Huntersville Ordinances Advisory Board Minutes
January 6, 2022
3:30 p.m. – 5:00 p.m.
Location: VIRTUAL MEETING

- NOTICE VIRTUAL MEETING -

A. **Call to Order**
Members present: Chairman M. Jones, Commissioner L. Munger, K. Jones, F. Gammon, J. Henson, B. Skelly, T. Taylor, S. Moore

Member absent: T. Finlay

B. **Adoption of December 2, 2021, Minutes** (Attachment 1)
L. Munger made a Motion to Approve the December 2, 2022, Minutes. K. Jones seconded the motion. The motion passed (7-0-1) with S. Moore abstaining.

C. **Comments from Audience (3 minutes per person allocation)**

D. **Other Business**

1. **Discuss Minor Solar Energy Facilities on the front roof slope by-right**

   S. Moore made a Motion to Amend the Agenda and remove Item D1 from the agenda. J. Henson seconded the motion. The motion passed unanimously (8-0).

2. **Recommendation on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on apartment building types and mixed-use building types and to add regulations for rooftop amenity spaces that exceed the maximum building height.**

   J. Simoneau, Planning Director reviewed the proposed amendment which would allow rooftop amenities to exceed a maximum building height for apartment and mixed-use building type. The standards were based on feedback received from this Ordinance Advisory Board. Staff does not recommend that there be a setback as decks and balconies are allowed on all other levels up to the edge and building code will require appropriate railing and safety requirements. The rooftop amenity could count towards a maximum of 1,500 square feet of Urban Open Space and must be accessible to all residents.

   S. Moore asked staff why the Code of Ordinances are not being used to stipulate the noise and sound ordinances versus a zoning overlay. Staff responded that the noise ordinance is general and in reviewing neighboring ordinances that allow rooftop amenities this seemed to be the favored approach.

   K. Jones asked if the sound and light ordinances that the Community School of Davidson Athletic Field are currently under would be the same ordinances that would govern rooftop amenities. Staff confirmed that they are both governed by the same ordinance and in that situation, there have been complaints, staff has gone onsite with the light meter and determined the lights do not meet our ordinances and they are having to fix the issue. If a rooftop amenity received a complaint staff would investigate and if they were found out of compliance, they would also have to fix the issue.

S. Moore asked staff why a maximum of 1,500 square feet counting towards Urban Open Space was determined. Staff responded that this was also a similarity found in neighboring zoning ordinances and reminded the Board that this limitation only applies if you exceed your maximum building height.

K. Jones asked for clarification on the height exceeding what is allowed. Staff confirmed that these ordinances only begin when the proposed rooftop amenity exceeds the allowed building height.

F. Gammon asked about the access for commercial tenants and if the zoning ordinance would allow a commercial building to have a green roof for uses such as climate control and gardening. Staff confirmed that any limitations to this would only apply if the space exceeded the maximum allowed height.

L. Munger asked if a mixed-use building would have commercial on the first floor and residential above with the uses typically contiguous to the adjacent floors. Staff confirmed that is correct you would not typically want customers using elevators to go to the roof and past the residents.

M. Jones asked if there is any community benefit and if there is any incentive to incorporate storm water or impervious surface considerations, and if the proposed amendment is too narrow in its scope. Staff responded that the amenity is for the community within that building, and nothing precludes them from incorporating storm water or impervious considerations into their use. Staff responded that they felt comfortable with the amendment as currently written and agree that this could adapt or evolve into something greater in the future.

L. Munger made a Motion to Recommend Approval of TA21-15 as written. T. Taylor seconded the motion.

S. Moore stated he would not be voting in favor of this because while a step in the right direction he thinks that the sound/noise additions are unnecessary, and the 1,500 square feet is too limiting. He would be comfortable with the height exceeding 15’ and we should do everything we can to incentivize these improvements.

The motion was a split vote (4-4) with M. Jones, K. Jones, S. Moore, B. Skelly opposed.

3. **Recommendation on language for TA22-01, a text amendment to update the definition and initiation of Down Zoning in compliance with 160D state statues.**

J. Simoneau, Planning Director commented that this amendment is to bring the zoning ordinances in compliance with 160D state statute changes related to down zoning.

L. Munger made a Motion to Recommend Approval of TA22-01 as written. J. Henson seconded the motion. The motion passed unanimously (8-0).

4. **Update on sewer capacity in eastern Huntersville**

J. Simoneau, Planning Director provided an update on the sewer capacity status, areas affected, and proposed short term actions which include a reduced flow factor approved by the state and rationing of remaining capacity so that some capacity can be allocated to as many projects in the current review queue as possible which will be provided on a first come first serve basis to allow some phase development for most applicants. Mid term actions include design of a pump station to pump wastewater to an existing water treatment plant to provide more capacity. Long term action includes a request for more capacity and the anticipated expansion to be online in 2024.

K. Jones asked if this means any projects on the east side of town will be on hold. Staff stated it does not, some projects already have approval, other projects that have not been approved by Charlotte Water, yet they are being reviewed for the potential of some development or if needed, a hold on the project.

F. Gammon stated that he read in the newspaper that Charlotte Water had changed how their willingness to serve is being handled. Staff responded that the willingness to serve is subject to capacity and the commitment to serve is not currently being issued if you fall within the affected area.

S. Moore suggested that the projects that have been approved and are paused due to this capacity issue receive a pause in their vested right period similar to what was offered during the recession. Staff agreed that was a good point and they would follow up on it.

L. Munger asked Staff to clarify what vesting rights refers to so that all listening understood the term. Staff explained that there is a time limit on approved projects that have not gotten started to reach completion and since it may be out of their control as to securing sewer services there may need to be a consideration to extend the allowed time limit.

5. **Discussion on Ordinance Advisory Board meetings being conducted in-person or virtually.**

M. Jones invited any comments or concerns regarding holding the meeting in person versus virtually.

J. Henson stated he was flexible and willing to do whatever served the needs of the majority.

S. Moore stated that if the state of emergency still stands then it makes sense to him to maintain a virtual meeting.

L. Munger agreed with S. Moore and given the current increase in positive cases he agrees that virtual is good for now.

F. Gammon commented he does not have a problem meeting virtually and if there is one person that does not feel comfortable meeting in person then he thinks it would be good to support their needs. Additionally, he asked if upon return to in person meetings if the meeting will continue to be streamed to the public. Staff confirmed that given our meeting location they would not be streamed. F. Gammon stated it is his opinion that we should stream the meetings. M. Jones agreed that the meetings should continue to be streamed.

M. Jones asked if any improvements to the ventilation system had been installed in any town facilities as he is personally high-risk. Staff confirmed we were not aware of any.

S. Moore made a Motion to Approve continue virtual meetings until the State rescinds their state of emergency related to COVID. L. Munger seconded the motion. The motion passed unanimously (8-0).

E. **Adjourn**

F. Gammon made a Motion to Adjourn. S. Moore seconded the motion. The motion passed unanimously (8-0).