwise been established as a public street prior to the adoption of this ordinance.

Subdivision.

A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots prior to the effective date of this ordinance, or portions of previously subdivided and recorded lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance and the appropriate zoning classification.
2. The division of land into parcels greater than 5 acres where street right-of-way dedication is not involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication is not involved and where the resultant lots are equal to or exceed the standards of the appropriate Zoning Ordinance classification and Subdivision Ordinance.
5. The division of land into plots or lots for use as a cemetery.
6. The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
7. The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
8. Easements for the purposes of utilities, driveways, parking, footpaths, trails, or other similar purposes.
9. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
10. Transfers of tracts or parcels by inheritance or bona fide gift.
11. Condemnation or deed in lieu of condemnation, by either a public or private condemner; provided, however, that the condemner must comply with the requirements of this

Commented [ES3]: Edits made to more closely align with 160D-802

ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

Subdivision, Conservation

A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. [§ 121-35\(1\)](#) et seq.

Subdivision, Limited.

A subdivision that is not otherwise exempt from the provisions of this ordinance and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only the parcel(s) to be transferred or leased and only said parcel(s) shall be subject to the requirements of this ordinance.

Subdivision, Major.

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street but does not include the public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. A multi-building site.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

Subdivision, Minor.

A subdivision that is not otherwise exempt from the provisions of this ordinance and that is not a “Major Subdivision” as that term is defined in this Ordinance.

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision, except as provided below, ~~and require Town Board approval~~. Farmhouse Cluster developments do not require a Sketch Plan, except as specifically set out hereinbelow. A Farmhouse Cluster Plan shall demonstrate compliance with requirements of the Zoning Ordinance and include the following: an “Existing Features (Site Analysis) Plan” as detailed in Section 6.300 (1)(1-14), (2), and (3) of this Ordinance; a Four-Step Process as detailed in Section 6.300 (3) of this Ordinance; and a Preliminary Plan as detailed in Section 6.400 of this Ordinance.

Thoroughfare.

Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, boulevards, other major thoroughfares or minor thoroughfares.

Thoroughfare Plan.

The most recent map adopted by the Metropolitan Planning Organization which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation. The words thoroughfare plan and arterial street plan are used synonymously.

Through Lot.

A lot other than a corner lot with frontage on more than one street.

Town Board.

The Board of Commissioners of the Town of Huntersville.

Town Manager.

The Town Manager of the Town of Huntersville.

Variance.

An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

2.200 RULES OF CONSTRUCTION

For the purposes of these regulations, the following rules of construction apply.

1. These regulations will be construed to achieve the purposes for which they are adopted.
2. In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Huntersville Zoning Ordinance shall apply.
3. The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
4. The word "may" is permissive in nature except when used in the negative.
5. References to "days" will always be construed to be working days, as defined in Article 12 of the Zoning Ordinance, unless the context of the language clearly indicates otherwise.

3.000 DECISION MAKING AND ADMINISTRATIVE BODIES

3.100 PLANNING STAFF

In addition to any authority granted to the Planning Director by other ordinances of the Town of Huntersville, the Planning Director, and the employees under his or her direction, or other Designee, may, from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance, and will have the following duties in accordance with these regulations.

1. To review all petitions for subdivisions of land, within the authority and jurisdiction of these regulations, and comment on completeness of petitions and conformity to the requirements of these regulations.
2. To review and provide comments on variance petitions.
3. To maintain files and other public records related to the administration and enforcement of these regulations.
4. To comment on proposed amendments to these regulations.
5. To interpret the provisions of these regulations.
6. To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.

7. To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
8. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land which, according to the definition of Subdivision found in Section 2.100, are not subject to the requirements of this ordinance.
9. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land, defined as Limited Subdivisions and Minor Subdivisions in Section 2.100, which meet the standards of the Subdivision Ordinance and Zoning Ordinance, except as otherwise provided in Section 6.550.
10. To approve Major and Minor Subdivision Sketch Plans, Preliminary Plans, and Final Plats, ~~which are identical to, or include only minor revision(s) to, the approved sketch plan. Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot(s) and/or unit(s) count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan. Major revisions include, but are not limited to, the addition of lots, the addition of streets, change(s) to the pattern of street connections, changes to open space provisions, reduction in dedications to the public, or any other feature(s) of the subdivision which assumed significance at the time of sketch plan approval.~~
11. ~~To approve minor revisions to sketch plans, preliminary plans, and final plats; Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot(s) and/or unit (s) count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan.~~
12. ~~To approve subdivision sketch plans that are consistent with or show minor changes to an approved conditional rezoning plan. Minor changes to a conditional rezoning plan shall include, but not be limited to, minor shifts in street and open space location (not less open space), fewer lots and other changes which do not alter the overall layout of the plan or which were significant at the time of the conditional rezoning plan approval.~~
13. ~~11.~~ To approve final plats for recordation in conjunction with an Expedited Subdivision Review.

3.200 PLANNING BOARD

In addition to any authority granted to the Planning Board by other ordinances of the Town of Huntersville, the Planning Board will have the following powers and duties to be carried out in accordance with these regulations.

1. To hear and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
2. ~~To review and make recommendation on sketch plans for major subdivisions (unless otherwise provided) and major changes to approved sketch or preliminary plans for major subdivisions in accordance with the regulations set forth by the zoning and subdivision ordinances.~~
23. To hear make advisory recommendations on and comment on requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
34. To hear and make advisory recommendations on appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations.

Commented [ES4]: Joint public hearing with Town Board

Commented [ES5]: They don't hold quasi-judicial hearings

Commented [ES6]: They don't hold quasi-judicial hearings

In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with modifications conditions relating to the intent and standards of this ordinance.

3.300 TOWN BOARD OR DESIGNATED ADMINISTRATIVE AGENT

In addition to all other authority reserved to the Town Board by other ordinances, the Town Board will have the following powers and responsibilities in accordance with these regulations.

1. To hear and decide proposed amendments to the text of these regulations.
2. ~~To review and decide all applications for approval of Major Subdivision Sketch Plans (unless otherwise provided); major changes to approved sketch plans or preliminary plans for Major Subdivisions, and Farmhouse Clusters as provided in Article 3 of the Zoning Ordinance.~~
23. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
34. To hear and decide appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Town Board may approve the request, deny the request, or approve the request with conditions modifications relating to the intent and standards of this ordinance.

3.400 PLANNING STAFF ADDITIONAL POWERS

The Planning Director and the employees under his or her direction will have the following additional powers and duties to be carried out in accordance with these regulations:

1. To maintain the text of these regulations.
2. To recommend and prepare amendments to the text of these regulations.
3. To accept and file petitions for variances.
4. To accept and file notices of appeals within ten (10) days of the day an administrative interpretation or decision is issued.

4.000 APPEALS AND VARIANCES

4.100 AUTHORITY

The Planning Board may make recommendations on, and the Town Board shall hear and decide petitions for appeals from an interpretation or decision made by Planning Staff or Designated Administrative Agent and petitions for variances from the requirements of these regulations. Any reversal, modification, or affirmation of an interpretation or any variance thus authorized will be entered in writing in a decision of the Town Board with the justification set forth.

4.200 INITIATION

Any person who has standing under N.C.G.S. § 160D-1402(c) or the local government may appeal an administrative decision made pursuant to this ordinance to the board. An appeal is taken by filing a notice of appeal with the Planning Staff. The notice of appeal shall state the grounds for the appeal. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

4.210 FILING OF NOTICE OF APPEAL

The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. A notice of appeal, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a

Commented [ES7]: Modifications seems to be the more appropriate word here and below since addressing text amendments, appeals, and variances. As noted below in Section 4, conditions can be added to variances.

Commented [ES8]: There is no designated agent that makes quasi-judicial decisions associated with Subdivision Ordinance

Commented [ES9]: I changed to make recommendations on vs. just recommend as they can recommend to reverse, modify, or affirm vs. just recommend approve.

nonrefundable filing fee as established by the Huntersville Board of Commissioners. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

4.220 STANDARDS FOR GRANTING AN APPEAL

The Planning Board may recommend, and the Town Board may decide to [affirm or reverse, wholly or partly, or reverse or](#) modify the decision or interpretation under appeal. [The decision to reverse or modify may be made](#) upon finding an error in the application of these regulations on the part of the administrative official rendering the decision or interpretation.

4.300 FILING OF VARIANCE PETITION

A petition for a variance from the requirements of this ordinance, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a nonrefundable filing fee as established by the Town Board.

4.400 STANDARDS FOR GRANTING A VARIANCE

Before granting a variance from the requirements of this ordinance, the Town Board must determine that:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved

~~(5) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

Commented [ES10]: This is not a required variance finding. As such, made it a separate paragraph.

4.500 PLANNING BOARD REVIEW

After receipt of a complete variance petition, the Planning Board will review the petition and send a recommendation and supporting reasons for granting or denying the variance to the Town Board. Recommendation and supporting reasons shall be recorded in the minutes of the Planning Board.

4.600 ACTION BY TOWN BOARD

The Town Board ~~of Adjustment~~ may approve or deny the variance application or approve with conditions relating to the intent and standards of the ordinance. The [Town B](#)oard shall follow all procedures as specified in [N.C.G.S. § 160D-406](#) and [N.C.G.S. § 160D-705](#). The findings of fact used by the [Town B](#)oard to reach its decision shall be recorded in the written decision.

Commented [ES11]: Typo

4.700 REHEARING

When the Town Board has denied any petition for a variance, it will not thereafter accept any other petition for the same variance affecting the same subdivision or any portion thereof, unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

4.800 EFFECT OF GRANT OF VARIANCE

After the approval of a variance by the Town Board, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variance to these regulations granted to the petitioner by the Town Board.

5.000 AMENDMENTS

The Planning Staff may from time to time, and at the request of the [Huntersville Ordinances Advisory Board](#), Huntersville Town Board or Planning Board shall, prepare certain amendments to the text of the [Subdivision Ordinance](#) to correct errors, update or modify the requirements, or otherwise modify the operation of the ordinance in regulating the subdivision of land.

Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Huntersville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

All text amendments must be referred to the Planning Board for a recommendation prior to final action by the Town Board. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning Board report.

6.000 THE SUBDIVISION PROCESS

6.100 COMPLIANCE REQUIRED

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the Mecklenburg County Register of Deeds until it has been submitted to and approved by the Town of Huntersville in accordance with these regulations, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. This applies to all subdivision activities included in the definition of Subdivision, found in Section 2.100.

6.200 GENERAL [GUIDELINES AND REQUIREMENTS](#)

The following statements provide general ~~requirements and policies~~[guidelines and requirements](#) to be used in the design, ~~review, and approval~~ of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Planning Director or Designated Administrative Agent at the earliest possible time in the development of a subdivision proposal. (See *Section 4.000 for appeal process*).

[6.200-A GENERAL GUIDELINES](#)

~~1. Consistency with adopted public plans and policies.~~

~~All subdivision of land approved under these regulations should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.~~

Commented [JS12]: Moved to General Requirements

2. Conformity.

All proposed subdivisions ~~should~~[shall](#) be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established and/or approved development, new subdivisions

~~should~~ be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections ~~should~~ be assessed to minimize the detrimental effects of high volume, high speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses as well as the adopted thoroughfare plan and other adopted plans. Proposed subdivisions ~~should~~ not endanger the public health and safety of the community, further, orientation of principal structures ~~should~~ avoid backing up to public streets because of lack of privacy and inappropriate relationship to the public realm. Use of single-loaded streets where development is only on one side of the street or providing large expanses of open space where principal structures are visually buffered from the road may be appropriate in circumstances where such structures should not front on the existing public street. ~~The Town Board of Commissioners may allow a deviation to the orientation due to topography issues or existing vegetation visually buffering structures from the public street.~~

3. Access Between Adjoining Properties.

~~To the extent practicable, all streets shall connect to create a comprehensive transportation network, which allows free movement of automobiles, bicyclists, and pedestrians. The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.~~

Commented [ES13]: Moved below

34. Relation to topography.

In sloping terrain, streets ~~should~~ generally parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of surface storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds.

45. Mature trees and natural vegetation.

~~Streets and development sites should be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustment of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirements continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended final plat.~~

Commented [JS14]: Moved below

6. Access to parks, schools, etc.

~~Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.~~

Commented [ES15]: Moved below

7. Discourage through traffic.

~~Methods to discourage high volume, high speed through traffic should consider street geometry, intersection design, and other traffic calming measures.~~

Commented [JS16]: Moved below

48. Relationship to railroad rights-of-way.

When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.

6.200-B GENERAL REQUIREMENTS:

1. Consistency with adopted public plans and policies.

~~All subdivision of land approved under these regulations must comply with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding~~

development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.

1. Access to parks, schools, etc.

Streets and sidewalks shall be designed to access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.

29. Half Streets.

Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street shall be platted within such tract. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

3. Access Between Adjoining Properties.

The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.

10. Parallel streets along thoroughfares.

Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required to provide a marginal access street parallel to the highway.

441. Reservation and Dedication of Public School and Public Park Sites.

The subdivider shall determine if the tract of land to be subdivided appears in any adopted plan or policy document as a future public school or public park (including public greenways, and/or open spaces) site by contacting the appropriate agency. The subdivider shall provide certification to the Planning Director or Designated Administrative Agent to indicate whether or not the area proposed to be subdivided includes any identified future public school or public park site. If no certification is provided, the Planning Director or Designee shall make the determination by contacting the appropriate agencies. If such site(s) are included in the area to be subdivided, the Planning Director or Designee will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. With regards to future school sites, the appropriate agency will have 18 months for future school sites and 12 months for future public park sites from the date of final approval of the subdivision or site plan to acquire the site by purchase, receipt of a dedication, or by initiating condemnation proceedings. If, at the end of the 18-month applicable period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation. The developer may also offer dedication of any public park that appears in any adopted plan or policy document as a future public park (including public greenways and open spaces).

As an alternate to the above for public park sites, the Town Board may accept payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. A combination or partial payment of funds and partial dedication of land may be allowed when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

Commented [JS17]: Changes consistent with Statute 160D-804.

Pursuant to N.C.G.S. § 160D-804(d), the Town, may accept payment of funds to be used to acquire or develop the open space and/or recreation areas which serve residents of more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be 3200 percent of the pre-development property tax value of the subdivision site to be developed. A combination or partial payment of funds and partial dedication of land may be allowed when the Town Board determines that this combination is in the best interests of the citizens of the area to be served.

Commented [ES18]: Acceptance of funds doesn't require Town Board approval, only the acceptance of partial dedication and partial funds.

Commented [ES19]: Concord uses 300% of tax value and Durham uses 200%.

512. Community Service Facilities.

When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, and other public uses, falls within an area proposed to be subdivided, the Planning Director or Designated Administrative Agent will notify the appropriate agency of the proposed subdivision and its effect on the future community service facility site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. The subdivider may choose to dedicate the area to be reserved.

613. Proposed Sstreet Nnames.

Proposed street names shall be coordinated with Mecklenburg County Charlotte-Mecklenburg Planning Commission staff, Town Engineering Department, or other designee.

Commented [ES20]: Per Jack, avoided specific department as department name changes.

714. Easements.

Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, shallould be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.

815. Proposed Wwater and Ssewerage Ssystem.

At the sketch plan stage, the subdivision plan shall contain information as to the availability and method of providing potable water and a system of sanitary sewage collection and disposal. The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

- (a) Where, at the time of preliminary plan approval, these systems are to be a part of the public water and sanitary sewerage system owned and operated by the Charlotte-Mecklenburg Utility Department, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed systems, prepared by a registered engineer, which shall be required to meet the standards established by said utility owner/operator for connection to the system upon completion and dedication.
- (b) Where, at the time of preliminary plan approval, the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the proposed systems must be reviewed and approved by the agency or agencies with jurisdiction over the approval. This shall also include, but not be limited to, review and approval by Charlotte-Mecklenburg Utility Department to establish that construction plans meet public utility standards for adequacy and compatibility with the public system(s) in order to provide for the future orderly development of the town. Whether the proposed system serves one structure or more than one structure the developer must provide evidence prior to preliminary plan approval of the required discharge permit or a perk test for sewage disposal on each lot, whichever is applicable. Where lots are to be served by septic tank

systems, the preliminary plan and the final plat shall clearly label any lots which do not perk and for which a building permit shall not be issued until alternate sewage disposal methods are available to such lots. Prior to final plat approval, evidence must be provided that both the sewage and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.

~~Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the Department of Environmental Protection will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environmental Protection.~~

916. Restrictions on the subdivision of land subject to flooding.

Lots that are subject to flooding ~~should not be established in subdivisions except as provided in~~ shall comply with the provisions of Section 7.280.

17. Reserved.

~~Neighborhood Parks: Dedication of Land or Fees in Lieu of Dedication of Land.~~

1048. Open Space

Open space, where required, shall be consistent with the standards established in Article 7 of the Huntersville Zoning Ordinance.

,11. Mature Trees and Vegetation

~~The purposes and development standards for landscaping, as further defined in Article 7 of the Zoning Ordinance, shall be met.~~

12. Through Traffic

~~Methods to prevent high-volume, high-speed traffic shall be employed using street geometry, intersection design, and other traffic calming measures.~~

139. Impact of Development on Public Facilities

When reviewing ~~certain~~ subdivisions, the town shall consider the impacts the proposed development will have on public facilities, ~~including traffic network infrastructure~~, in light of the requirements of Section 6.300(13) and Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision ~~is in compliance with the Intersection Capacity Utilization Percentage Standards as set forth in does not Article 14.4 of the Zoning Ordinance adversely affect the health, safety, and welfare of the community~~, and where applicable, the developer may provide mitigation measures to ~~satisfy the requirements of Article 14 of the Zoning Ordinance minimize adverse impacts~~. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and 14 of the Zoning Ordinance.

6.300 SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS

1. Prior to the filing of an application for approval of a major subdivision Preliminary Plan, a Sketch Plan shall be submitted to the Planning Director and any Designated Administrative Agent for review. When submitted, this **Sketch Plan shall be on a topographical map showing original contours at intervals of not less than four feet highlighting slopes over 25% and existing tree lines.** It ~~should~~ **shall** show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It ~~should~~ **shall** include the following information:

1. The boundary lines of the property being subdivided;
2. Water courses on the land to be subdivided;
3. The location, names, and rights-of-way of any existing streets on or within 300 feet of the land to be subdivided;
4. The location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;
5. Rough finished grades, the location of proposed streets, lots, parks or other open spaces, reservations, building lines, street cross-sections, number and type of buildings, and the location of any building restriction flood lines required by Section 7.280;
6. Zoning information for the proposed project site;
7. Proposed front, rear, and side yard dimensions for each building type along each street type;
8. For projects within a regulated watershed protection area, the location of required buffers and high-density option detention, if applicable;
9. The location of general buffers or screens required for the project area, as a whole;
10. The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date;
11. A small-scale vicinity map.
12. Information necessary to evaluate the proposed development site for compliance with the water quality standards of Section 8.17 of the Huntersville Zoning Ordinance and the Performance Criteria as detailed in Section 9 of the Huntersville Water Quality Design Manual. Further, the Site Evaluation Tool (SET) output shall be submitted for each proposed development site. Section 9 of the Huntersville Water Quality Design Manual contains detailed information concerning the submission requirements for SET.
13. Traffic Impact Assessments; Physical Analysis.
 - (a) a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
 - (b) For developments of twenty (20) or more residential units or equivalent traffic generation a physical analysis (type of units expected, including number of bedrooms, projected values, size, and timing of phases, etc.).
14. An "Existing Features (Site Analysis) Plan" shall be submitted as part of the sketch plan application and for Farmhouse Cluster developments in order to determine significant features to be preserved. It is recommended a pre-application meeting with the administrator be held to review the Existing Features Plan prior to submission of the sketch plan. The Existing Features (Site Analysis) Plan analyzes each site's special features, as they form the basis of the design process for open space lands, building locations, street alignments, and lot lines. Detailed requirements for Existing Features Plans at the minimum must include:
 - (a) The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);
 - (b) The location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;

- (c) The location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;
 - (d) A topographical map showing original contours at intervals of not less than four feet and existing tree lines;
- 2. The Existing Features (Site Analysis) Plan shall identify areas to be preserved as described in Section 7.12 of the Huntersville Zoning Ordinance. These areas comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed in Section 7.12 of the Huntersville Zoning Ordinance. The Existing Features (Site Analysis) Plan shall form the basis for the conceptual Sketch Plan, which shall show the tentative location of buildings, streets, lot lines and greenway lands in new subdivisions, according to the four-step design process described below.
- 3. Four-Step Process: **Within the Rural and Transitional zoning district**, each Sketch Plan shall follow a four-step design process as described below. When the conceptual Sketch Plan is submitted, applicants shall be prepared to demonstrate to the town that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.
 - (a) Designating the Open Space: During the first step all potential preservation areas are identified, using the Existing Features (Site Analysis) Plan. Areas to be designated should consist of wetlands, floodways, flood fringe, and significant trees as well as sensitive and noteworthy natural, scenic, and cultural resources on the property.
 - (b) Location of House Sites: During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the evaluation criteria contained in Section 7.13 of the Huntersville Zoning Ordinance, subdivision applicants shall identify tentative house sites on the conceptual Sketch Plan.
 - (c) Street and Lot Layout: The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings shall be strongly discouraged.
 - (d) Lot Lines: The fourth step is simply to draw in the lot lines where applicable.

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Multi-Building Site or a Minor Subdivision, except for Section 6.300(1)(14) and Section 6.300(3), which are required for Farmhouse Cluster developments.

6.315 SKETCH PLAN NOT REQUIRED FOR CONSERVATION SUBDIVISIONS

To offer property owners an incentive to maintain land in the Open Space zoning district in a largely undeveloped and rural condition, conservation subdivisions as defined in the Huntersville Zoning and Subdivision Ordinances are eligible for a streamlined approval process. Compliance with the requirements below, and with Section 3.2.1(f) of the zoning ordinance, shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat according to the requirements of subdivision ordinance Section 6.600.

- 1. Documents prepared by the property owner in association with an authorized conservation organization that have resulted in the grant of an irrevocable conservation easement will be accepted in lieu of the sketch plan requirements of the preceding Sections 6.300 and 6.310.

2. The submitted documents must show that the following conditions have been met:
 - (a) An irrevocable conservation easement held by a conservation organization has been recorded on the tract(s) to be subdivided; documentation of the easement includes a boundary description of the area subject to the conservation easement.
 - (b) Limits on location and extent of land disturbance and building construction have been set out in the conservation easement(s), which at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
 - (c) Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
 - (d) The proposed subdivision conforms to the minimum project size of 40 acres and the maximum gross density of one dwelling unit per 20 acres.
 - (e) All parcels within the conservation subdivision have been provided with permanent access by way of public road frontage or a permanent 20-foot wide access easement that connects to a public right-of-way. Landlocked parcel(s) are not created.
 - (f) Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted thoroughfare plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations has been made, either by the filing of a deed or the filing of a plat map.

6.316 SKETCH PLAN NOT REQUIRED FOR EXPEDITED SUBDIVISION REVIEW

A sketch plan shall not be required for divisions of land qualifying for Expedited Subdivision Review.

6.320 REVIEW OF MAJOR SUBDIVISION SKETCH PLAN

- ~~1. 4.—~~ Upon submission, the Planning Director and any Designated Administrative Agent shall have fifteen (15) working days to review and comment on the Sketch Plan. Upon completion of review, Planning Staff shall provide comments to the subdivider on any portions of the Sketch Plan that are not in compliance with the Town's Sketch Plan submission requirements or the Town's Zoning and Subdivision Ordinances. A technically deficient sketch plan shall be returned to the subdivider with comments once final adjustments are made by the applicant to address staff comments and minimum submission requirements are met, the sketch plan, shall be forwarded by the staff to the Planning Board to place on the Planning Board's agenda for their next scheduled meeting. Mailed notice about the request shall be sent to all owners of property within 250 feet of proposed subdivision prior to the Planning Board meeting. Prior to the Planning Board meeting,
- ~~2. The subdivider shall~~ must address all Planning Town Staff comments prior to refileing a revised Sketch Plan with the Planning Department file with the Planning Department. If subsequent corrections or changes to a sketch plan are necessary, the reviewer shall have fifteen (15) working days to review any revised sketch plan.
- ~~1-3. Aa~~ written report of at least one community meeting held by the subdivider must be submitted within forty-five (45) days of the initial filing of the sketch plan for review by the Planning Department. The community meeting shall not be held on regularly scheduled Town Board and Planning Board meeting nights. Notice of such a meeting shall be given to all of the following using the parcel ownership information listed in the current Mecklenburg County tax records:
 - a. Owner of each property petitioned for subdivision
 - b. Owner of each abutting property
 - c. Owner of each property within 250 feet of the petitioned property
 - d. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property

- e. Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
- f. Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2000 feet of any portion of the subdivision site (distance scaled on a Town of Huntersville or Mecklenburg County official map).
- g. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the subdivision petition made by the petitioner as a result of the meeting. In the event the subdivider has not held at least one meeting pursuant to this paragraph, the subdivider shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered, ~~by the Town Board~~ but shall not be subject to judicial review.

~~If, however, a sketch plan shows only minor revisions (see 3.100.11) to a sketch plan or is consistent with or shows minor changes to a conditional zoning district plan(s) approved by the Huntersville Board of Commissioners and remaining in effect on all of the property subject to the sketch plan submittal, then the Planning Director or staff under his direction is authorized to approve the sketch plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a sketch plan may be appealed to the Huntersville Board of Commissioners.~~

~~4. 2.—Within 30 days of receiving the final Sketch Plan and community meeting report, Town staff the Planning Director or Designated Administrative Agent shall prepare a written decision report setting forth the proposed findings concerning the application's compliance with applicable regulations. If the staff decision report proposes a finding or conclusion that the application fails to comply with applicable regulations, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions. Notice of the decision to approve or deny a sketch plan shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a sketch plan may be appealed in accordance with Section 4.000.~~

~~3.—Sketch Plan documents shall be submitted in accordance with published review schedules in order to be placed on the applicable Planning Board or Town Board agenda~~

~~4.—The Planning Board shall have forty-five (45) consecutive days from their first meeting to review and make a recommendation to the Town Board on the Sketch Plan. However, the developer may request one additional regular Planning Board meeting to address any issues raised, subject to approval by the Planning Board. The Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore. In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Town Board, and the staff may likewise revise its recommendations.~~

~~5.—A Sketch Plan subdivision hearing will be conducted as a quasi-judicial hearing before the Town Board. The applicant has the burden of producing competent, material, and substantial evidence establishing that the proposed subdivision will comply with all of the applicable standards which apply. The burden of producing competent, material, and substantial evidence establishing the proposed subdivision should be denied for any of the reasons set forth in these regulations rests on the party or parties urging that the requested Sketch Plan should be denied. In considering whether to approve an application for a subdivision Sketch Plan, the Town Board shall proceed according to the following format:~~

- ~~(a) the Board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board that the application is complete;~~

- (b) ~~the Board shall consider whether the application complies with all of the applicable requirements. Separate votes may be taken with respect to each requirement not met by the application. If the Town Board concludes that all applicable requirements are met, it shall approve the Sketch Plan. If the Board concludes that the application fails to comply with one (1) or more of the applicable requirements, it shall adopt a motion to deny the application for one (1) or more of the reasons set forth within this ordinance. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.~~

6.400 PRELIMINARY PLAN REQUIREMENTS

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a preliminary plan will proceed without all of the information listed. ~~Detailed standards and specifications for~~ Construction of state standard roads ~~shall be in accordance with NCDOT regulations, are contained in the Mecklenburg County Land Development Standards Manual available from the Mecklenburg County Land Use and Environmental Services Agency.~~ For Town streets, the standards of Article 5 of the Huntersville Zoning Ordinance ~~and Engineering Standards and Procedures Manual~~ shall control.

1. ~~1-~~ The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad line, water courses, easements, or other significant features of the tract.
2. ~~2-~~ The location, size, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
3. ~~3-~~ Original contours, including tree lines, shown at intervals of not less than 4 feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coast and Geodetic survey. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
4. ~~4-~~ The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines, front build-to lines and rear and side yard dimensions for each lot, street dimensions, tentative building locations, and the location of any building restriction flood lines required by Section 7.280. The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future)
5. ~~5-~~ The location of all proposed storm drains and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, and the Building Restriction Floodline and Flood Protection Elevation for each lot subject to flooding as defined in Section 7.280.
6. ~~6-~~ The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the Planning Director and or Designated Administrative Agent.
7. ~~7-~~ The scale of the plan which shall not be smaller than 100 feet to the inch, north point, date.
8. ~~8-~~ Typical cross sections of internal or abutting streets showing width, sidewalk, and planting details and proposed construction of roadways.

- ~~9.~~ 9. Proposed profiles of roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and storm drains if present and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
- ~~10.~~ 10. The proposed method of water supply and sewer disposal.
- ~~11.~~ 11. A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- ~~12.~~ 12. The location of any existing LCID landfills on the site and the location of any proposed LCID landfills on the site.
- ~~13.~~ 13. A timetable for estimated project completion of the area covered by the preliminary plan.
- ~~14.~~ 14. The zoning district(s) in which the project is located.
- ~~15.~~ 15. For projects in the Mountain Island Lake Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
- ~~16.~~ 16. For subdivisions within which open space is required, a draft of the documents by which irrevocable preservation of open space shall be assured.
- ~~17.~~ 17. A Landscape/Preservation Plan is required for all subdivisions. Items to be included on the plan are as follows:
- (a) Project Name
 - (b) Owner Name
 - (c) Landscape Architect's seal and signature
 - (d) Tree save calculations
 - (e) Tree save areas – must also be shown on all sheets to be included within the Preliminary Plan
 - (f) Street Trees Proposed
 - (g) Additional trees to be planted to meet minimum tree save requirements and appropriate table (if any)
 - (h) Individual residential lot trees and a table showing total amount by lot type
 - (i) Internal/Perimeter landscaping for parking lots
 - (j) Landscape easements properly labeled – must also be shown on the site plan and final plat
 - (k) Notes on plan related to maintenance of street trees by individual homeowner or homeowners association – must also be noted on all preliminary plans and final plats to be recorded and documented within the homeowner's covenants and restrictions.
 - (l) Proposed utilities in relation to tree save areas.
- ~~18.~~ 18. Storm Water Permit Application. A Storm Water Permit Application shall be submitted along with preliminary plans for each proposed development. The permit application shall demonstrate compliance with [Section 8.17.6](#), Performance Criteria of the Huntersville Zoning Ordinance, unless otherwise exempted. The storm water permit application shall contain computations, drawings, soil analyses, calculations for each BMP, and overall site hydrology calculations as well as other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with [Section 8.17.6](#). In addition, the

permit application shall specify those parties responsible for long-term maintenance of all BMPs. The Town Staff of Huntersville shall review the permit application to determine compliance with the approved Performance Criteria. Approval of the storm water permit application by the Town of Huntersville is required prior to the initiation of land disturbing activities and said storm water permit application shall serve as the basis for all subsequent construction.

6.500 PROCEDURES FOR APPROVAL

6.510 PRELIMINARY PLAN: SUBMISSION AND APPROVAL

A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in Section 6.400 must be submitted to the Planning Director or Designated Administrative Agent. The plan must be accompanied by an application in duplicate signed by the owner or his duly authorized agent on application forms to be furnished by the Planning Director or Designated Administrative Agent. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in Section 6.400. Application for preliminary plan approval shall be accompanied by the appropriate development review fee(s) as established by ordinance.

The Planning Director or Designee shall have twenty (20) working days to review and comment on the initial preliminary plan. If subsequent corrections or changes to the initial preliminary plan are necessary, the reviewer shall have fifteen (15) working days to review any revised plan. The preliminary plan time limits listed above do not apply to plans for which no sketch plan has been submitted, nor to plans which contain any proposed school, park, greenway, or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits. Upon determination by the Planning Director or Designee and Town Engineering Department, or such other engineering agent designated by the Town Board to review Subdivision Plans, that the preliminary plan is complete, correct, and in compliance with Section 6.200 as submitted, or has been resubmitted and found complete and correct, the plan is eligible for approval.

~~If the preliminary plan shows only minor revisions (see 3.100.11) to the approved sketch plan, the Planning Director or staff under his direction is authorized to approve the plan, approve with conditions, or deny the plan. The Planning Director or Designated Administrative Agent shall prepare a written decision setting forth findings concerning the plan's compliance with applicable regulations. Notice of the decision to approve or deny a preliminary plan shall be provided in accordance with N.C.G.S. § 160D-403.~~

~~Administrative decisions to deny approval of a preliminary plan may be appealed to the Town Board in accordance with Section 4.000.~~

~~If the preliminary plan includes major revisions (see 3.100.10) to the approved sketch plan, or if a sketch plan has not been submitted and approved by the Town Board, the Planning Director will schedule consideration of the preliminary plan before the Planning Board within 30 working days. Upon receipt of the Planning Board's recommendation, the Planning Director will, within 30 working days, place the preliminary plan and the Planning Board's recommendation for approval, denial, or approval with conditions on the agenda of the Town Board. The time limits do not apply to plans for which no sketch plan has been submitted to the Planning Director, nor to plans which contain any proposed street, school, park, greenway, or other public facility for which reservation may be required. The applicant may consent to an extension of any of the above time limits. Should the Planning Director or Designated Administrative Agent fail to respond within the time limits set out above, the application will be considered recommended for denial.~~

~~The Town of Huntersville reserves the right to approve, disapprove in whole or in part, or condition its approval of the whole or any of its parts upon such requirements of this ordinance as may be necessary for the health, safety and general welfare, and to achieve compliance with Section 6.200. If a preliminary plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

6.520 EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED

The required preliminary plan may be waived by the Planning Director or Designee for subdivisions defined as Minor Subdivisions or divisions of land qualifying for Expedited Subdivision Review in Section 2.100 of these regulations provided:

1. A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Planning Director or Designee, and the required fee submitted; and
2. The subdivider, has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known watercourse.

The required preliminary plan may also be waived by the Planning Director for those subdivisions, including Limited Subdivisions, which do not involve the dedication of a new street or site designated for a future public facility.

However, a final plat must be prepared and recorded as provided in Section 6.600.

6.530 EFFECT OF APPROVAL OF PRELIMINARY PLAN

An approved preliminary plan will be valid for a period of two (2) years from the date of approval. If no work in furtherance of the plan except grading on the site has commenced within the two-year period, the preliminary plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, and such work involves any utility installations or street improvements except grading, the plan will remain valid and in force.

6.540 RELEASE OF GRADING PERMIT

Preliminary Plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. Once the preliminary plan is approved, further approvals under this provision are not required for grading permits for individual sites within the development, so long as grading conforms to the approved Preliminary Plan.

6.550 FINAL PLAT: SUBMISSION AND APPROVAL

Upon approval of the preliminary subdivision plan, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new streets shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in Section 8.400.3 prior to any final plat approval.

For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance.

Commented [ES21]: Moved up from below for better flow.

The final ~~subdivision~~ plat must be developed in accordance with the specifications set forth in Section 6.600. The official plat or plats, together with copies thereof sufficient for distribution, shall be presented for approval to the Planning Director or Designated Administrative Agent for review. The plat shall be accompanied by an application for final plat approval, submitted in duplicate and signed by the owner and/or his duly authorized agent. The reviewer shall have fifteen (15) working days to review and comment on the final plat.

The subdivider must address all **Planning Staff** comments prior to resubmitting a revised final plat for approval. If the final plat for a major subdivision shows only minor revisions (see 3.100.11) to the approved preliminary plan and/or sketch plan, the Planning Director or staff under his direction is authorized to approve the plat.

If the final plat for a major subdivision includes major revisions (see 3.100.10) to the approved preliminary plan and/or sketch plan, the staff's comments along with final plat copies will be forwarded to the staff to the Huntersville Planning Board for Planning Board review at their next scheduled meeting date. The staff to the Planning Board must receive the final plat and staff comments at least fourteen (14) days before the next regularly scheduled meeting of the Planning Board in order to place the final plat on their agenda. If subsequent corrections or changes to the ~~initial~~ **revised** final plat are necessary, the reviewer shall have fifteen (15) working days to review any revised **final** plat.

~~The Planning Board-Director or Designated Administrative Agent shall recommend approval or, disapproval, or approval with conditions of the final said plat. The final plat and Planning Board recommendation shall within 30 working days be presented to the Town Board, which shall approve, disapprove, or approve with conditions. The Town Board shall approve the final plat if all requirements of this ordinance, including Section 6.200, have been met. The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the plat's compliance with applicable regulations. Notice of the decision to approve or deny a final plat shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a final plat may be appealed in accordance with Section 4.000.~~

~~The Planning Director or staff under his direction is authorized to approve final plats of minor subdivisions and limited subdivisions which meet all the requirements of this ordinance, including Section 6.200. If the Planning Director determines that the final plat fails to meet any of the requirements of Section 6.200, or that the manner in which the tract is proposed for subdivision significantly affects the implementation of adopted public plans or policies, the Planning Director shall present the final plat to the Planning Board for recommendation and to the Town Board for approval, approval with conditions, or disapproval, in the manner provided in this section. For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance. If a final plat is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be taken to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

Upon approval, the final plat will be noted approved and made available to applicant for recordation in the Office of the Register of Deeds for Mecklenburg County, North Carolina, which such Register of Deeds is authorized to accept the plat for recordation.

6.600 FINAL PLAT REQUIREMENTS

The final plat will be prepared by a registered surveyor and must be drawn to scale not smaller than 100 feet equal 1 inch, and must contain the following information:

1. The exact boundary of the tract of land being subdivided, ~~showing clearly~~clearly showing the disposition of all portions of the tract.
2. The lines and names of all streets, alley lines, lot lines, lot and block numbers, front build-to line and side and rear yard dimensions for each lot, easements, reservations, and areas dedicated to public purposes with notes stating their purposes. In addition, on-site LCID landfills must be shown on the final plat and on deed(s) for affected lot(s). Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall and the construction of buildings or structures below the flood protection elevation of _____ is prohibited", as further described by Section 7.200 of this ordinance. Plats for multiple lots may include the flood protection elevations in tabular form.

In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat:

"Any construction or use within the areas delineated by floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by Floodway Regulations."

For subdivisions within which open space is required, a designation on the plat denoting the area of preservation and the limitations on its use and a reference to the recorded documents by which irrevocable preservation of open space shall be assured. A copy of such documents shall also be provided to the Planning Department.

Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.

- ~~3.~~ 3. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required

hereunder or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1: 10,000. In closed traverses the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.

4. ~~4.~~ Sufficient data to determine readily and reproduce accurately on the ground the location and extent of rural and/or urban open space to be preserved, the method of preservation, and any limits on use. In addition, the subdivider shall provide to the ~~Huntersville~~ Planning Staff a copy of any covenants and restrictions governing disposition and use of preserved open space.
5. ~~5.~~ "As built" drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
6. ~~6.~~ "As built" cross-sections of each town street type used in the development. Such cross-sections should show improvements in the public rights-of-way and in any easement associated with the detail of the street. Features to be shown will usually include: travel lanes, parking lanes (if any), curb and gutter (or ditch), planting strip, sidewalk, utility allocation. These drawings need not be placed on the final plat, but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
7. ~~7.~~ For projects in the Mountain Island Lake or Lake Norman Watershed Overlay Districts, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
8. ~~8.~~ The name of the township in which the subdivision is located, the name of the subdivision, the zoning district, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
9. ~~9.~~ Control corners and permanent markers with adequate and sufficient description to enable a surveyor to locate such control corners or markers shall be shown on the plat. One or more corners shall be designated as control corners, and shall establish two or more street center lines or offset lines within or on the street right-of-way lines to be permanently monumented at intersecting center line or offset lines, points of curvature or such other control points, which monuments shall also be designated as control corners. In addition to the above, control corners must be established along the rear property lines of lots with a minimum of two (2) per block located along a common line. Coordinates must be computed from North Carolina Plane Rectangular Coordinate System and the City of Charlotte Primary Control System monuments, as extended therefrom, provided such a control monument is within two thousand (2,000) feet of the subdivision. Design and material of the concrete monument must be in accordance with the standard detail contained in the Mecklenburg County Land Development Standards Manual. The corners of all lots and parcels must be marked with iron pins driven flush with the ground. The iron pins must be placed where lot boundaries intersect railroad and public street rights-of-way.
10. ~~10.~~ The following signed certificates (lettered or stamped) shall appear on each copy of the final plat submitted by the subdivider:
 - (a) Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer lines and all water lines to the Charlotte-Mecklenburg Utility Department, if applicable.

Date Owner(s)

Final written approval by the Planning Director or staff under his direction must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this ordinance. A copy of the sealed and recorded final plat must be delivered to the [Huntersville](#) Planning Department within 5 days of recording.

- ~~11. 11.~~ The exact boundary of all water quality best management practices shall be shown on final plats prepared by a registered surveyor. Final plats shall contain the following statement: ~~“This lot contains a water quality feature that must be maintained in accordance with the recorded Maintenance Covenant as specified in Section 8.17.21(a) of the Huntersville Zoning Ordinance.”~~

6.700 PLATS ALREADY ESTABLISHED BY SURVEY AND RECORD

Plats already established by survey and recorded in the Mecklenburg County Register of Deeds prior to the effective date of this ordinance will be eligible for development and other administrative permits without complying with the requirements of this ordinance, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of the approval.

A subdivision for which a preliminary plan has been approved but for which a final plat has not been recorded in the Mecklenburg County Register of Deeds prior to November 1, 1989 shall be approved for recording without complying with the requirements of this ordinance if final plats conform to the requirements of the subdivision ordinance in effect at the time of preliminary plan approval. Such subdivision will be inspected and must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of preliminary plan approval.

6.800 MULTI-BUILDING SITES

The ~~following~~ requirements ~~set forth in Sections 6.810 to 6.840~~ will apply for the preparation, submission, and approval of preliminary site plans for both residential and non-residential developments with more than one principal building on a single lot.

6.810 PRE-APPLICATION CONFERENCE DAYS

A ~~pre-application~~~~preliminary site plan~~ conference will be arranged by the developer with both the Planning Staff and any other Designated Administrative Agent prior to the submission of a preliminary site plan for a multi-building site.

6.820 PRELIMINARY PLAN REQUIREMENTS

A developer must submit to the Planning Director or Designee a preliminary ~~multi-building~~ site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of Section 6.400 and must include the following additional information:

- ~~1. 1.~~ The use, approximate height, bulk, and location of all buildings and structures.
- ~~2. 2.~~ All proposed land uses and, for residential development, the densities of dwelling units.

3. ~~3-~~In the case of plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
4. ~~4-~~The proposed location, use, improvements, ownership, and manner of maintenance of common open space areas.
5. ~~5-~~Final drafts of legal documents dedicating and restricting the common areas and establishing the means of common area ownership and maintenance.
6. ~~6-~~Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

6.830 PRELIMINARY PLAN REVIEW CRITERIA ~~AND APPROVAL~~

The Planning Director or employees under his or her direction will review the preliminary multi-building site plan within 15 working days to ensure conformance with the requirements of the Zoning and Subdivision Ordinances. ~~The Planning Director or Designated Administrative Agent will review the preliminary site plan to insure conformance with the requirements of this ordinance.~~ In addition, the multi-building site plans will be evaluated on the standards listed below.

1. ~~1-~~The character, amount and arrangement of open space areas will meet the requirements of Article 7 of the Zoning Ordinance. ~~adequately serve the needs of residential or non-residential occupants.~~
2. ~~2-~~Proposed means of dedication, ownership, and maintenance of all common areas, the restrictions on its uses, and the organization and authority of such associations as may be established for ownership and maintenance of common areas will assure the continuance of such space for its designed purpose.
3. ~~3-~~Site planning for the overall development will provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.
1. ~~4-~~The terms and conditions proposed for development over a period of years are sufficient to protect the interests of the public and the occupants of the development.

Commented [ES22]: Removed subjective language.

All Planning Staff comments must be addressed prior to the resubmission of any revised preliminary multi-building site plan for approval. If subsequent corrections are required, Planning Staff shall have 15 working days to review and comment on any revised preliminary multi-building site plan.

The Planning Director or staff under his direction is authorized to approve or disapprove the preliminary site plan for a multi-building site. The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the preliminary multi-building site plan's compliance with applicable regulations. Notice of the decision to approve or deny a final plat shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a preliminary multi-building site plan may be appealed in accordance with Section 4.000.

6.840 ~~PRELIMINARY PLAN APPROVAL AND OF FINAL PLAT~~

~~The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the preliminary site plan for a multi-building site which adheres to or shows only minor revisions (Section 3.100.11) to:~~

- (1) ~~An approved parallel conditional district or overlay district zoning plan which specifies the location of open space, edge conditions, approximate location of buildings, internal circulation, and relationship to public streets; or~~
- (2) ~~A sketch plan which has been reviewed by the Planning Board and approved by the Town Board in accordance with Section 6.300f.~~

Commented [ES23]: These are subjective and need to be removed.

For multi-building sites which do not adhere to a detailed approved plan as described in (1) or (2) above, the Planning Board will recommend and the Town Board will take action to approve, tentatively approve with conditions, or deny the preliminary site plan. When granted tentative approval with conditions, the developer must submit a revised plan that is in conformance with these conditions. If a preliminary site plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.

Upon approval of a preliminary plan for a multi-building site, ~~t~~The final plat for ~~thea~~ multi-building site ~~or innovative housing development~~ shall be prepared in accordance with the requirements of Section 6.600 and shall contain the following additional information:

- (a) The use, height, bulk, and location of all buildings and structures;
- (b) All land uses; and
- (c) The location, use, improvements, ownership, and manner of maintenance for all open space and for all common areas.

Planning Staff shall have 15 working days to review and comment on the final plats for multi-building sites to ensure compliance with the applicable requirements. All staff comments should be addressed prior to the resubmission of a revised final plat for review. If subsequent corrections are needed, Planning Staff shall have 15 working days to review any revised final plat.

The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the final plat's compliance with applicable regulations. Notice of the decision to approve or deny the final plat for a multi-building site shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a final plat may be appealed in accordance with Section 4.000.

~~The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the final plat for a multi-building site which adheres to or shows only minor revisions (3.100.11) to an approved preliminary plan. If the final plat includes major revisions to the approved preliminary plan, it will be placed on the agendas of the Planning Board for recommendation and the Town Board for approval, approval with conditions, or disapproval.~~

~~An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

6.850 -TRAFFIC IMPACT ANALYSIS

When re required, a Traffic Impact Analysis shall be provided by the applicant, in accordance with Article 14 of the Town Zoning Ordinance, which are incorporated by this reference.

7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.

7.100 DESIGN STANDARDS FOR STREETS

Detailed construction standards and specifications for state standard streets are contained in the Mecklenburg County Land Development Standards Manual. For Town Streets, the standards of Article 5 of the Huntersville Zoning Ordinance and the Huntersville Land Development Standards Manual shall control.

7.110 RIGHT-OF-WAY

1. On proposed streets, right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and/or reserved right-of-way be proposed to be less than the standards below. The Town Board, on the advice of the Town Engineer or their designee or other designated consulting engineer, may certify that special circumstances exist which make the dedication and/or reservation of the full right-of-way unnecessary or impractical.

Minimum R.O.W. by Street Classification

Street Type	Feet
Freeway	250-350
Boulevard	100-200
Other Major Thoroughfare	100-120
Minor Thoroughfare	70-100
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and Town's Engineering Standards and Procedures Manual.

These street types (above) are consistent with the Comprehensive Transportation Plan (CTP)-Highway Map (as adopted by the Charlotte Regional Transportation Planning Organization (CRTPO)) and the Town Engineering Standards and Procedures Manual. These standards represent the normally required rights-of-way for highways designated on the CTP. These widths may be modified by contextual design, environmental impact studies, or other adopted planning documents. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis.

2. Along existing streets, neither right-of-way dedication nor reservation is required unless:

- (a) An existing street has a right-of-way less than 60 feet wide and will provide access to the subdivision, in which case a right-of-way up to 30 feet on each side of the centerline may be required to be dedicated; or
- (b) An existing street will provide access to the subdivision and volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvement(s), in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

The Town Board, after consulting applicable plans and programs and after consulting with appropriate county, state, and/or federal officials, is responsible for classifying streets or segments thereof within the zoning and subdivision jurisdiction of the Town of Huntersville.

7.120 FREEWAYS (NEW)

Whenever a tract of land to be subdivided includes any part of the right-of-way of a planned freeway or extension of a freeway, as shown on the adopted Comprehensive Transportation Plan, and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved, platted in the location and to the width specified in the plan, and remain undeveloped pending future acquisition by the state or other governmental unit. The subdivider is responsible for the reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the [Zoning Ordinance](#) will be made at the edge of the full right-of-way. Right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.130 ARTERIAL STREET RIGHT-OF-WAY (NEW STREETS)

Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted Comprehensive Transportation Plan, and whenever a right-of-way for such a street has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat.

All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Arterial Street right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.135 TRANSFER OF DEVELOPMENT RIGHTS — R/W DEDICATION

All of the area dedicated by the developer as right-of-way for any public street may be used in the computation of development rights, but may not be used for the computation of lot area or open space, or fulfill storm water detention, or any other mandatory requirement. On-street parking which is planned, provided for, and approved will, however, be applied to the mandatory parking requirement. A developer may choose to dedicate the full right-of-way and thereby use the entire dedicated area for the density calculation.

7.150 CUL-DE-SAC

Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 350 feet and must be terminated by a vehicular turnaround design as accepted by the Town Engineering Department; provided, however, that this requirement may be waived where topographical or other unusual conditions exist.

7.170 STREET OFF-SETS

Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines should not be less than 300 feet for arterials. Offsets for other street types will be determined based upon projected traffic volumes and the applicability of traffic calming measures.

7.180 BLOCK LENGTHS AND WIDTHS

Block lengths may generally not exceed the standards established in Article 5 of the Zoning Ordinance, except as hereinafter provided. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of lots and public space more consistent with Articles 5 and 7 of the Huntersville Zoning Ordinance, ~~the Town Board may authorize~~ greater block lengths may be authorized.

7.200 DESIGN STANDARDS FOR LOTS

7.210 FRONTAGE ON STREET

Each lot must have frontage on a street, but with the following exceptions:

1. ~~4.~~ Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions of ~~Section Article~~ 8.1.1 of the Zoning Ordinance permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
2. ~~2.~~ Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with ~~provisions Section 8.1.2 of the Zoning Ordinance~~ permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
3. ~~3.~~ Up to six residential lots may be served by a privately maintained easement with a minimum right-of-way designed according to the specifications of the Rural (R) and Transitional Residential (TR) Districts' Farmhouse Cluster development (Section 3.2.1(e) & Section 3.2.2(e)). Any lots created pursuant to Section 3.2.1(f) & Section 3.2.2(f), Conservation Subdivision, may also be served by a privately maintained easement with a minimum 20-foot right-of-way.
4. ~~4.~~ A site-specific development plan may be considered for approval in the TC, NC, NR, OPS, and TND-O districts where residential and/or non-residential structures front upon a private courtyard,

carriageway, or pedestrian way, where adequate access by emergency vehicles is maintained by way of a rear alley and where the off-street placement of uses does not diminish the orientation of building fronts on the public street.

5. ~~5.~~A site-specific development plan may be considered for approval in the Campus Institutional and Corporate Business Districts to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites, and proposed buildings at the perimeter of the campus and corporate development front upon public street(s) or are buffered in accordance with this ordinance. It is intended that subdivisions be primarily served by public streets and use of private drives is minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives shall be constructed in accordance with Mixed Use/Retail and Industrial Street Standards as found in the Engineering Standards and Procedures Manual and sidewalks shall be provided on at least one side of the private drive. See the Campus and Corporate Business Districts.
6. ~~6.~~To access a lot or lots in the Highway Commercial District, where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

7.220 SIDE LINES

Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees. The requirement of this paragraph shall not be applicable to lots in Conservation Subdivisions.

7.230 LOT SIZES

Lot dimensions and yard dimensions are controlled by the Huntersville Zoning Ordinance.

7.240 BUILDING LINES

Building lines shall be established on all lots in residential subdivisions and shall be determined on the basis of zoning district and classification of any abutting streets, existing or planned, in accordance with Section 8.15 of the Huntersville Zoning Ordinance.

7.270 DRIVEWAY CONNECTIONS

Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of Huntersville, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a ~~lot-by-lot~~lot-by-lot basis.

7.280 LOTS SUBJECT TO FLOODING

The Land Use and Environmental Services Agency (LUESA) will determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the 1% annual chance flood level (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the Town Engineering Department. This determination must reflect the actual conditions imposed by the completed subdivision and must give due consideration to the effects of urbanization and obstructions.

No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an

elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the “Storm Water Elevation Line” (SWEL). In addition, a “Storm Water Protection Elevation” for each lot subject to flooding shall be noted on the lot plan as determined by the Huntersville Engineering Department staff based on the “Storm Water Elevation Line” (SWEL), or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater.

All habitable buildings or structures shall be located outside the “Storm Water Elevation Line”, or the lowest usable and functional part of the structure shall not be below the Storm Water Protection Elevation. “Usable and functional part of the structure” shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the Storm Water Protection Elevation.

Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the Storm Water Elevation Line.

During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek, or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk, and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges, or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the Floodplain Regulations, the Floodplain Regulations will supersede the provisions of this ordinance regarding land within the Community and FEMA Special Flood Hazard Areas.

7.290 LOTS WITHIN THE MOUNTAIN ISLAND LAKE WATERSHED PROTECTION AREA

The purpose of the Mountain Island Lake Watershed Protection Area is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

Mountain Island Lake Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into Mountain Island Lake and which is bounded as follows: Beginning at the Mountain Island Lake Dam on the Catawba River and proceeding along the ridgeline in an easterly direction to Rozzelle’s Ferry Road and proceeding thence in a south easterly direction, along Rozzelle’s Ferry Road to the intersection of Mt. Holly-Huntersville Road, and thence proceeding along Mt. Holly-Huntersville Road in a northeasterly direction to the intersection of Hambright Road and thence proceeding in an easterly direction along Hambright Road to N.C. 115 and thence proceeding in a northerly direction along N.C. 115 to the intersection of N.C. 73 and thence in a westerly-southwesterly direction along N.C. 73 to the Lake Norman Dam and thence proceeding in a southerly direction along the Catawba River to the beginning point.

A map showing the Mountain Island Lake Watershed Protection Area and the subareas CA1, CA2, CA3, CA4, PA1, PA2, and PA3 is incorporated into the Official Zoning Map. In any event of any difference or inconsistency between the areas as depicted on the map and the definition, the map or definition which describes or depicts the greater geographical area shall control. Should these subareas be more specifically defined in the Huntersville Zoning Ordinance by use of major landmarks such as roads and property lines to adjust the subarea boundaries, the subarea boundaries as described in the Zoning Ordinance shall control over those described in this ordinance.

1. EXCEPTIONS TO APPLICABILITY.

- (a) ~~(a)~~ Existing development, as defined in this section, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District.

(a)(b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of sub-sections 3. or 4. of this section, whichever is applicable; however, this exemption is not applicable to multiple contiguous lots under single ownership.

(b)(c) Existing public utilities may expand without being subject to the restrictions of this part provided that:

(i) (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and

(ii) (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

(d) This Section 7.290 shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.

Commented [JS24]: Required per HB 218 Statute Amendment

Commented [ES25R25]: Made separate paragraph

2. DEFINITIONS.

For the purpose of this section, the following terms will have the definitions indicated below.

BMPs. Best Management Practices.

A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMPs.

Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMPs.

Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.

Buffer.

A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (B.U.).

Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking

lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Critical Area.

The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake Watershed Protection Area is divided into four subareas as follows:

CA1 - Lower Gar Creek.

From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridgeline along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek.

CA2 - Upper Gar Creek.

From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridgeline along either side of Gar Creek.

CA3 - McDowell Creek.

From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridgeline along either side of McDowell Creek.

CA4 - Lake Front.

Extending landward ~~one-half~~^{one-half} mile from normal pool elevation along Mountain Island Lake and the Catawba River between Cowan's Ford Dam and Mountain Island Lake Dam.

Discharging Landfill.

A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development.

Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating Water Supply Watershed Regulations into the Huntersville Subdivision Ordinance based on at least one of the following criteria:

- (1) ~~(4)~~ Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- (2) ~~(2)~~ Having an outstanding valid building permit; or
- (3) ~~(3)~~ Having an approved site specific or phased development plan under the provisions of Section 2.2.2 of the Huntersville Zoning Ordinance.

Nonconforming Lot of Record.

A lot described by a plat or added that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Normal Pool Elevation.

The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, United States Geological Survey (U.S.G.S.) Datum.

Perennial Stream.

A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.

Protected Area.

The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Protected Area is divided into three subareas as follows:

PA1

The area extending from the outer limits of the critical areas to five hydrologic miles from the normal pool elevation and draining to Mountain Island Lake.

PA2

The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point.

PA3

The area extending from the outer limits of the PA2 area to the limits of the Mountain Island Lake Watershed.

Septic Tank System.

A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Watershed.

The entire land area contributing surface drainage into a stream, creek, lake, or other body of water.

Water Dependent Structures.

Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads, and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

3. CRITICAL AREA DEVELOPMENT STANDARDS.

Only development activities that require an erosion/ sedimentation control plan under Mecklenburg County regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

For individual buildings or for development projects within the Critical Areas, the following **impervious area limitations** are established on a building or project basis, respectively:

CA1	6% B.U. ¹
CA2	12% B.U. ¹
CA3	12% B.U. ¹
CA4	24% B.U. ¹

1 Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up-on Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) ~~(1)~~ The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) ~~(2)~~ The property has not been combined with additional lots after January 1, 2021.
- 3) ~~(3)~~ The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) ~~(4)~~ The current use of the property is nonresidential.
- 5) ~~(5)~~ In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) ~~(6)~~ The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS26]: Required by HB 218 State Statute

Vegetative buffers are required in the Critical Areas along the shoreline of Mountain Island Lake, measured from the normal pool elevation, and along all perennial streams, measured from the bank on each side of the stream.

CA1	100 feet or 100-year flood plain boundary, whichever is greater
CA2	100 feet or 100-year flood plain boundary, whichever is greater
CA3	100 feet or 100-year flood plain boundary, whichever is greater
CA4 (lake shore)	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than ~~2-inch~~2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon Mecklenburg County Water Quality Program guidelines and as approved on a plan submitted to the Mecklenburg County Water Quality Program.
- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.
- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. The Town can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC".

4. PROTECTED AREA DEVELOPMENT STANDARDS.

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of Section 7.290.4 of this ordinance.

For individual buildings or for development projects within Protected Areas 1 and 2, the following **impervious area limitations** are established on a building or project basis, respectively:

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹ 36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted**	70% B.U. with BMP

¹ **Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant**

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up-On Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) The property has not been combined with additional lots after January 1, 2021.
- 3) The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) The current use of the property is nonresidential.
- 5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS27]: Required by HB 218 State Statute

Vegetative buffers are required in the Protected Areas along all perennial streams, measured from the bank on each side of the stream.

** STRUCTURAL BMP^{§§}. Wet detention ponds, or alternative stormwater management measures limited to extended dry detention ponds and grass swales, are required where the **High Density** Option is permitted within the Protected Area. Other types of Structural BMP's may also be required.

PA1, low density option	50 feet
PA2, low density option	30 feet; 50 feet for agricultural uses
PA1, high density option	100 feet
PA2, high density option	100 feet

In the PA1 and PA2 subareas non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High-density option is permitted in subareas PA1 and PA2.

5. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) are required under the High-Density Option, the approval of the High-Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.295 LOTS WITHIN THE LAKE NORMAN WATERSHED PROTECTION AREA

The purpose of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

The Lake Norman Watershed Protection Area is that area within the jurisdiction of the Town of Huntersville which contributes surface drainage into that portion of the Catawba River known as Lake Norman and its tributaries. The Lake Norman Watershed Protection area is specifically defined on the Huntersville Zoning Maps with the designation LN-O (Lake Norman Overlay District).

1. EXCEPTIONS TO APPLICABILITY.

- (a) Existing development, as defined in Section 7.290, subsection 2., is not subject to the requirements of the Lake Norman Watershed Overlay District.
- (b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of subsection 3. of this section; however, this exemption is not applicable to multiple contiguous lots under single ownership.
- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (i) ~~(i)~~ Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 - ~~(i)(ii)~~ ~~(ii)~~ Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

~~(d) This Section 7.290 shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.~~

Commented [JS28]: Required per HB 218 Statute Amendment

Commented [ES29R29]: Make separate paragraph

2. DEFINITIONS.

The definitions below supplement the definitions of section 7.290, subsection 2.

Lake Norman Watershed Critical Area

The Lake Norman Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Huntersville Zoning Maps. Lake Norman Normal Pool Elevation.

The Lake Norman normal pool elevation, which is at contour interval 760 feet above Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

3. LAKE NORMAN CRITICAL AREA DEVELOPMENT STANDARDS

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

For individual buildings or for development projects within the Lake Norman Watershed Critical Area, the following impervious area limitations are established on a building or project basis, respectively:

CA, low density option	24% B.U. ¹
CA, high density option	50% B.U. with Structural BMP ¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Upon Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) The property has not been combined with additional lots after January 1, 2021.
- 3) The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) The current use of the property is nonresidential.
- 5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS30]: Required by HB 218 State Statute

Vegetative buffers are required along the shoreline of Lake Norman measured from the normal pool elevation and along each side of all perennial streams measured from the top of stream bank. Minimum buffer widths are:

CA, low density option	50 feet
CA, high density option	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than ~~2-inch~~ 2-inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC" and as approved by the Mecklenburg County Water Quality Program.
- b. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.

- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. The Town can require enhancement of the existing vegetation in the buffer, if necessary, so that the buffer can effectively perform its filtering and absorption functions based on Mecklenburg County Water Quality Program guidelines.
- e. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High-density option is permitted in the Lake Norman Critical Area.

4. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) are required under the High-Density Option, the approval of the High-Density Development permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.300 DESIGN STANDARDS FOR S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

1. PURPOSE.

The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the "green infrastructure." Stream systems are comprised of each stream and its respective drainage basin.

- Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
- Vegetated lands adjacent to the stream channel in the drainage basin serve as "buffers" to protect the stream's ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.

2. DEFINITIONS.

For the purposes of this section, the following words and phrases shall be defined as specified below:

Best Management Practices (BMPs)

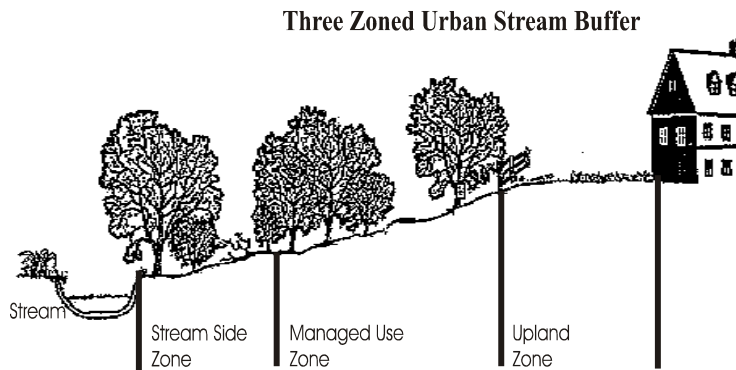
A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Buffer.

A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones.

Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin.

The area of land which drains to a given point on a body of water.

Floodway.

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe.

The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain.

The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation.

Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Top of Bank.

The landward edge of the stream channel during high water, ~~bankfull~~bank full conditions at the point where water begins to overflow onto the floodplain.

3. APPLICABILITY.

- (a) All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by:
 - Being subject to a recorded subdivision plat;
 - Being subject to a subdivision sketch plan ~~approved by the Board of Commissioners~~ prior to the effective date of this Section;

- Being subject to a site specific development plan defined under [Section 2.2.2](#) of these ~~Zoning Ordinances~~; or
- Having otherwise secured a vested property right under state law.

(b) Redevelopment or expansion of development projects included in a), above, shall comply with the buffer requirements of this Section; however, uses and structures previously approved and constructed in a buffer may remain.

(c) A site-specific vesting plan amended ~~by action of the Board of Commissioners~~ subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements. However, uses and structures previously approved for construction in a buffer may remain.

~~(e)~~(a) Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.

4. BUFFER DELINEATION.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated **for the purposes of land development permits by an on-site stream delineation prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology, which has been approved by the Town. Delineation** by Mecklenburg County through its geographic information system (GIS) ~~using the most current digital elevation model (DEM) of no greater than 10-foot cells~~ **is allowed for development not requiring a land development permit.** This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

Commented [JS31]: Consistent with Zoning Ordinance TA 21-08

5. MINIMUM BUFFER WIDTHS.

All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be a 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)
> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is	100 feet or entire floodplain, whichever is	(2), (3)

			greater	greater	
--	--	--	---------	---------	--

Notes:

1. All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.
2. Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.
3. Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

6. BUFFER DESCRIPTION.

Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
Land Disturbance/ Vegetative Requirements	<u>Undisturbed (no cutting, clearing or grading).</u> If existing tree density is inadequate, reforestation is required.	<u>Limited clearing (no grading).</u> Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6-inch caliper per 1,000 square feet. If existing tree density is inadequate, reforestation is encouraged.	<u>Herbaceous ground cover,</u> including grass, is allowed; maintenance of existing forest or reforestation is encouraged. <u>Limited grading</u> that does not change the functionality or extent of the floodplain is permitted.	(1)
Development Uses	<u>Very restricted.</u> Limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ($\geq 75^\circ$) water and sewer utilities and near perpendicular road crossings ($\geq 75^\circ$) with stabilization of disturbed areas as specified in Section 7.300.10.	<u>Restricted.</u> Limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width.	<u>Restricted.</u> Limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPs) if approved in accordance with Section 7.300 11. b), as a condition of a buffer width variance or if they are located a	(2), (3), (4)

			minimum distance of 100 feet from the stream bank.	
--	--	--	--	--

Notes:

- (1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Water Quality Buffer Implementation Guidelines.
- (2) Fill material **cannot** be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.
- (3) Notwithstanding the uses and structures permitted in the "Upland Zone", the stricter standards of floodway regulations, if applicable, shall apply.
- (4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

7. DIFFUSE FLOW REQUIREMENT.

Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg BMP Design Manual.

- Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.
- When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat (0% Slope Energy Dissipater), prior to the riprap apron or other energy dissipater.
- Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
- Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies

8. PONDS THAT INTERSECT THE STREAM CHANNEL.

Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural BMPs.

9. BUFFER DELINEATION.

The following buffer delineations are required:

- a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for [Board of Commissioner](#) approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
- b) -The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
- c) The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
- d) Separate buffer zones must be permanently marked at highway stream crossings.
- e) Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.

10. BUFFER IMPACTS PERMITTED UNDER SECTION 7.300.

The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines and/or Design Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
- Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer’s control. Stream crossings should be constructed to minimize impacts to

the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.

- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

11. APPEALS AND VARIANCES.

- a) An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of [Section 4.000](#) of these ordinances as well as the requirements of the Huntersville Zoning Ordinance.
 - b) Special Variance Provisions/Mitigation Techniques.
 - When a “unnecessary hardship” would result from adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the [Huntersville](#) Planning Staff in compliance with the procedures of [Section 4.300](#).
 - The Standards for Granting a Variance, as set out in [Section 4.400](#) of these ordinances shall be met. Site-specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this ordinance, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines. The techniques below are not construed to offset the requirement of Section 7.300 6. for diffuse flow.
- (1) Installation of Structural BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP design plan must be submitted to Charlotte-Mecklenburg Storm Water Services for approval based on specifications contained in the Charlotte-Mecklenburg Buffer Implementation Guidelines. This plan must also include a long-term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.
 - (2) Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by Charlotte-Mecklenburg Storm Water Services on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines and receive approval from the Charlotte-Mecklenburg Storm Water Services.
 - (3) Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved from the Charlotte-Mecklenburg Storm Water Services.
 - (4) Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve

specific pollutant removal targets within the impacted area. Restoration plan must be approved by Charlotte-Mecklenburg Storm Water Services.

- (5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area 2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
- (6) Controlled Impervious Cover for Disturbance landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
- (7) Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
- (8) Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
- (9) Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.

12. POSTING OF FINANCIAL SECURITY REQUIRED.

When structural BMPs (set detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to Charlotte-Mecklenburg Storm Water Services, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to Charlotte-Mecklenburg Storm Water Services. The owner must also verify the adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. Charlotte-Mecklenburg Storm Water Services will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

13. MAINTENANCE REQUIREMENTS FOR STRUCTURAL BMPS – CIVIL PENALTIES.

Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any **person-responsible party** who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that

the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

14. REQUEST FOR DETERMINATION OF BUFFER REQUIREMENT.

When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.

- (1) Ditches and manmade conveyances other than modified natural streams.
- (2) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- (3) Ephemeral (storm water) streams.

8.000 REQUIRED WORK ON THE GROUND

8.100 STANDARDS AND SPECIFICATIONS

1. Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the Town or the State Department of Transportation, minimum improvements (including drainage and soil erosion) must have been completed by the developer and approved by the Town Engineering/[Public Works](#) Departments, or other designated engineer, in accordance with the standards and specifications of the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies. Minimum improvements not completed and approved must be guaranteed in accordance with the provisions of Section 8.400.3 prior to final plat approval.
2. The intent of the specifications set out in this sub-section is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the Town Engineering/[Public Works](#) Departments, will qualify streets in the town to be accepted for maintenance by the town and streets in the extraterritorial jurisdiction to be accepted for maintenance by the town upon annexation or, in the case of state-standard streets, to be considered for maintenance by the state.

8.110 STREET IMPROVEMENT RESPONSIBILITY

In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner in return for the transfer of development rights, as

provided for in Section 7.100 of this ordinance. In addition, all streets built by the developer will be credited to the developer for the transfer of development rights.

Freeway-:

- New or extension of existing -Freeway or street:
 - **Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made
 - **Improvements** — Installed by public
- Existing Freeway:
 - No right-of-way or improvements required of developer

Boulevard:

- **Right-of way**— For new Boulevard, the developer is responsible for the dedication of up to 200 feet of right-of-way (100 feet each side of the centerline).

Other Major Thoroughfare:

- **Right-of-way** — For new Other Major Thoroughfare, the developer is responsible for the dedication of up to ~~400-120~~feet of right-of-way (~~50-60~~ feet each side of the centerline). Along existing Other Major Thoroughfare, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new ~~Class III streets or extensions of Class III~~ Other Major Thoroughfare streets must limit access points to public streets or specifically approved street type entrances.

Commented [JS32]: Consistent with Comprehensive Transportation Plan and Section 7.110

Minor Thoroughfare

- **Right-of-way** — For new Minor Thoroughfare streets the developer is responsible for the dedication of up to ~~70-100~~ feet of right-of-way (~~35-50~~ feet each side of the centerline). Along existing Minor Thoroughfare streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to

Commented [JS33]: Consistent with Comprehensive Transportation Plan and Section 7.110

construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new ~~Class IV streets or extensions of Class IV~~ Minororor Thoroughfare streets must limit access points to public streets or specifically approved street type entrances.

Town Streets:

- **Right-of-way** -- Dedicated by the developer.
- **Improvements** -- Constructed by the developer.

All streets must be constructed to comply with the minimum standards shown in the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies, and all applicable town or state requirements. Public improvements will be made in accordance with adopted plans, programs, and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

In lieu of required street construction, ~~and subject to approval by the Town Board of Commissioners,~~ a developer may provide the Town with funds to use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the Town pursuant to this provision shall be used only for development of roads, including design, land acquisition, and construction. The Town may undertake these activities in conjunction with the Department of Transportation under an agreement between the Town and the Department of Transportation. The amount of funds the developer pays in lieu of required street construction ~~shall be based on the trips generated from the subdivision or development.~~ A combination of partial payment of funds and partial dedication of constructed streets may be permitted when the Town Board determines that a combination is in the best interests of the citizens of the area to be served

Commented [ES34]: Only partial dedication and partial construction requires town board approval.

Commented [ES35]: We still need a formula for this calculation.

8.115 RESPONSIBILITY FOR STATE ROADS

No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to N.C.G.S. § 136-66.2 for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this ordinance unless and until the Town Manager has determined and certified in writing: (1) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (2) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term 'original tract' will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

8.120 DRAINAGE

1. Storm drainage adequate to accommodate a 10-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe, and the necessary easements to provide access to the drainage facilities, in accordance with the standards of the Town and the Town Engineering Department ~~have, and has~~ been dedicated and accepted or otherwise conveyed to the Town, the Town will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.

2. In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by Town Engineering Department. For the purposes of this subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops, and other impervious surfaces proposed to be constructed upon completion of the subdivision.
3. Reserved.

8.130 CURB AND GUTTER

~~Curb and gutter is required on all arterial and collector streets and on all Town streets with the exception of alleys, lanes, and other rural street applications. Location and type of curb and gutter is determined through the design process outlined in Article 5 of the Zoning Ordinance. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets, and on Town streets that serve less urban purposes, such as Residential Local and Collector streets. Standard curb and gutter is required where formal parking is used. Standard curb and gutter are required on all streets except for residential local streets, alleys, and rural ditch type streets. Residential local streets, except where formal parking is used, may utilize valley gutter or ditch type streets per standards in the Town Engineering Standards and Procedures Manual. Standard curb and gutter is required on residential local streets where formal parking is adjacent. Alleys may utilize valley gutter or ribbon curb per standards in the Town Engineering Standards and Procedures Manual.~~

Commented [JS36]: Consistent with current practice

8.140 SIDEWALK

Sidewalk width should be established using the Design Process found in Article 5 of the Zoning Ordinance and in accordance with the Engineering Standards and Procedures Manual (ESAPM) or thoroughfare design process. In all cases, a minimum of a five (5) foot wide sidewalk is required on both sides of new or existing collector streets, on both sides of local streets except lanes, alleys, and on the developed side of Residential Local streets with Greenway/Belt. Installation of sidewalks is the responsibility of the developer. However, to reduce impervious cover and promote Low Impact Development, sidewalks on one side of Town streets may be waived by the Town in the Rural Zoning District.

Sidewalks are required on both sides of new or existing arterial streets with installation by developer to meet the pedestrian access requirements of the development. Sidewalk construction may be waived by the Town Board when accessibility by pedestrians does not now exist and is not expected to exist in the future. Conservation Subdivisions are exempt from the requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing arterials

Location. Approval of sidewalk construction plans must be obtained from the Town Engineering Department as part of the subdivision review process. Town Engineering will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances, sidewalks may not be located less than 75 feet, but preferably 7-10 feet, from the back of the curb or a minimum of 22' from the edge of pavement when no curb and gutter is required. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and offset from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. Adjustments may be made in the field to accommodate such circumstances. Sidewalk location on NCDOT maintained state streets is governed by NCDOT requirements and guidelines where applicable.

8.150 STREET TREES

The developer shall install street trees along all streets within a development and along the abutting side of streets forming the perimeter of the development. Street trees shall be placed between the sidewalk, if present, and the back of curb or back of ditch, when no curb and gutter is required. Street trees must be planted in accordance with the applicable standard found in the Engineering Standards

and Procedures Manual (ESAPM) and NCDOT Guidelines. Large maturing trees should be planted 40' on center; small maturing trees should be planted 30' on center. Street tree plantings conceived to produce a clear vertical edge to a street or plaza may require denser spacing. The planting plan shall adhere to Article 7 of the Huntersville Zoning Ordinance. In Conservation Subdivisions where existing, mature trees are to be preserved as a condition of the conservation easement, the requirement for street tree planting shall be waived.

8.160 STREET LIGHTS

Street lighting will be installed in each new subdivision pursuant to a street lighting plan which shall be submitted to the Town for approval. This shall be the responsibility of the developer. Street lights compatible in height and scale with the streetscape are strongly recommended. Further,

1. Street lights shall, in all cases, use fully shielded fixtures except that decorative street light fixtures shall be designed with caps so that light does not shine upward at more than a 135-degree angle measured above straight down (three-quarters of the way between straight down and straight to the top) from the pole or mounting wall.
2. Fixtures with minimal across-road and "house side" waste shall be used, ~~especially in residential areas~~, taking into consideration the details of roadway geometry and width.
3. ~~Low pressure sodium lights are strongly encouraged.~~
- 4.3. A street lighting plan must be approved by the Town prior to Preliminary Plan or Commercial Site Plan approval.

8.170 STREET MARKERS AND BARRICADES

1. Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location, and installation of the signs must be in accordance with standards specified in the Engineering Standards and Procedures Manual unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Town Board. If an alternative design is approved by the Town Board, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the Town shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the Town once initial installation has been completed and streets are accepted for maintenance.
2. Barricades must be installed at the end of all dead-end streets except cul-de-sac streets which have been improved with a permanent turnaround as required by this Ordinance. Design, material, and installation of the barricades must be in accordance with the Engineering Standards and Procedures Manual (ESAPM).

8.200 NO SERVICE UNLESS STREET ACCEPTED/APPROVED

No department, officer, agent, or employee of the Town will accept for maintenance, lay out, open, improve, grade, pave, or light any streets or authorize the laying of water mains, sewers, electrical service extensions or other facilities or utilities in any street within the Town unless:

1. Such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of this ordinance; or
2. For any new street, such street corresponds in its location and lines with a street shown on an ~~approved final subdivision plat preliminary subdivision plan, tentatively approved by the Town Board or Designated Administrative Agent~~; or

3. Such street has been accepted as a public street by a vote of a majority of all the members of the Town Board or by the State of North Carolina; or
4. Such street has been accepted as a public street by the State of North Carolina; or
- ~~4.~~ Such street is an approved private street built in conformance with the provisions of all applicable ordinances.

8.300 OTHER PUBLIC FACILITIES

Reserved.

8.400 MODIFICATION OF REQUIREMENTS; PERFORMANCE GURANTEE

1. In subdivisions adjoining already established streets that have been accepted for maintenance by the North Carolina Department of Transportation, the requirements of Section 8.000 will apply as hereinafter provided; those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable; where the adjoining established street is a part of the North Carolina Department of Transportation's street system, the adjoining street must be improved in accordance with either the requirements of Section 8.000 and the requirements of the Town of Huntersville or the North Carolina Department of Transportation, whichever establishes the higher standard.
2. Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the Town Board or the North Carolina Department of Transportation or which have been accepted for maintenance by the North Carolina Department of Transportation, but have not been improved with a paved roadway, will be eligible for final approval when the requirements of Section 8.000 have been complied with as closely as may be reasonably required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
3. Where the improvements required by the Zoning Ordinance and Subdivision Ordinance (i.e. streets, alleys, improved open space, landscaping, drainage, etc.) have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner providing a performance guarantee in the form of a surety bond, irrevocable letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit with the Town Manager or designated agent. The amount of the performance guarantee shall be in an amount determined by the Town Manager in consultation with the Town Engineer or their designee, and affected agencies such as the department of Environmental Health, sufficient to guarantee the installation of the required improvements, allowing credit for improvements completed prior to the submission of the final plat. The amount so determined shall not to exceed 125% of the reasonably estimated cost of completion of the required improvements at the time the guarantee is issued. For landscaping required by this ordinance, the developer shall provide a contractor's estimate for provision and installation of such landscaping, the estimate shall be reviewed for adequacy, and a performance guarantee sufficient to guarantee the provision and installation of required landscaping shall also be filed in the manner provided above. Upon completion of the improvements and the submission of 'as built' drawings, written notice thereof must be given by the subdivider to the Town Engineering/[Public Works](#) Departments and the Town of Huntersville Planning Department. The Engineering/[Public Works](#) Departments and Huntersville Planning Department will arrange for an inspection of the improvements. If the improvements are found satisfactory, the Town Manager will be notified who will, within 30 days of the date of such notification, authorize in writing the release of the performance guarantee, subject to the warranty requirement below.

4. Warranty. All improvements required by this ordinance shall be warranted against defects in workmanship and materials by the subdivider for a period of not less than one (1) year, but not more than two (2) years from the date of the filing of the final plat or the date of the completion of the improvement, whichever is later. The subdivider shall file with the Town Manager a warranty surety listing the Town as beneficiary in an amount of 15% of the estimated value of the warranted development-related improvements for the warranty period.

8.500 INSPECTION

1. Town Engineering/~~Public Works~~ Departments must be notified two days in advance of the work to be started so that an authorized representative of the Town ~~Engineer or their designee~~ or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
2. The inspector must be allowed access to all parts of the work and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in compliance with the specifications.
3. No materials may be placed, nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
4. In the case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

9.000 ENFORCEMENT

1. After the effective date of this ordinance, any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the Office of the Register of Deeds of Mecklenburg County shall result in the assessment of a civil penalty of \$500.00 per offense and may result in other enforcement actions as allowed by law. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town of Huntersville through the Town Attorney may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action as allowed by law. Each day's continuing violation shall be a separate and distinct offense.
2. In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any

land, building, or structure, the appropriate permit must be obtained from Mecklenburg County and the Town of Huntersville. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance. Building permits required pursuant to [N.C.G.S. § 160D-1110](#) may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

10.000 APPLICATION AND PROCESSING FEES

Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Huntersville and shall be collected when a subdivision application is submitted. Fees shall be collected by the Town Manager, employees under his or her direction, or an Administrative Agent designated by the Board of Commissioners to administer the subdivision ordinance.

Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by the Huntersville Board of Commissioners and shall be collected by the Town Manager or employees under his or her direction at the time a variance or appeal is submitted.

SECTION 2

That this ordinance shall become effective November 1, 1989.

TA 22-05 ZONING ORDINANCE AMENDMENTS (ATTACHMENT 2)

Section 3.2.1(d)(2)(h) and (i)

h. In order to preserve the low intensity development character found in the Rural zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. ~~The Board of Commissioners may allow modification to the buffer width when special site conditions exist such as topography or the site has multiple road frontages.~~ The buffer shall be in common area and shall be counted towards meeting open space requirements.

i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. ~~Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety.~~

Section 3.2.1(e)(11)

- 1) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by ~~the Town Planning Board Staff~~ and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

Section 3.2.2(e)(11)

- 1) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by ~~the Town Planning Board Staff~~ and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

Section 3.2.2(d)(2)(h) and (i)

h. In order to preserve the low intensity development character found in the Transitional Residential zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. ~~The Board of Commissioners may allow modification to the buffer width when special site conditions exist such as topography or the site has multiple road frontages.~~ The buffer shall be in common area and shall be counted towards meeting open space requirements.

i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. ~~Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety~~

3.2.3 GENERAL RESIDENTIAL DISTRICT (GR)

Intent: The General Residential District is coded to permit the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form ~~by the Town Planning Staff~~ Huntersville Board of Commissioners prior to the effective date of these regulations ~~or by the Charlotte-Mecklenburg Planning~~

~~Commission under the prior jurisdiction of Mecklenburg County.~~ The application of the General Residential District is not intended for development projects in the Huntersville jurisdiction which are initiated after the effective date of this ordinance (November 19, 1996).

Section 3.2.13(d)(5)

5) A master subdivision sketch plan shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate unit count, square footage on non-residential buildings and uses, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. ~~Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance,~~ Approval of the master sketch plan will be administrative.

Section 3.2.14(d)(3)

3) A master subdivision sketch plan in compliance with this district shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate square footage of office/commercial buildings and uses, residential unit count, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. ~~Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance,~~ Approval of the master sketch plan will be administrative.

Section 5.2

5.2 Blocks, Intersections, and Traffic Calming

a. Blocks

Street blocks defined by public streets are the foundation of traditional neighborhoods. Block dimensions are as follows:

New Development Type	Linear feet as measured between cross streets
Urban Conditions	250 to 500 feet
Major Residential Subdivisions	Not to exceed 800 feet
Large Lot Subdivisions/Industrial Areas	Not to exceed 1500 feet

The block pattern should continue to establish the development pattern at the project edge. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of street connections, lots, and public space ~~that comply more consistent~~ with this Article and Article 7 of these regulations, ~~the Town Planning Board Staff may authorize up to 30% greater block lengths at the time of subdivision sketch plan review and approval. Any block length extension beyond 30% shall be processed as a subdivision variance in accordance with 4.000 of the Subdivision Ordinance.~~

Commented [JS1]: This language is changed to remove subjectivity.

Section 7.5.3

~~*Except where street connectivity between subdivisions is required by block length standards found in Article 5, appropriate for high quality neighborhood design, the Town Board may reduce or waive the required buffer yard.~~

Commented [JS2]: Change reflects current standards and is less subjective.

Section 8.15

.1 Minimum Setbacks Along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the Comprehensive Thoroughfare Plan shall be measured from the proposed right-of-way line, if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

<u>Thoroughfare Classification</u>	<u>Feet</u>
Freeway or Expressway	250-350
Boulevard	<u>100-200</u>
Other Major Thoroughfare	100- 150 <u>120</u>
<u>Minor Thoroughfare</u>	<u>70-100</u>
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and the Town's Engineering Standards and Procedures Manual

Commented [JS3]: Changes to match Comprehensive Transportation Plan and 7.110 of Subdivision Ordinance

8.25.3(c)

c) A site-specific development plan amended ~~by action of the Board of Commissioners~~ subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements, however uses and structures previously approved for construction in a buffer may remain.

8.25.9(a)

a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for ~~Board of Commissioner~~ approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.

Section 11.3.3

3. Standards for Granting an Administrative Waiver

a) Purpose and Intent

Unless otherwise provided in the Zoning Ordinance, The Zoning Administrator (which term shall include an administrative official designated by the Town Manager to perform these functions) is authorized to grant an administrative waiver of minor deviations from measurable and quantifiable standards of this ordinance subject to the following limitations:

- 1) The standard for which the waiver can be granted must be a quantifiable and/or measurable standard set forth in the ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitation, yard requirements, parking requirements, screening or buffer requirements, planting requirements, ratio requirements, density requirements, spacing requirements, signage requirements and other similar measurable and quantifiable standards.
- 2) The Zoning Administrator shall grant such waiver only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violated the spirit and harmony of the ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.
- 3) The minor administrative waiver may not deviate by more than three percent (3%) any of the standards for which the waiver is given.

Construction. The authority given to the Zoning Administrator to grant such waivers shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to make such waiver, and instead, require that the applicant seek a variance from the Board of Adjustment. The Zoning Administrator may not grant any waiver affecting the use or zoning classification; however, this shall not be construed as limiting the zoning Administrator's duties and rights under the ordinance, and whose decisions are appealable to the Board of Adjustment.

Commented [JS4]: To acknowledge the 30% block length provision in Section 5.2

Section 11.4.2(d)

b) d) Powers and Duties.

- 1) The Planning Board shall serve as the advisory board on all requests for changes in the zoning regulations and ordinances of the Town of Huntersville (the "Town"). As such, and pursuant to any authorities set forth in the Zoning Ordinance, the Planning Board shall hear all requests for zoning changes or other zoning action and shall, upon such hearings, make a recommendation to the Town Board as to any requested changes or action regarding this ordinance. Hearings on zoning petitions may, by joint decision of the Town Board and the Planning Board, be held at joint meetings, or may be held separately. The Planning Board is hereby empowered to set procedures for the filing of zoning petitions so long as said procedures do not conflict with or are not in derogation of the then existing regulations and ordinances of the Town.
- ~~2) The Planning Board shall review and make recommendations on applications for approval of subdivisions pursuant to the Subdivision Ordinance, and shall make such recommendations as may be permitted by said subdivision ordinance and as the Planning Board deems to be in the best interest of the Town.~~
- ~~3)~~ 2) The Planning Board is empowered to make recommendations to the Town Board or other governmental agencies consistent with the Planning Board's charged obligation to provide for proper planning for the future growth of the Town and its environs.

Section 14.2.3

14.2.3 TIA Submission and Completion Requirement

Once the Town has made a Determination of Need for a TIA, the applicant may proceed with the TIA scoping. Once the TIA scoping is complete, the applicant may proceed with the TIA, in accordance with the terms of the most recent version of the *Town of Huntersville TIA Process and Procedures Manual*, as approved by the Town Engineer and all applicable Zoning Ordinance and Subdivision Ordinance requirements. The draft TIA shall be submitted to Town staff 30 days prior to ~~either the Town Board Public Hearing (for rezoning cases) or the Planning Board Meeting (subdivisions)~~ or as provided in the Subdivision Ordinance. Resubmittals of TIAs shall be submitted a minimum of 20 business days prior to the scheduled Town Board final action. The final sealed TIA shall be completed and accepted by Town staff prior to final action by the Town Board or permit issuing authority.

Section 14.3

14.3 Impact Study Area

The impact study area designates the intersections for a TIA study where potential increases in traffic from the development may cause degradation of levels of service. Where traffic from the proposed development is anticipated to increase a signalized or major unsignalized intersection single approach by 40 vehicles in a peak hour or increase the total of all approaches by 70 vehicles in a peak hour, the intersection shall be studied in the TIA. Should an intersection be considered at its ultimate buildout laneage or configuration or within the delivery portion of the current NCDOT State Transportation Investment Program (STIP) prior to final action taken by the Town Board or permit issuing authority, the Town Engineer may waive the requirement to include the intersection for study in the TIA.



Text Amendment Application

Date of Application March 1, 2022

Fee

See Current Town of Huntersville Fee Schedule for Text Amendment to the Zoning/Subdivision Ordinance

Type of Change

☒ New Addition to text of Zoning Ordinance / Subdivision Ordinance / Other

☒ Revision/Modification to text of Zoning Ordinance / Subdivision Ordinance / Other

Description of Change

Proposed text amendment will affect the following:

Ordinance(s): Subdivision & Zoning Article(s): See attached Section(s): See attached

See attached

Current Ordinance

Proposed Text

See attached

Reason for Proposed
Change

To remove the quasi-judicial subdivision process (Planning Board
recommendation, Town Board decision) and make it an administrative
approval. Also includes minor adjustments to clarify standards and comply with 160D

Attach additional pages if needed.

NOTE: If the proposed text amendment effects property located along Hwy 73; is 2000 feet from an adjoining municipality, and/or the Mountain Island and Lake Norman Watersheds, additional peer review is required.

Applicant

Printed Name Jack Simoneau

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☒ Other: Staff member on behalf of Town Board

Signature Jack Simoneau Date March 1, 2022

Title Planning Director Email jsimoneau@huntersville.org

Address of Applicant 105 Gilead Road

Property Owner (if different than applicant)

* Printed Name N/A

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: _____

Signature _____ Date _____

Title _____ Email _____

Address of Property Owner _____

* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

Contact Information

**Town of Huntersville
Planning Department**
PO Box 664
Huntersville, NC 28070

Phone: 704-875-7000
Fax: 704-875-6546
Physical Address: 105 Gilead Road, Third Floor, Huntersville, NC 28078
Website: <https://www.huntersville.org/228/Planning-Department>

Date Received By Planning Department: March 1, 2022

Staff Initials: JS

2018 Survey Report: Adoption and Administration of Local Development Regulations, Conditional Zoning, and Subdivision Administration

David W. Owens

Table B19. Use of Discretionary Standards in Subdivision Regulations

Population size	Total respondents	Only objective standards (%)	Discretionary standards also included (%)
Municipalities	206	75	25
1–999	35	74	26
1000–9999	105	74	26
10,000–24,999	35	69	31
25,000+	31	84	16
Counties	69	65	35
1000–24,999	16	69	31
25,000+	53	64	36
All jurisdictions	275	72	28

Subdivision Process For Neighboring Cities/Towns

JURISDICTION	SKETCH PLAN	Neighborhood Meeting	Staff Approval	Planning Board Recommend	Town Board Decision
Huntersville CURRENT	Yes	Yes	No; Recommendation	Yes	Yes
Charlotte	Recommended	No	Yes	No	No (Preliminary Plan approved by staff)
Mint Hill	Yes	No	Yes	No	No
Pineville	Yes	No	Yes, if under 100 lots	No	Yes, conditional approval if 100+ lots
Matthews	Yes	No	Yes	No	No
Davidson	Yes (called Master Plan)	Yes, if required by Planning Director	Yes	Optional, comment only	No
Cornelius	No	No	No	No	Over 4 lots CD rezoning required
City of Concord	No	No	No	No	No (Preliminary Plan approved by staff)

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met virtually at 3:30 p.m. on Thursday, April 7, 2022.

Call to Order/Roll Call

Chairman Jones called the virtual meeting to order at 3:30 pm.

Present: M. Jones, T. Taylor, F. Gammon, A. Hallman, K. Jones, B. Skelly, T. Finlay (arrived at 3:39 p.m.), and H. Whittaker (arrived at 3:54 p.m.)

Non-Voting Members Present: Commissioner Munger, Emily Sloop, Jack Simoneau, Tracy Barron

Absent: J. Kluttz

Approval of Minutes

Item B1. Consider approval of the March 3, 2022, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the March 3, 2022, minutes. A. Hallman seconded the motion.

Vote: The motion passed (7-0).

Public Comments

No comments

Action Agenda

Item D1: Consider a recommendation on Petition #TA22-03, a request by the Town of Huntersville Town Staff to amend Zoning Ordinance Articles 8.9.1 and Article 12.2.2 to update language regarding sight distance measurements in order to comply with State House Bill 489 (Attachment 2, 3)

N. Farber, Planner I provided a summary of the request to update the language regarding sight distance measurements to comply with State House Bill 489. Staff noted that this does not change how the Town measures sight distances, but it does change the wording to comply.

F. Gammon asked how often the easement changes and who is responsible for that. S. Trott, Town Engineer commented that the Engineering Department looks at each sight triangle on a case-by-case basis. Typically, this applies to Land Development and used to identify the necessary easement based on the existing speed and distances.

F. Gammon followed up and asked what changes when a road is widened. Staff confirmed that it is reevaluated when changes are made.

Motion: M. Jones made a Motion to Approve TA22-03, with the changes suggested by staff to comply with House Bill 489. T. Taylor seconded the motion.

Vote: The motion passed unanimously (7-0).

Item D2: Consideration of TA 22-05, a request by the Huntersville Town Board to remove the quasi-judicial process for major subdivision sketch plans and make it an administrative staff approval. There are also several minor edits related to State Statute references and rewording of provisions that are not substantive in nature. (Attachment 4, 5, 6, 7)

J. Simoneau, Planning Director provided a summary of the request from the Town Board based on the goal they set last year to reduce the number of quasi-judicial decisions that they have. Subsequently minor subdivision amendments became administrative decisions, a proposal has been submitted to remove solar panels from the special use permit process, and now we are considering changing subdivision approval to an administrative process. This amendment would apply to subdivision of property that is not being rezoned and that is proposing uses within the allowed density and open space requirements.

Staff reviewed the UNC School of Governments opinion regarding decision categories that may be considered. Administrative decisions based on clear objective standards (lot size, open space allocation, technical road specifications, etc.). If additional standards are applied that require judgment and discretion, then the decision must follow the quasi-judicial standards.

Staff shared a 2018 survey published by UNC School of Government which reported that 72% only use objective standards or an administrative process and 28% use discretionary standards or a quasi-judicial process for subdivision approval of the 275 jurisdictions reported.

In Huntersville there are currently three processes in subdivision approval. A sketch plan, preliminary plat, and final plat. The sketch plan is general in nature for the entire development with roads, lot layouts, concept plan for stormwater, etc. and this is the level that is considered quasi-judicial and decided by the Town Board. Once this is approved the remaining two levels are administratively approved unless there is a significant change.

Currently there are some subjective standards in our Subdivision Ordinance, so the process is quasi-judicial. An applicant submits a sketch plan application, holds a neighborhood meeting, the Planning Board makes a recommendation, and the Town Board holds a quasi-judicial hearing.

The proposed amendment is to modify the Subdivision Ordinance to contain all objective standards and follow an administrative process. An applicant submits a sketch plan application and staff is recommending that we will require the applicant to hold a neighborhood meeting. This informs the neighbors of what is coming. All further decisions will be based on objective standards and would be an administrative approval.

F. Gammon asked if the questions about the quasi-judicial could be separated from the questions about the Subdivision Ordinance and the primary factors to be considered in the discussion. Staff confirmed that the copies of the Ordinances provided with the agenda contain the existing language and the proposed amended stricken language.

Staff reviewed the proposed Subdivision Ordinance amendments and comments provided by M. Jones. Section 3.000 Decision Making and Administrative Bodies is where numerous changes begin because this is where the proposed change to objective standards and administrative decisions begin. The Planning Board is removed from making the recommendation and the Town Board would no longer approve subdivision sketch plans.

Staff agreed that Section 5.000 Amendments should include reference to the Huntersville Ordinance Advisory Board as a Board that can request amendments.

Section 6.200 General Guidelines and Requirements is the section that subjective items become a guide and objective items become a requirement.

Staff stated that Section 7.14 Easements is internally related to the development, for example, if Charlotte Water needs to extend a water line to your new development. That is a private property matter that is part of the applicant's responsibility and then the easement requirements apply.

M. Jones commented that if a development has an approval condition required from a third-party for something such as a right-of-way acquisition, a sight triangle on someone's property, easement, stormwater drainage or your development stops and the Town does not give another mitigation option such as fee in lieu, we will condemn the easement for you, then that creates a problem with due process and under general authority statute we are required to have our Ordinances comply with the NC and the United States Constitution. It goes against due process and is referenced in several cases.

E. Sloop responded that she emailed out the specific statute that deals with utility easements in subdivisions and as brought out this section of the Subdivision Ordinance is specific to utility easements, not easements for roads. Secondly the Town cannot condemn for private development it can only be for public purpose. E. Sloop then offered to send Board members the FAQs that were created for the Town Board that explains the difference between exactions related to subdivision approval specifically as they fall under 160D-804 and our separate grant of authority under 160D-701 for adequate public authorities. These are separate grants of authority along with Section 8.1 of the Town Charter which also allows for permissive mitigation as it relates to transportation network infrastructure.

M. Jones followed up that when this was reviewed in the TIA Subcommittee process it gave the last Town Attorney nervous related to this specific issue so he would like to make sure it is being looked at and considered because he believes it creates a risk to our Ordinances, Town and citizens.

Relative to Open Space and Recreation Areas, E. Sloop commented that the first sentence specifies that this is relative to the open space and/or recreation area that would otherwise be required by Article 7. The formula that is used is the same as the cities of Concord and Durham. The language here is related to the predevelopment property tax value of the actual subdivision

site not the pretax value only of the open area that would have been dedicated. If wordsmithing the language to make the meaning more clear needs to happen that can be adjusted.

M. Jones gave an example to state that the way it is written seems to imply that the fee is generated from the total site acreage versus the open space acreage. E. Sloop responded that the statutory language states the formula in 160D-804(D) that all funds received pursuant to this subsection shall be used for the development of the park, recreation, etc... and then it goes on and talks about being based on the tax value of the development, the actual subdivision. This is something that we can return to and improve the language.

F. Gammon asked what the basis is for determining the percentage of the tax value in the formula. E. Sloop responded that they consulted with the Town's Parks and Recreation Director, and a comparison of neighboring Town's to determine a percentage for Huntersville. While many Town's did not have the information readily available, this is what was found in the research conducted thus far and additional research can be conducted. Ultimately per the statute the formula must be based off of the value of the development or subdivision. F. Gammon stated that still leaves him with the question on whether the proposed 300% is the right number for our Town since there is no supporting information to demonstrate if that is high enough, too high or just right.

Staff reviewed Mature Trees and Vegetation. M. Jones asked what authority we are relying on to enforce this ordinance. Staff responded that 160D gives us the authority to preserve trees. Over the years legislators have proposed language to change the language to state that you cannot regulate the trees unless there is specific local legislation but those bills have been defeated so far. E. Sloop concurred that the general and specific authority to have those types of regulations and the email forwarded to the Board outlines that. M. Jones stated that he would follow up offline with E. Sloop relative to this one because there may be some other considerations based on UNC School of Government and general and specific authority case law.

Relative to Section 6.850 Traffic Impact Analysis, M. Jones asked what enabling authority was being used and if we have authority for exactions for by right plans other than fee in lieu. Staff responded that 160D and the Huntersville Charter are what make this possible. E. Sloop responded that she will forward to the Board the document that discusses this more in detail and outlines the difference between exactions specifically related to subdivision under 160D-804(D) and is it relates to our authority in Charter at Section 8.1 and also 160D-701. In short the exactions are mandatory, they are specific subdivision streets for the most part, recreation areas, utilities, etc. The TIA stems from 160D-701 which deals with adequate public infrastructure and it is more of a way for a developer not to have their development denied or delayed to a future date because a town does not have current infrastructure in place at the time of the proposed development. It is an avenue for developers to propose voluntarily to mitigate by bringing the traffic network infrastructure up to par with preestablished service levels. It is tricky to get through the nuances with this but the document may be helpful. Staff

commented that the in 2007 the Town of Huntersville adopted an Adequate Facility Ordinance and Traffic Impact Analysis ordinance and at the same time changed the state charter for the Town to state specifically we can do those things. It was somewhat implied in the statutes, but it was decided to include it in the state charter and that is the Huntersville Charter that is being referenced.

Commissioner Munger asked for clarification on the comment that TIA is voluntary versus mandatory. E. Sloop stated that in Article 14 an applicant is required to do a traffic impact analysis to determine whether with the addition of the proposed development we would have sufficient infrastructure in place. If the traffic impact analysis comes back and states the infrastructure is insufficient, that is when the developer can permissively choose whether or not they will be carrying out those changes or delaying or declining to move forward with their development. Developments are predominantly conditional rezonings which is a separate third grant of authority which allows for the Town to negotiate with developers to certain conditions that are mutually agreed upon.

M. Jones commented that the exactions proposed under these scenarios have to still stay within constitutional limits, i.e. rationally related, relatively proportional, and if conditions related do not meet those standards then merely proposing those can create a problem for the Town. Commissioner Munger responded that the proposals are run by the Town Attorney who is going to make sure we are within our rights. M. Jones responded that most TIA's are not conducted with those limits in mind which is what creates a problem. You conduct a TIA and it says to, for example, put in a turn lane a quarter-mile away and pay 100% of that, that crosses the line. Further discussion on this can be continued off-line.

Staff reviewed the summary of changes to the subdivision process and highlighted that we would be removing the subjective standards for objective standards. Staff is recommending that a neighborhood meeting still be held but for the purpose of letting the neighbors know what is being developed near them and to ask staff any questions that they may have. It would not be a point to negotiate things. If the subdivision meets the standards, then they are issued the permit but at least the meeting is occurring to notify the neighbors in advance.

F. Gammon asked if public notice procedures would remain the same since the neighborhood meeting would continue. Staff stated that the residents within the same distance of the proposed project would receive the notice of the neighborhood meeting but would no longer receive a notice of a Planning Board or Town Board meeting.

H. Whittaker asked this could lead to a situation where a neighbor finds out about a project and goes to a Commissioner to find out and then the Commissioner puts it on the Planning Department. Commissioner Munger responded that it's a complex situation and the goal of the Town Board is to not have their decisions limited to quasi-judicial with its very strict and limiting standards.

Commissioner Munger asked if there is anyway that the Town Board can continue to have subjective authority over approving a subdivision without it being quasi-judicial even if it was deferred to Planning Board. E. Sloop responded that the ordinance language must either be subjective which is quasi-judicial or objective which is administrative. It is her recommendation that if the standards become objective then it is not heard by the Town Board because they cannot deny the application if all standards are met and there is no need to add on the lengthy processing time.

Commissioner Munger commented that the quasi-judicial process is frustrating and the opportunity to negotiate by the Town Board could be improved upon to try to get better results. Staff showed an example of a proposed development that due to the ordinances being subjective, the approved development exceeded the minimum requirements. Commissioner Munger stated he is not sure if we should be doing away with quasi-judicial for this reason.

A. Hallman asked what 'standards that require judgment and discretion' can entail. Staff responded that the Subdivision Ordinance General Requirements, Conformity states 'shall' and has some leeway. Essentially if a development meets the basic requirements then there may be some adjustments to meet what are now requirements.

A. Hallman asked if the quasi-judicial process goes away then essentially the Town Board would not know or be involved in the process at all unless it was a rezoning or a special use permit. Staff confirmed that the Planning Board and Town Board members would receive the Neighborhood Meeting notice but otherwise that is correct the decision would be administrative.

F. Gammon asked if we do away with subdivision quasi-judicial proceedings if special use permits are also done away with. Staff stated it does not do away with special use permits.

Referencing the UNC School of Government quote on subdivision approval, F. Gammon asked if the question, is it in harmony with the area? Will it harm neighboring property values? Would still be considered in the administrative decision. Staff stated those are subjective questions and could not be considered administrative. The Subdivision Ordinance is calibrated to promote development that fits with the existing development and as displayed in the example on Mayes Road subdivision it doesn't always fit in.

F. Gammon asked what a neighbors recourse would be if a development harmed their property value. Staff stated there would be no recourse unless the development did not meet the objective standards. F. Gammon asked if it is still possible for someone's property value to be negatively affected. Staff responded that historically it is a person's subjective standard that it is harming their value, such as when a neighboring zoning district allows more density then their zoning district. Any perceived harm to their property value would have to be substantiated by an appraisal.

F. Gammon recommended that staff research how many civil suits have been brought against other municipalities that do not have the quasi-judicial process and what their outcomes are.

Staff responded that in their experience it is extraordinarily remote that a development approved under objective standards hurts a neighboring properties value. If there is a problem it is typically with the zoning allowing a density, lot size or use that creates an issue.

M. Jones commented that this is tricky because the Town cannot give a third-party veto power over another person's property and a Town can down zone a person's property as long as there is some practical use and value remaining. Staff confirmed that all areas currently zoned TR and R were once zoned OPS, Open Space district which allowed 2.5 units per acre and 15% open space. A 100-acre tract of land could have 250 dwelling units and 15 acres of open space. That property got zoned to Rural and was changed to .9 units per acre and 45% open space and TR to 1.5 units per acre and 40% open space. That affects the property.

M. Jones asked the Board if given the time how they would like to proceed with this item. Staff explained that the public hearing is scheduled for May 2, 2022, and the next Ordinance Advisory Board is May 5, 2022. The goal is to have the Ordinance Advisory Board recommendation prior to the Planning Board and Town Board take action.

M. Jones commented that he thinks it would be good to hear if the public comments on this discussion at the public hearing and to incorporate that into this Board's recommendation.

Motion: F. Gammon made a Motion to Defer TA 22-05 to the May 5, 2022, meeting. B. Skelly seconded the motion.

Vote: The motion passed unanimously (8-0).

Item 4C: 3. Election of Chair and Vice Chair

Nomination: B. Skelly nominated M. Jones as Chair. K. Jones seconded the nomination. The nomination passed (8-0).

Nomination: K. Jones nominated T. Taylor as Vice-Chair. F. Gammon seconded the nomination. The nomination passed (8-0).

Adjourn

Motion: A. Hallman made a Motion to Adjourn. H. Whittaker seconded the motion.

Vote: The motion passed unanimously (8-0).

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met virtually at 3:30 p.m. on Thursday, May 5, 2022.

Call to Order/Roll Call

Chairman Jones called the virtual meeting to order at 3:30 pm.

Voting Members Present: M. Jones, T. Taylor, T. Finlay, F. Gammon, A. Hallman, K. Jones, J. Kluttz, B. Skelly, H. Whittaker

Non-Voting Members Present: Commissioner Munger, J. Simoneau, E. Sloop, T. Barron

Approval of Minutes

Item 2A. Consider approval of the April 7, 2022, Regular Meeting Minutes

Motion: B. Skelly made a Motion to Approve the April 7, 2022, minutes. A. Hallman seconded the motion.

Vote: The motion passed unanimously (9-0).

Public Comments

No comments.

Action Agenda

Item 4A: Consider a recommendation on TA22-05, a request by Huntersville Town Board to remove quasi-judicial process for major subdivision sketch plans and make it an administrative staff approval. There are also several minor edits related to state statute references that are rewording of provisions that are not substantive in nature.

J. Simoneau, Planning Director reviewed that this request is being proposed at the request of the Huntersville Town Board that would require extensive changes to the Subdivision Ordinance and Zoning Ordinance.

The Town Board continued the Public Hearing on this item to June 6, 2022. There were a lot of questions regarding this proposed change.

The School of Government states that the subdivision process must be either objective or if any standards are subjective, requiring judgment or discretion, then it must be quasi-judicial. The state statutes state that if the decision is administrative then it may be assigned to staff or any appointed Board. However, if the decision is quasi-judicial it has to be assigned to a governing Board, Planning Board or Board of Adjustments that is appointed pursuant to the chapter.

The UNC report from December 2020 containing the results of the 2018 survey showed that 72% of the 275 jurisdictions that were surveyed had only objective standards, 28% had subjective/discretionary standards.

Subdivision of land is a three-step process. The sketch plan is general in nature and reflects roads, lot layouts, and concepts for stormwater. The developer holds a neighborhood meeting. The Planning Board makes a recommendation and then it goes to the Town Board as a quasi-judicial decision. Once that subdivision is approved then the developer prepares a preliminary plan. Once that is administratively approved the infrastructure is installed and then the applicant returns for a final plat.

This proposal is to create objective standards for the subdivision sketch plan process, maintain the neighborhood meeting to notify nearby residents of what is being developed, and then administratively approve the development if it meets the standards.

Staff reviewed the current Section 6.200 General Requirements which are things the developer shall do. The proposed amendment would create a Section 6.200(A) Guidelines and a Section 6.200(B) Requirements.

Staff drew attention to the current Section 6.200, Item 1. Consistency with adopted public plans and policies which staff and the Legal department have reviewed as an item that could be moved to the proposed Section 6.200(B) Requirements. Additionally, any requests to modify traffic impact standards; variances, appeals, interpretation from the Subdivision Ordinance would continue as they are currently to be Town Board decisions.

Chairman Jones requested that Commissioner Munger relate a synopsis of the Town Board discussion related to this topic from the Town Board May 2, 2022, meeting. Commissioner Munger stated the Board struggles with this topic greatly. There is a desire to have some input as to what type of developments can be approved and have some negotiating ability and the difficulty of not having any discussions prior to the hearing causes a lot of angst among the Board and residents. Additionally, one of the issues is someone who wants to come before the Board during quasi-judicial must have a determination of standing which is not always clear. There has been discussion about moving these hearings to the Board of Adjustments which would allow the Town Board to have discussion prior to the hearing but they would have no say in how the Board of Adjustments decides and their decision is final.

It appears that there are three options related to the proposed amendment to the process. To either leave it with the Town Board as quasi-judicial, shift it to the Board of Adjustments as quasi-judicial, or join the 72% of the state and make it an administrative decision with objective standards and essentially if you check all the boxes, you can build it. Currently he has not formed an opinion as to what he thinks would be the best decision and he looks forward to hearing what the Ordinance Advisory Board discussion is on this.

F. Gammon restated that one of his questions was if the quasi-judicial process moved to the Board of Adjustments, if the Town Commissioners could then speak with constituents which from Commissioner Mungers comments sounded like they could though they would have no impact on the Board of Adjustments decision.

F. Gammon then asked if the hearing went to the Planning Board is there an appeal process to their decision? E. Sloop responded that it depends on if it remains quasi-judicial. All quasi-judicial appeals go to the court.

F. Gammon asked if the process becomes administrative if Planning Staff takes the Community Plan, Small Area Plan and impact upon residents into the consideration or if the standards are strictly the Ordinances. Staff confirmed that the current Section 6.200, Item 1. Consistency with adopted plans and policies, could be adjusted to fall under Section 6.200(B) General Requirements as something administration would consider in approval. This would include the Huntersville 2040 Community Plan.

E. Sloop followed up to point out that if this item is moved and becomes a General Requirement then there would only be two remaining items that would be Guidelines; Conformity and Relation to topography. All other standards would become objective decisions under General Requirements.

A. Hallman asked if the General Guidelines would be relevant if this process becomes administrative as the developer would not be required to apply those. Staff stated that there are recommendations within the ordinances to highlight their importance but the developer is not required to do them. E. Sloop stated that all proposed projects under conditional rezoning would be able to discuss/negotiate for changes in the development plan for that individual site. A. Hallman asked if this conditional rezonings are a legislative versus quasi-judicial process. E. Sloop confirmed that is correct and stated many proposed subdivisions complete a conditional rezoning first and then submit a subdivision plan.

A. Hallman asked how a developer would find themselves under a quasi-judicial hearing. Staff responded that the current standards are discretionary which requires the process to be quasi-judicial. E. Sloop stated that it is largely due to how some of these requirements are worded. She provided an example of the current language which states, "as so far as practicable" which is a subjective standard versus a objective standard such as "20 foot setback" that you either meet or you do not.

A. Hallman asked if sketch plans would still be required if the process is no longer quasi-judicial. Staff confirmed that we would still have the requirement, but it would be an objective approval either by staff, a technical review committee, or a Board. E. Sloop added that if the standards were objective and approved administratively then if the decision were appealed it would be run through the Board of Adjustment which hears all appeals of administrative decisions made by staff. If you have the administrative decision, go to the Town Board then it would no longer be appealed through the Board of Adjustment it would have to go straight to court. E. Sloop followed up and stated that if the standards become objective, we are not recommending that the decision be made by the Town Board as it would add time to a non-subjective decision, and it removes the Board of Adjustment appeal process.

A. Hallman asked for clarification on the differences between objective and subjective related to wiggle room/negotiations/conversations. E. Sloop stated that when it is purely objective the decision is black and white, either you meet it or you don't. There is no wiggle room in that. However, even when it is quasi-judicial in a by-right subdivision (meaning there is not a conditional rezoning), as long as they meet the requirements they must be approved. Under the current ordinances there really are only a few subjective standards and that is the only current place where there is any wiggle room.

Staff reviewed an example of Mayes Road subdivision and the neighborhood meeting requesting additional buffer due to the existing neighboring lots being much larger. The developer met the minimum requirement. Staff reviewed the conformity section of the ordinance which states it shall be most advantageous to neighborhood. The developer was advised that the neighbors would have standing and could come speak at the meeting to state they don't think the development complies with conformity and the developer would be risking being turned down for the entire development. The developer modified their plan and created the additional buffer.

H. Whittaker stated he has confidence that staff can handle what is being proposed. He expressed concern about the Town Board only being to approve and removing them from the decision altogether does not seem to be what the public would want.

H. Whittaker asked if either the existing or proposed process would allow more citizens to have input. Staff stated that it is their opinion that the neighbors have more input in a quasi-judicial process. E. Sloop stated that simply being a neighbor does not mean that they automatically have standing at an evidentiary hearing. Typically standing is simply the Town, the applicant or property owner, and someone who can prove special damages. Special damages must be proven with specificity. To fully participate in the quasi-judicial hearing the parties must have standing. The neighborhood meeting is an opportunity for the citizens to come out and speak and share their concerns which is a meeting format that is being recommended to continue even if the process becomes an administrative objective process.

K. Jones stated that she watched the quasi-judicial hearing for The Hills subdivision on Asbury Chapel Road and asked E. Sloop to clarify how someone is determined to be a person with standing versus an interested party. E. Sloop responded that the statutes only allow parties that can establish standing to fully participate in the hearing. Once they have established standing they can call witnesses, present evidence, offer rebuttal, etc. If you are a person of interest then you may not participate in the hearing. The Town may allow you to speak in their discretion but anything that someone says typically is not something the Board can rely on to make their decision. The decision must be based on information that is competent material, substantial evidence in the record and typically persons that are just interested are not offering that type of evidence. There may be an occasion where the interested person states something that is not objected to by an actual party.

K. Jones asked what a witness is allowed to say versus an interested party. E. Sloop stated that an interested party with standing may call witnesses. An interested person may be allowed to speak but may not present evidence. Staff stated that following The Hills quasi-judicial case there were great concerns from the Town Board related to staff attending and addressing more of the neighborhood concerns at the neighborhood meeting and to communicate and provide the residents with more information related to how the quasi-judicial process works.

F. Gammon followed up with stating again that the only way the Town Board can have any influence is for the process to remain quasi-judicial so that at least those with standing and possibly interested parties can express themselves to the Board. While either process has their own set of frustrations and limitations, at least the Board gets to communicate with their constituents through the hearing process. Staff responded that if it became administrative the Town Board would be able to attend the neighborhood meetings to listen/speak with people.

Commissioner Munger stated that he appreciates the dialogue. He described the current quasi-judicial setting as the illusion of choice. Unless the item being requested has a fundamental issue with expert testimony and compelling evidence as to why it should be denied, it will be approved. Based on the discussion and the point E. Sloop provided that an administrative decision could be appealed to the Board of Adjustments versus the court, he stated he is leaning towards an administrative decision being the way to go.

A. Hallman asked if the neighborhood meeting would become more of a for your information setting if quasi-judicial goes away. Staff stated that technically the neighborhood meeting is a for your information event now. They referred back to the Mayes Subdivision example and stated that if the process changes to administrative, staff would not have the conformity statement to request plan adjustments

A. Hallman asked how the standing is determined. E. Sloop responded that the state statutes define who has standing and it is the Town, the Town Board, the applicant/land owner and anyone who can establish special damages. More than one person can establish special damages, its just that they have to be established with specific showings of evidence.

A. Hallman recommended that additional examples/education be provided to explain quasi-judicial and what qualifies as standing so that residents can understand the process to identify how they can be heard and perhaps get something done.

T. Finlay stated that the quasi-judicial process seems to protect and make it an even playing field where Board members do not have the ability to impact and influence things as much, he then asked staff if the process becomes administrative what protections would be in place so that Board members would not have the ability to influence staff in the decision. Staff responded that for the decision to be administrative the standards must be objective. They are black and white or yes and no, if it meets the standards then it would be approved, there is no wiggle room or subjectivity.

K. Jones asked if modifications may still be requested of developers if the process becomes administrative. Staff responded they would still request it but the developer would not be required to comply, they would only have to meet the minimums. In the event an issue was identified repeatedly then the only means of change would be to adjust the objective standard in the ordinance.

K. Jones asked if “Conformity” standards as listed in the Subdivision Ordinance could be moved to General Requirements as well since this is one of the main ways that citizens can express their concern and be heard. Staff responded that under the current language it is too subjective. M. Jones followed up and said that defining things like a detrimental effect, most advantageous development, etc. must become objective standards.

K. Jones asked if under the quasi-judicial process the Town Board members are not allowed to have any ex-parte communications, why the minutes from the neighborhood meetings are included in the agenda packets. Staff stated that the Board Members can be provided the information but they are not allowed to use that to make a determination. E. Sloop confirmed that they can use that information to review what questions were raised but it is not considered evidence that they can base their decision on.

K. Jones asked if the process changes to administrative if minutes of the neighborhood meeting will still be recorded and provided with the staff report, and if staff verifies that all relative information is included in the minutes. Staff stated that there would no longer be a need to take the minutes as the decision would become objective and staff, Town Board and Planning Board would be invited to attend the meetings. The nature of a neighborhood meeting is that there are multiple conversations going on at once and the minutes recorded are not verbatim, the goal is to cover the gist of what was discussed and issues that were raised that addresses main topics covered.

K. Jones asked if it is possible to keep the quasi-judicial process but allow citizens to have input. Staff stated that in the past the Town Board has allowed interested parties to provide commentary to understand where the citizens are coming from. E. Sloop added that if everyone is allowed to speak at a quasi-judicial hearing it is a slippery slope because it becomes difficult to determine if a Board member, after hearing so many different things from people without standing, can remain impartial when making the quasi-judicial decision. She referenced the findings emailed to the NC Supreme Court fining Board members for compensatory damages when even one member of a Board is biased in a quasi-judicial decision.

K. Jones expressed her concerns on behalf of the citizen and requirements to be an expert witness, costs involved in hiring someone, and what is required to be heard. Staff responded that there are zoning, lighting, storm water, landscaping, and parking standards to protect the public. M. Jones commented that many of these standards are more restrictive than most of the neighboring municipalities as well. Staff commented that these development standards are in place and developers have the right to develop land as well, if they meet the standards then it is going to get approved.

H. Whittaker asked if a final version of the proposed changes would be provided prior to making a decision and it would be his preference to keep the Town Board involved. E. Sloop recommended the Board first consider if they want the process to remain quasi-judicial or become administrative; and if administrative is selected, then you determine who would make that decision. As discussed, based on the School of Government recommendation, it is recommended that an administrative decision be made by staff to not unnecessarily delay the developer in waiting for a Town Board meeting when it is a simple yes or no decision; and in the event of an appeal, if the decision is made by staff then the appeal would go to the Board of Adjustment versus going straight to court if the decision is made by the Town Board.

Motion: F. Gammon made a Motion to Approve the Subdivision Approval process remain a Town Board conducted quasi-judicial process as stated within the ordinance. K. Jones seconded the motion.

F. Gammon commented that he thinks that the public will have more input if the process remains quasi-judicial and the primary reason for this process to change was out of Commissioner frustration.

A. Hallman agreed that the major frustration was the citizen outcry and it does not seem to get resolved with an administrative decision. At the moment she is not sure the citizens or the Board members can get the communication with either option but at least there is a small amount in the quasi-judicial format.

Vote: The motion failed (4-5) with T. Taylor, T. Finlay, J. Kluttz, B. Skelly, M. Jones opposed.

Motion: T. Finlay made a Motion to Approve the Subdivision Approval process of sketch plan, preliminary plat and final plat move to an administrative process for approval. J. Kluttz seconded the motion.

M. Jones recommended an amendment to the motion with the additional caveat that some of the overriding issues be commented on and the text be thoroughly reviewed in the next meeting. T. Finlay and J. Kluttz accepted the amendment.

M. Jones restated that we are voting only on whether the process should go from quasi-judicial to administrative and not the final version of the proposed text, which we will discuss further at the next meeting.

Vote: The amended motion passed (5-4) with F. Gammon, A. Hallman, K. Jones, and H. Whittaker opposed.

Other Business

T. Finlay asked about returning to in-person meetings. H. Whittaker, K. Jones, T. Taylor, J. Kluttz, F. Gammon, and B. Skelly expressed their support for returning to in-person. Staff stated they

would investigate what option for in-person meeting and streaming are available and report back to the Board. The Board was unanimous to return to in-person meetings (9-0).

Adjourn

Motion: M. Jones made a Motion to Adjourn. A. Hallman seconded the motion.

Vote: The motion passed unanimously (9-0).

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met at 3:30 p.m. on Wednesday, June 1, 2022.

Call to Order/Roll Call

Chairman Jones called the virtual meeting to order at 3:30 pm.

Voting Members Present: M. Jones, T. Taylor, F. Gammon, A. Hallman, K. Jones, and J. Kluttz

Voting Members Absent: B. Skelly, H. Whittaker, T. Finlay

Non-Voting Members Present: J. Simoneau, T. Barron, J. Glass

Non-Voting Members Absent: Commissioner Munger, E. Sloop

Approval of Minutes

Item 2A. Consider approval of the May 5, 2022, Regular Meeting Minutes

Motion: K. Jones made a Motion to Approve the May 5, 2022, minutes. T. Taylor seconded the motion.

Vote: The motion passed unanimously (6-0).

Public Comments

No comments.

Action Agenda

Item 4A: Continued discussion of TA 22-05, a request by the Huntersville Town Board to remove the quasi-judicial process for major subdivision sketch plans and make it an administrative staff approval. There are also several minor edits related to State Statute references and rewording of provisions that are not substantive in nature.

J. Simoneau, Planning Director followed up on the questions posed at the May meeting and shared the Legal departments summary of the current guidelines for quasi-judicial hearings as it relates to legal standing, how to establish special damages, and the differences between witnesses and parties with standing.

The redline version of the Subdivision Ordinance section 6.200 was reviewed related to the proposed changes. Examples of previously approved subdivision sketch plans for Mayes Road, Ranson Road, and The Hills were shared to show the differences between what was initially proposed and how it was adjusted based on the neighborhood input and then later approved by the Town Board.

There are two instances when a developer would still need to go before the Town Board if the subdivision approval process becomes an administrative decision versus quasi-judicial. One is if they request a modification of traffic impact mitigation and the second is if they want a variance, appeal or interpretation from the Subdivision Ordinance.

In reviewing Subdivision Ordinance, Section 4.00; Appeals and Variances, M. Jones asked if the Town Board wants to minimize the amount of quasi-judicial hearings if it would make more sense to adjust the current process of a variance going before the Planning Board for recommendation and to the Town Board as a quasi-judicial hearing, and instead send it to the Board of Adjustments, making the applicant only have to go to one meeting. Staff confirmed that what is proposed is what staff is recommending, and the Ordinance Advisory Board can recommend removing the Planning Board recommendation or having it decided by only the Town Board or the Board of Adjustments. As the elected officials it seemed to make the most sense for the Town Board to be the board that heard the variance.

M. Jones followed up that given the driving purpose of these changes was to minimize quasi-judicial cases before the Town Board that this adjustment would seem in line with that request.

F. Gammon asked how many appeals and variances have gone before the Planning Board. Staff stated that they do not really happen. Currently a block-length modification is the most common request and if the process becomes administrative then staff would have a set standard that can be approved, or the developer would have to request a variance. It is staff's experience that if a developer is facing a 60–90-day delay to approve what is typically a 30–50-foot block-length modification that they will probably figure out how to comply.

F. Gammon followed up that this explanation to him is a pro for keeping Section 4.00 as proposed. In addition, it would give the public another opportunity to speak up at the Planning Board meeting which could potentially have an impact on the decision.

K. Jones asked how this would be affected by a buffer reduction request. Staff confirmed it would be a similar process.

A. Hallman asked if some modification decisions are currently administrative for block length or right-of-way. Staff confirmed the Engineering manual allows for administrative modification of right-of-way but the block length modification requires Town Board action.

In reviewing the Subdivision Ordinance, Section 6.200-A; General Guidelines and Requirements, Item 2. Conformity. M. Jones expressed concern about language that is subjective remaining in the Subdivision Ordinance based on the email that he forwarded to the Board related to Professor Adam Lovelady's comments and case citation of how this can be an issue. Staff confirmed that Legal has reviewed this proposed language and is comfortable with the statement, He also indicated Item 2 was a guideline and not a requirement.

M. Jones restated in his opinion the Zoning and Subdivision Ordinance terms that are vague and subjective should be clearly defined so that we do not face issues similar to Pineville. Staff confirmed that they will go back and confirm with Legal to ensure the legal liability is considered.

In reviewing Section 6.200-B; General Requirements, Item 1. Consistency with adopted public plans and policies, M. Jones asked what happens when someone wants to develop a by-right subdivision according to current zoning but it is not in compliance with the adopted Comprehensive Plan. Staff provided an example of a property in a mixed-use node that has identified a property for a potential mixed-use, this would open the door if the current zoning does not permit this use, for a rezoning. It would not however stop an approval of a by-right use under the current zoning.

A. Hallman asked how often staff looks at the public plans and may make modifications in the 20 years that it is forecasted, or is that strictly by Town Board approval. Staff responded that the Town Board consistently updates the long-range plan every 7-9 years since 1995 and then there are small-area plans that are typically updated less frequently.

In reviewing Item 4 regarding fee in lieu for open space and the proposed 300% of the pre-development property tax value. M. Jones commented that the Concord version this was drawn from has a limitation to the value of the open space land only, whereas how the proposed language is it would be a 300% fee on the total acreage which in his opinion breaches the rough proportionality test. J. Glass commented that Legal can review the statute language and confirm if any additional adjustments need to be made to the language. M. Jones confirmed that he is okay with the proposed 300% and responded that there are two issues here he suggests be reviewed, 1. Rough proportionality on the fee being limited to the open space land and 2. Can the language be enhanced to accelerate community assets and come up with an arrangement with the county.

F. Gammon commented he has no issue with the process being administrative, quasi-judicial, or changing which Board may hear a quasi-judicial hearing but he does not know how the Town Board will decide so it seems early to have a discussion related to the wording without knowing what they will decide.

Motion: F. Gammon made a Motion to Approve the changes to the Zoning and Subdivision Ordinance as written based upon the Town Board making the decision to make this an administrative decision process versus quasi-judicial. J. Kluttz seconded the motion.

Staff confirmed that the comments and concerns from the Ordinance Advisory Board will be forward to the Town Board for consideration.

A. Hallman commented that with discretionary standards that are in place now will be removed if this becomes an administrative process. As she reviews the changes to conformity, we are going from shall to should, and sometimes those developers are the same that write the community plans which is something she is still struggling with. She would like for the Boards to be able to ensure accountability of any developer as well as to the existing neighborhoods so that it is fair and across the board for everyone.

Vote: The motion passed (5-1) with A. Hallman opposed.

Item 4B: Discussion related to stormwater runoff from new development impacting adjoining property

B. Richards, Assistant Planning Director followed up on the concerns posed and current status.

K. Jones stated that the Robinette's on Second Street & Huntersville-Concord Road are still flooding, have not received the gravel for their driveway and they were told via an email that a 'hump' would be added to divert the water run-off into the drain. The issues on the Walker property have been resolved. K. Fox, Director of Public Works commented that the commitment to the stone is still in place and he will follow up with them to find out the status on the 'hump' that they agreed to install.

K. Fox also stated that the lack of crown on Second Street adds to the issue, therefore the Town is working to hire a contractor to mill and reinstall a crown on Second Street which will further assist the alley.

K. Jones stated that her concern is for more than her immediate neighborhood because this issue affects many areas of Huntersville. She believes an amendment to the minor subdivision to minimize as much as possible any negative impact to existing property owners that are in close proximity to the project. Specifically grade changes that create flooding and soil erosion and the steps required to mitigate those issues or concerns would be required and not just suggested. Whether that is through an erosion control study, grading plan, or stormwater review that should be required and existing homeowners need to be protected.

K. Fox agreed that staff would like to see that as well since homeowners who buy a home that is not done correctly ultimately end up complaining to Public Works despite the fact that the builder is the one that created the problem. K. Jones stated that the builders will not talk with the neighbors directly so the neighbors are left with no other recourse but to call Town Hall.

Staff confirmed that some additional requirements have been put on our forms above the County requirements and additional amendments are being reviewed to confirm they are within the legal rights to require which may lead to a future text amendment.

M. Jones asked if a grading plan is required on small lots. Staff stated that 1 acre or less does not require a grading plan but does require an erosion control. Staff is reviewing what administrative requirements can be required in the erosion control.

K. Jones asked what constitutes a minor subdivision. Staff responded that historically it was a farm that cut off an acre for a relative to build on. Now there are many different versions of minor subdivisions so in reviewing the standards we have to come up with something fair and equitable to all.

K. Jones asked if the minor subdivisions can be listed on the website in addition to the current development that is listed. Staff responded they will have to review if there is a way to

differentiate the minor subdivisions to identify a list of projects that staff would be able to realistically maintain.

Other Business

No other business.

Adjourn

Motion: T. Taylor made a Motion to Adjourn. J. Klutz seconded the motion.

Vote: The motion passed unanimously (6-0).

TA 22-05 (Attachment 9)

TA 22-05 was primarily intended to remove the subdivision sketch plan from a quasi-judicial process to an administrative process. In addition, TA 22-05 also included some technical clean-up of multiple provisions.

In the event the Huntersville Town Board does not approve moving subdivision sketch plans from a quasi-judicial process to an administrative process, staff recommends the technical clean-up changes be approved. **Below are the applicable Sections from the Subdivision Ordinance:**

1. Expedited Subdivision Review definition (pg. 5)
2. Planning Board definition (pg. 6)
3. Minor Thoroughfare definition (pg. 7)
4. Subdivision definition (pg. 8)
5. Subdivision Minor definition (pg. 9)
6. Section 4.100
7. Section 4.200
8. Section 4.220
9. Section 4.400
10. Section 4.600
11. Section 5.000
12. Section 6.200.11
13. Section 6.200.13
14. Section 6.200.15
15. Section 6.200.19
16. Section 6.400
17. Section 6.600
18. Section 6.850
19. Section 7.120
20. Section 7.210
21. Section 7.270
22. Section 7.290
23. Section 7.295
24. Section 7.300
25. Section 8.100
26. Section 8.110
27. Section 8.130
28. Section 8.140
29. Section 8.160
30. Section 8.200
31. Section 8.400
32. Section 8.500
33. Section 6.800
34. Section 6.810
35. Section 6.820
36. Section 8.120

Below are the applicable Sections from the Zoning Ordinance:

1. Section 3.2.3
2. Section 8.15
3. Section 14.3

Minutes of the Town of Huntersville Planning Board

The Town of Huntersville Planning Board met at 6:30 p.m. on Tuesday, June 28, 2022.

Call to Order/Roll Call

Chairman Swanick called the meeting to order at 6:30 pm.

Present: S. Swanick, J. Snyder, S. Hensley, G. Baber, C. Boyd, J. Wright, F. Gammon, J. Henson, and T. Loomis

Approval of Minutes

Item 2A. Consider approval of the revised May 24, 2022, Regular Meeting Minutes

Motion: F. Gammon made a Motion to Approve the revised May 24, 2022, minutes. C. Boyd seconded the motion.

Vote: The motion passed unanimously (9-0).

Public Comments

George Solomon, 13600 Toka Court, the HOA Treasurer for Plum Creek neighborhood - shared there is concern with the proposed development connecting to Plum Creek neighborhood due to the transient nature of the proposed development and the potential for speeding and cut-through traffic and safety of the residents and children. Neighborhood would rather have the connection to the west (toward County Recycling Center).

Travis Aspy, 13303 Toka Court stated - stated the residents of Plum Creek have begun a petition that currently has over 100 signatures in opposition to the connection of the proposed neighborhood to the Plum Creek neighborhood. If concern over safety is the reason for the proposed connection then the residents would like to see a fire gate installed at the connection so that the safety needs can be met without increasing traffic in the Plum Creek neighborhood.

Action Agenda

Item 4A: A. Consider Recommendation for Hamlet at Huntersville Subdivision Sketch Plan, a request by Middleburg Communities, LLC to subdivide 43.91-acres located along Old Statesville Road (immediately north of Plum Creek Subdivision) at 12349 Old Statesville Road, Parcel # 017-361-02 and portion of 01736104 for a 265-unit, for-rent residential development.

D. Peete, Principal Planner entered his staff report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff stated that the proposal is to subdivide 43.91 acres along Old Statesville Road north of Plum Creek Subdivision into a rental community of 187 single-family homes and 78 townhomes.

Two neighborhood meetings were held, on January 26, 2022 and April 20, 2022 to discuss the plan with anyone concerned. The plan has been modified, in part, due to comments received...

D. Peete stated that an appropriate transition from the adjoining Plum Creek neighborhood to the proposed subdivision has been provided by lowering the residential unit density along the Plum Creek border to 4.69 units per acre, as opposed to the 6.19 found within the rest of the development. Plum

Creek has a density of 2.67 units per acre. In addition, instead of the minimum 20-feet wide landscaped buffer, the project is proposing a total of 50-feet with a six-feet tall opaque fence integrated within to buffer the adjoining neighborhood. Lastly, the street along the southern border, where the existing street stub would tie-in, was re-designed to make using that street less convenient for the Hamlet residents.

A TIA was required and the improvements have largely been noted on the plan with the exception of one comment that still needs to be addressed.

The proposed subdivision was supported the 2040 Community Plan, in particular, Policies EOS 8.3, EOS 10, EOS 10.1, LU2.1, LU 5.3, LU 7.1, LU 9.1 and LU 10.1.

Staff finds that the plan is consistent with the Huntersville 2040 Plan as the proposed density (6.15 units per acre) is permitted in the Town Core zoning district. The proposed development provides several urban open spaces through the development, however these must be labeled correctly on the site plan. Staff recommends that this subdivision provide trail connections to the Huntersville Athletic Park for future connection and the applicant has included these in several locations.

Staff finds the application complete and in compliance with applicable requirements of the Zoning Ordinance and Subdivision Ordinance, including: all urban open spaces be identified by type on the plans, (TIA) transportation comments must be addressed, water-quality concept plan must be approved by Staff, mail kiosk location identified, and all other plan comments be addressed. Additionally, staff recommends several sidewalks be moved closer to the street to provide greater open space in front of the residential units, the proposed “serpentine colonnade” does not qualify as urban open space and should be redesigned, parking provided near the clubhouse is inadequate and should be increased, elevations facing public streets should not have blank walls and should provide architectural interest and labeled as such on the plans.

The applicant Steve Farmartino, 1 Ashton Street Charleston SC 29403 commented that the TIA has been verified by the Engineering Department and storm water is okay. The sidewalk will be adjusted per staff’s comments. The applicant does not want to increase the clubhouse parking. The elevations and grading for the right-of-way have been accounted for. The applicant cannot guarantee they will always own the development. They would be happy to accommodate public transportation options, though they are not sure how that could be accomplished with the current right-of-way plans.

In summary, the Board directed questions to the requirements of connectivity and the possible use of a knox box (first responder gate access only).

Staff stated that the street stub in Plum Creek has been there since the community was built and has always been intended to create connectivity. Currently Plum Creek has only one entrance/exit, the Ordinance encourages connectivity, and some cut-through traffic may occur, but the connection has been designed to make this less likely given the more direct entrance/exit remaining within the Hamlet community.

The applicant stated they would be fine not connecting to the adjoining development and the parking lot entrance near Plum Creek could be altered to be additional parking.

The Board weighed the concerns of the neighbors and applicants desire not to connect with the precedent of connectivity, and any potential time lost in response due to the use of a knox box.

The Board discussed concerns over what level of maintenance and upkeep would be involved in a rental-only community, what experience the applicant has with the ongoing maintenance, and what price points the rent would be. The applicant responded that the upkeep would be to ensure they could continue to keep the price point they are setting and to maintain the investment that they own. The proposed price point is \$1,600-\$2,200 and they have two similar developments under construction but not yet completed.

Motion: In considering the proposed sketch plan, Hamlet at Huntersville Subdivision Sketch Plan, the Planning Board recommends approval as the application is complete and complies with all applicable requirements and is supported by the findings of fact outlined in parts 2-4 of this report with the following conditions addressed: all urban open spaces must be identified by type on the plans, water-quality concept plan must be approved by Staff, all outstanding town transportation (TIA) comments be addressed, all outstanding redline comments be addressed, mail kiosk location be identified and that the applicant continue to work with staff to reach an agreeable resolution on staff's recommendations regarding moving several sidewalk sections moved closer to the street/on-street parking to provide greater open space in front of the residential units; the proposed "serpentine colonnade" should be redesigned; parking provided near clubhouse is inadequate, additional parking should be included; and elevations facing public streets should not have blank walls and should provide architectural interest with all facades identified and labeled on plans was made by G. Baber and seconded by S. Hensley.

G. Baber commented that while he is sympathetic to the concerns expressed in the public comments the connectivity is the precedent and having a secondary connection for the residents of Plum Creek is a valuable safety improvement for those residents.

T. Loomis commented that from her experience a property management company in ownership of all the properties is likely to keep the properties in a much better state than individual homes that are managed by various property managers or homeowners.

J. Snyder concurred that the connectivity is a key aspect of the Huntersville Zoning Ordinance and while he sympathizes should be maintained.

F. Gammon recommended that Planning Staff review how many of these rentals are being approved in a community across the county and consider if a new zoning category should be recommended.

S. Swanick requested that the Town Board consider why connectivity be a requirement when both the existing and proposed development would prefer not to have the connectivity and the two products are not the same.

Vote: The motion passed unanimously (9-0).

4B. Consider a recommendation for R21-13 is an application by Caldwell Station Properties, LLC to amend the Traditional Neighborhood Development Overlay District (TND-OD) for the Caldwell Station Senior Living Center at 11130, 11124, and 11116 Will Knox Road (Parcels # 00544332, 00544328,

00544329). The purpose of the rezoning is to increase the units allowed and to modify the rezoning plan to a single unit senior living facility.

L. Speight, Senior Planner entered her staff report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff stated that the Caldwell Station development was rezoned from Neighborhood Residential (NR) to Traditional Neighborhood Development Overlay (TND-O) in 1998 and the parcels were proposed to be offices. In 2006 the rezoning was amended for this parcel to allow senior living condominiums rather than offices. The purpose of this conditional rezoning is to modify the site plan to increase the allowable senior living units from 108 to 134 units. The modification would reduce the proposed 3-story buildings from five to one.

Staff stated that two neighborhood meetings were held, a TIA was not required. This plan is vested under the 1998 rezoning as the proposed use is less intensive than the originally proposed office use. The applicants have requested to remain vested under the 1998 ordinance for tree save, storm water, lighting, landscaping, and TIA.

Staff stated that building massing along Will Knox Road was a concern and they have been working with the applicant to reduce the perceived scale of the building.

Staff finds that the proposed use, density and building height is located within the Town Core and is in keeping with the Huntersville 2040 Plan. Staff supports the proposed modification as allowing the added height to the street scape along Will Knox Road has already been established. The applicant is working with staff and has submitted significant changes to address the perception of the added mass and width of the building.

F. Gammon received confirmation that the HVAC units would be ground mounted, Staff has discussed the proposed rezoning with the Town of Cornelius which borders this project, and that the applicant will be building the project per Town of Huntersville Ordinances despite being vested under 1998 ordinances.

F. Gammon asked the applicant if they are proposing 32 or 34 garages given the discrepancy between the site plan and design drawing; and what the applicant's experience has been with garages being used for storage. The applicant responded that they believe 34 garages are proposed and in their experience no more than 10% of garages are used for storage.

In Summary, the Board discussed the concerns about the lighting being less than adequate for the safety of the residents if it remained at the level required in the 1998 vesting. The applicant agreed that the lighting would meet current standards.

Motion: In considering the proposed rezoning R21-13 Caldwell Station Senior Living Facility, the Planning Board recommends approval as the Planning Board finds the amendment consistent with LU 1.1 and 10.5 of the Huntersville 2040 Plan and with the character of the existing adjacent development with the condition that the plan meet or exceed current lighting standards was made by S. Hensley and seconded by F. Gammon.

Vote: The motion passed unanimously (9-0).

F. Gammon asked that staff provide the Town Board with the current number of approved age-restricted communities that are built and approved un-built when this item is considered.

4C. Consider a decision Petition #TA22-05, a request by the Huntersville Town Board to amend the Subdivision and Zoning Ordinance by changing subdivision sketch plan decisions from a quasi-judicial process (Planning Board recommendation, Town Board decision) to an administrative process (staff decision) and other clerical adjustments.

J. Simoneau, Planning Director entered his staff report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the Town Board request for the text amendment, the split decision of the HOAB, the examples of how administrative versus quasi-judicial have affected recent approvals, and the proposed changes to the subdivision and zoning ordinance. Mr. Simoneau also pointed-out the proposed amendments also included technical clean-up of multiple sections of the ordinances. If the Town does not approve changing subdivision sketch plans to an administrative approval process, staff still recommends these changes (Attachment 8).

In summary, the Board had extensive discussion to clarify how the process would adjust, what this would change in terms of ability to require/negotiate with developers, the restrictions of the quasi-judicial process, what alternative Boards could potentially hear quasi-judicial cases and how that could potentially affect the appeal process.

F. Gammon stated he had the opportunity, on three previous occasions during the April, May, and June HOAB Meetings, to provide input into TA 22-05 and did not feel the need to reiterate which side of the issue he was on, and why, since my position and reasons are stated in the HOAB Meeting Minutes that were provided to the members of the Planning Board. He pointed out that he made a motion at the May HOAB meeting to recommend disapproval of making the process administrative - it was defeated in a 5 to 4 vote, and the HOAB went on the recommend approval with a 5 to 4 vote. Clearly this is not an easy decision and it was a split vote either way.

Motion: In considering the proposed amendment TA22-05, the Planning Board recommends approval of TA22-05 clean up language amendments listed in Attachment 8 to the Zoning and Subdivision Ordinance and to disapprove changing the subdivision approval process from quasi-judicial to administrative as this is not in keeping with policy LU 11 of the Huntersville 2040 Community Plan. Motion made by S. Swanick and seconded by F. Gammon.

Vote: The motion passed unanimously (9-0).

Adjourn

Motion: S. Swanick made a Motion to Adjourn. T. Loomis seconded the motion.

Vote: The motion passed unanimously (9-0).

**Town of Huntersville
Town Board
August 1, 2022**

To: Town Board

From: Lara Cagle, Human Resources Director

Date: August 1, 2022

Subject: Consider Juneteenth as staff holiday

EXPLAIN REQUEST:

Consider updating the Town Personnel Policy Article VIII. Leave Policies, Section 1. Holidays, to add Juneteenth as annual staff holiday starting on Monday, June 19, 2023.

ACTION RECOMMENDED:

Approve updated holiday schedule in the Town Personnel Policy.

FINANCIAL IMPLICATIONS:

ATTACHMENTS:

1. Proposed Holiday Policy

ARTICLE VIII. LEAVE POLICIES

SECTION 1. HOLIDAYS

The Town currently recognizes the following paid holidays for full-time regular employees:

New Year's Day
Martin Luther King Day
Good Friday
Memorial Day
Juneteenth National Independence Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving
Day After Thanksgiving
Christmas (3 workdays)

The Town will follow the holiday schedule of the Office of State Human Resources with regard to the date on which each holiday, which falls on a Saturday or Sunday, will be observed. In the event a Town holiday is not observed by the Office of State Human Resources, the Town will determine when the holiday will be observed. When holidays fall or are recognized on a regular workday, all regular, full-time employees will receive compensation at their regular rate of pay for each of these holidays. Employees working a 40-hour work week will receive compensation for 8 hours, Public Safety personnel will receive 12 hours or pay in proportion to their normal hours worked. Employees on unpaid leaves of absence are not eligible for holiday pay unless they are on qualified FMLA leave. Regular holidays, which occur during a vacation, sick or other leave period shall not be considered as vacation, sick or other leave.

Non-exempt employees who are required to work on one of the holidays specified above will receive an additional day's pay at their regular rate or be granted another day off as a substitute for the holiday worked, as determined by their department director.