TOWN OF HUNTERSVILLE
PLANNING BOARD MEETING
MINUTES

December 21, 2021
6:30 PM - Huntersville Town Hall

Call to Order/Roll Call

Members Present: S. Swanick, J. Sny, F. Gammon, C. Boyd, S. Hensley, J. Davis, T. Loomis, and J. Wright.

Member Absent: G. Baber

Approval of Minutes

J. Sny made a Motion to Approve the November 16, 2021, minutes. C. Boyd seconded the motion. The motion passed unanimously (8-0).

MOTION: Approve
VOTE RESULT:
YES VOTES: Stephen Swanick, Jennifer Davis, Frank Gammon, Chris Boyd, Scott Hensley, Jeff Sny, Trina Loomis, Jodi Wright
NO VOTES: None

Public Comments

No comments

Action Agenda

Petition #TA21-11

K. Mielenz, Planner I entered the Staff Report into the record, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. Staff reviewed the proposed text amendment changes and outlined that the Huntersville Ordinance Advisory Board recommended approval at the October 7, 2021, meeting, there were no public comments at the Public Hearing on December 6, 2021, and Planning Staff recommends approval.

J. Davis asked if anyone was opposed to this at the Huntersville Ordinance Advisory Board. Staff confirmed it was approved unanimously.

S. Swanick asked what prompted these proposed amendments. Staff confirmed the watershed amendments were prompted to remain in compliance with the NC Administrative Code and the SUP compliance requirements are administrative clean up not to change any requirements but to improve the language within the ordinance.

J. Sny asked J. Glass, Staff Attorney relative to wording changing in Article 17.3 b and 18.3 b from ‘reduction’ to ‘relaxation’ and if there is a legal difference or if it would affect an applicant any differently. J. Glass responded that the wording was taken exactly from the NC Code and to the best of his knowledge this does not create a difference.

J. Sny asked if the addition of ‘materially’ to Section 1, Part 2 related to SUP requirements changes the level of harm that must be proven; and if the proposed amendment was stemming from a statute or case law. J. Glass responded that the previous language would have implied material and it is now being added to clarify and improve the language but does not change the requirement. The proposed amendment changes the location within the Zoning Ordinance of the requirements so as to clearly apply to all Special Use Permits and remove the redundancy or failure to include the requirements specifically as it relates to all Special Use Permits.

J. Sny mentioned that one final wording change noted was from ‘nearby’ to ‘abutting’ property for Article 11.4.10(e)(2) and then stated that in his opinion a nearby property could easily be affected just as much as an abutting property, such as if you were across the street from a location or even 2 doors down. J. Glass commented that his understanding is that that change came directly from the NC Statute and he can verify and forward those findings to the Board.

S. Hensley asked if someone not ‘abutting’ would be considered not to have standing given this proposed change. J. Glass clarified that the wording does not apply to standing, it applies to what the applicant must prove in applying for the Special Use Permit.

F. Gammon commented that since the term abutting refers to the proof needed from the applicant, he concurs that it is appropriate as it is not the applicants responsibility beyond those abutting, the burden then falls on those nearby. J. Sny agreed.

S. Hensley made a Motion to Approve TA21-11 to amend Article 11.4.10 amendment process of Special Use Permit hearing requirements for Special Use Permits Articles 9.4, 9.15, 9.17, 9.23, 9.24, 9.31, 9.34, 9.36, 9.28, 9.41, 9.45, 9.56, 9.61 – conditions for certain uses, Article 3.3.2(c) Appeals and Variances in MIL-O district and Article 3.3.3 – d Appeals and Variances in LN-O district of the Huntersville Zoning Ordinance to 1)standardize existing requirements for Special Use Permits and delete repetitive standards and 2) amend the definitions of major and minor variances from watershed regulations and findings of fact required for variances from watershed regulations to be consistent with North Carolina Administrative Code. The Planning Board recommends approval based on the amendment being consistent with policies EV-1.4, LU4, EOS 4 & EOS 5 of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it improves efficiency of land development reviews, supports protectional water quality and drinking quality watersheds and establishes greater consistency with the North Carolina Administrative Code. C. Boyd seconded the motion. The motion passed unanimously (8-0).

MOTION: Recommend Approval
VOTE RESULT: Passed
YES VOTES: Stephen Swanick, Jennifer Davis, Frank Gammon, Chris Boyd, Scott Hensley, Jeff Sny, Trina Loomis, Jodi Wright
NO VOTES: None

Petition #TA21-16

K. Mielenz, Planner I entered the Staff Report into the record, a copy of which is attached hereto as Exhibit B and incorporated herein by reference. Staff reviewed the proposed changes that are in keeping with updated NC General Statutes.

S. Swanick asked if staff could provide an example of what ordinances will be decriminalized. Staff reviewed that criminal penalties were removed but civil penalties are still in place.

F. Gammon made a Motion to Approve TA 21-16 as the amendment is necessary to comply with state legislature Senate Bill 300 and House Bill 218 as stated in part 1 of the staff report. As such the amendment is consistent with all policies of the Huntersville 2040 Community Plan. It is reasonable and in the public interest to amend the zoning ordinance because it is necessary to coordinate the Huntersville Zoning, Subdivision and Town Code of Ordinances to comply with the NC General Statutes and Regulatory Policies. J. Davis seconded the motion. The motion passed unanimously (8-0).

MOTION:
VOTE RESULT: Passed
YES VOTES: Stephen Swanick, Jennifer Davis, Frank Gammon, Chris Boyd, Scott Hensley, Jeff Sny, Trina Loomis, Jodi Wright
NO VOTES: None

Petition #R21-10, North Chase at the Park

J. Simoneau, Planning Director entered the Staff Report into the record, a copy of which is attached hereto as Exhibit C and incorporated herein by reference. Staff reviewed the site location and indicated this is a use by-right, the rezoning is to permit a modification to the buffer planting. Current proposed landscaping does not meet the newly adopted reduced requirements and planting placement does not meet the opaque requirement of the reduced buffer.

F. Gammon asked for confirmation that the request has no impact on the project, only on the landscape requirements within the buffer, if the existing trees are a tree farm and intended for harvesting. Staff confirmed that is correct.

C. Boyd asked for clarification on where the 80-foot buffer begins and how that works with the existing powerlines which are pictured as going over the area that must be planted. Staff indicated it begins at the end of the right-of-way and continues into the

property and the ordinance addresses plantings with placement of landscaping.

The applicant, Collin Brown with the Law Firm of Alexander Ricks, 1420 East Seventh Street, Charlotte presented that the existing trees are row planted to be harvested and the ordinance requires that the new landscaping within the buffer be opaque so that it presents a visual barrier. The proposed structure has upgraded architecture and the applicant would like some of it to be visible to the street. The conditional zoning being requested is site specific to cluster the landscaping in a specific design to create a pretty solid screen from across the street but allow for some glimpses when angled or driving past the building. There is surface parking between the building and the street for employees and customers which is what requires the buffer, so the goal of the ordinance is to screen the vehicles which we have accomplished with the very thickly planted shrubs that are exceeding the landscaping requirements of shrubs so that the goal is met.

Tracy White, McDonald Development, 300 West Fifth Street, Charlotte stated that this is the first of seven buildings being developed and the one building being built along Hambright Road. With the upgraded architecture and design the goal is for people driving by to have some visibility to their destination to know where they are going. In response to questions posed by the Board, the building will be built and if forced would comply with the landscaping ordinance. The trees were planted as an Ag Exemption, and they will be timbered as part of the land development process.

J. Davis asked the applicant how many tenants are expected and if any of the space is expected to be retail. The applicant responded that the building is built on spec and the tenants have not yet been identified. The space is 200,000 square feet and could be a single tenant but more than likely will be four tenants. None of the proposed uses are retail, only office and warehouse.

S. Swanick asked what the expected timeframe is for the proposed landscaping to mature. The applicant stated that the maturity is likely 6-8 years for the trees and the hedges will likely be mature in 1.5 – 2 years.

C. Boyd expressed concern about the power lines that are shown over the proposed landscaping on the landscape plan. The applicant responded that typically the power lines are over the right-of-way, and they will review this for accuracy.

F. Gammon asked staff to confirm that if there was no parking along the front that there would be no buffer requirement. Staff confirmed that the corporate business requirements for the Town provides two options; either the building fronts the street or is behind the 40’ buffer, as an example of this option is the NCDOT building on Mt Holly Huntersville Road which fronts the street versus Saertex which has parking in front and is buffered.

J. Sny asked if Burkert and Nutec received any relaxation or if they are examples of the previously required 80’ buffer with similar landscaping requirements and if at full maturity the expectation is that the buildings will not be as visible as they are now; and

the rationale from the applicant as to why they are choosing not to have the building front the street. Staff confirmed the full buffer and landscape was implemented for both of those projects. Nutec had some trees that died which will be replaced so the current view is not complete. The applicant responded that this building is designed to be a rear-load building with dock high doors on the back of the building which will be used for trucks only, not cars or pedestrian traffic.

J. Sny asked if there was any reasonable method to have all of the truck and employee parking at the rear of the building. The applicant responded that this would pose a safety risk and would not be possible.

J. Davis asked if the resident to the left of the property has been contacted and if they have expressed any concerns. The applicant responded that he has had conversations with the owner who runs the Alpaca wool business there who also has plans submitted to the Town to improve his driveway to a more commercial type entrance.

F. Gammon made a Motion to Deny based on the amendment being inconsistent with Huntersville Zoning and it's Article 11.4.7 d, specifically the Huntersville 2040 Community Plan policies LU11.1 and LU11.2 as stated in part 4 of the staff report. Further the petition is inconsistent with Huntersville's zoning ordinance Article 11.4.7 e in that the single purpose for the rezoning petition is to modify the 40' buffer to remove the required landscaping to allow building visibility. This modification would make North Chase at the Park inconsistent with the overall character of the existing developments and the immediate vicinity as stated in part 4 of the staff report. It is not reasonable and in the public interest to amend the zoning ordinance because it would set a precedence that is contrary to the objective that Huntersville's Zoning Ordinance, Article 7.5.1 which is to exclude visual contact, create spatial separation and minimize any adverse impact on adjacent properties. To allow this modification would remove what little transition exists between the commercial business north of Hambright Road and the adjacent rural zone south of Hambright Road. J. Davis seconded the motion.

F. Gammon commented that the parking and the buffer had some influence; however, with the rural area to the south and the commercial area to the north this is the remaining transition from rural to commercial or heavy residential. The Planning Board has similarly recommended denial on similar requests before. Based on the Zoning Ordinance he does not feel it is their place to recommend approval on this. That said, the Town Board has greater flexibility in deciding if this is what they want in the Town but he believes the Planning Board should recommend denial at this time.

J. Davis agreed with F. Gammon comments and restated that it is a beautiful building and she would love to see it built in Huntersville. Her concern is that of setting a standard by approving this with a less than opaque buffer which could open the door to other projects in Huntersville where she does not care for the visual of the building but then becomes a subjective opinion.

S. Hensley commented he would vote against the motion based on his daily experience. In his opinion the applicant has made a good effort to work as close as

possible with the intent of the buffer which is to not see the car parks which from a functionality place cannot go in the rear of the building. With the increased shrubs the cars are still screened so it seems to be a good middle ground that meets the intent but lets them showcase a great project. This may even be a good opportunity to review what is proposed as a way to further modify the buffer requirement for the Town.

C. Boyd asked what the proposed land use is for that area based on comments made by F. Gammon. F. Gammon replied that the area north of Hambright Road is zoned commercial business while the area south of Hambright Road is zoned rural.

S. Swanick commented that he agrees with S. Hensley. He had one opinion prior to hearing all the facts and now he agrees that the request is reasonable. It seems that despite the Planning Board being a technical review committee, their ability to approve inconsistent with plans appears to be a viable option for this project since the proposed landscaping plan achieves the intent of the ordinance. If the motion on the floor is denied and an alternative motion to approve is considered perhaps it could be contingent on a certain amount of growth within a certain amount of time or berms to fully accomplish the intent.

T. Loomis commented that one of the consistent comments in the Huntersville 2040 Plan was related to the importance of keeping the trees. She agrees that this is a beautiful building, but she feels like it is inconsistent.

C. Boyd asked if T. Loomis thought that a tree save in a different area would satisfy the residents or if the trees need to specifically be on this property. T. Loomis responded that stating that the shrubs are a reason to approve is what seems inconsistent with the Huntersville 2040 Plan and she does not know which possible solution would be a better fit.

S. Hensley commented that he is an advocate for the trees as well, something else to consider is that if this builder passes on this lot then another builder could come in and propose a building fronting the street which would have no buffer and no trees so this may be a good meeting in the middle for the developer and the Town and what is proposed to be landscaped is much more visibly attractive versus the scrawny pines.

The motion failed (3-5) with S. Swanick, J. Sny, C. Boyd, S. Hensley & J. Wright opposed.

S. Swanick made a Motion to Approve R21-10, North Chase at the Park as the Planning Board finds the amendment inconsistent with buffer requirements and recommends that the Zoning Ordinance give consideration regarding buffer requirements for this building type with employee and customer parking in the front and the requirement for rear load docks. The Planning Board considered this in their decision and as a condition of approval requires 100% screening of all automobiles on the street side by shrubs and trees with a minimum of 7-8 feet in height that mature in a period of 3 years or less to meet the intent of the cars not being visible from the street. It is reasonable and in the public interest to make these changes so that we can

find an adequate compromise between tree save requirements, the aesthetic improvements of this building and the spirit of the Ordinance regarding what should and should not be visible. S. Hensley seconded the motion.

F. Gammon asked staff if procedurally the Articles and Policies need to be added to the recommendation for the approval.

Staff stated that if the architecture of the building was critical to the decision for the Planning Board to include that as a requirement within the motion so that it is not altered in the future without returning to the Planning Board for additional approval.

S. Swanick amended the motion to include a requirement that all recommendations are contingent upon the increased architectural standards as modeled on the rendering as provided today be met within the subjective opinion of staff as that is a critical part of the reason for granting the exception. S. Hensley accepted the amendment.

J. Davis commented that she cannot support the motion as she has been an avid tree save advocate yet she understands that it will move forward and will be a beautiful project.

The motion passed (5-3) with F. Gammon, J. Davis, and T. Loomis opposed.

MOTION:
VOTE RESULT: Passed
YES VOTES: Stephen Swanick, Chris Boyd, Scott Hensley, Jeff Sny, Jodi Wright
NO VOTES: Jennifer Davis, Frank Gammon, Trina Loomis

Other Business

F. Gammon made a Motion to Approve adjusting the 2022 Meeting Schedule to meet the second Wednesday, December 14, 2022. S. Hensley seconded the motion. The motion passed unanimously (8-0).

MOTION:
VOTE RESULT: Passed
YES VOTES: Stephen Swanick, Jennifer Davis, Frank Gammon, Chris Boyd, Scott Hensley, Jeff Sny, Trina Loomis, Jodi Wright
NO VOTES: None

Adjourn

J. Sny made a Motion to Adjourn. J. Davis seconded the motion. The motion passed unanimously (8-0).