



**Huntersville Ordinances Advisory
Board Minutes
December 2, 2021
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, T. Finlay, J. Henson, B. Skelly, T. Taylor, J. Snv

Member absent: S. Moore

B. Adoption of November 4, 2021, Minutes (Attachment 1)

T. Taylor made a Motion to Approve the November 4, 2021, Minutes. J. Henson seconded the motion. The motion passed (6-0-2) with T. Finlay and J. Snv abstaining.

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

D. Other Business

1. Discussion on language for TA21-15, an amendment to allow rooftop amenity spaces to exceed the maximum building height on multi-family and mixed-use structures and to add regulations for rooftop amenity spaces that exceed the maximum building height.

K. Mielenz, Planner I reviewed the proposed amendment and indicated that staff has taken the feedback provided at the October meeting in conjunction with neighboring municipalities ordinances related to rooftop amenities to draft a proposed text amendment. Staff expressed that this text amendment will only add regulations for rooftop amenities that exceed the allowed building height, it does not add regulations for rooftop amenities that are below the allowed building height. This proposed ordinance is intended to be for resident use only of apartment building types and residential mixed-use types, not commercial or to be used by the commercial tenant in a mixed-use building type.

Staff reviewed that staff is comfortable with the proposed amendment which would be allowed for shopfront (mixed-use) and apartment building types in the NR, NC, HC, CI, CB, TC, TND, TOD-R & TOD-E zones. Staff reviewed the proposed amendments to Article 8.7 related to height limit.

L. Munger commented that he would be open to a setback when adjacent to Neighborhood Residential.

K. Jones commented that she agreed with L. Munger and a setback adjacent to Neighborhood Residential may be important to avoid a problem similar to Community School of Davidson.

J. Snv asked what prompted this text amendment. Staff shared that the question was posed by the North State Development regarding the Huntersville Town Center Mixed Use project. Staff liked

the proposed use and thought it could be a good addition to the ordinance, so the Planning Department is sponsoring the text amendment and reviewing it with the Board to see what your thoughts are on permitting this in the Town.

T. Taylor commented that he also agrees that there should be some separation of this use between single-family and rooftop structures.

B. Skelly agreed and asked if there is something similar in place from the research of neighboring municipalities. Staff responded that when referenced the research varied from not allowed to 200 to 400-foot setbacks.

M. Jones asked if expanding the amendment to include other types of buildings has been considered such as hotels and offices as an option to minimize impervious surface. Staff commented that this amendment is intended for residential use when you exceed your maximum height. Under the current ordinances other building types may include a rooftop amenity if it is in keeping with the allowed building height and in the future, it is possible this will be amended to allow additional building types as well. M. Jones responded that he would recommend a comprehensive look at all building types now versus the additional time spent in the future to possibly amend the ordinance again.

Staff reviewed the proposed height restriction of 15 feet and maximum of 1,000 square feet or 10 percent of floor area restriction which could change relative to the Mecklenburg County Building Code requirements.

K. Jones recommended a straight 15-foot height restriction regardless of the height of the building and asked if the fire code has been kept in consideration as well. Staff confirmed they will verify that the fire code is kept in consideration.

J. Snyder commented that he does not see a need to limit the floor area beyond building code and/or safety restrictions. If the developer meets those requirements and has a creative use for all the remaining allowed area, he doesn't see a reason to limit their ability to do that.

L. Munger agreed with the comments made that it should be a fixed 15-foot height restriction, the proposed floor area currently seems very restrictive and J. Snyder's comments seem more appropriate, and the setbacks should be determined by what it is directly adjacent to and not restrictive further than that as buildings with personal balconies do not incur additional setbacks.

M. Jones commented he agrees with the comments made that flexibility should be included in the floor area permitted.

Staff reviewed that the proposed access would be for resident use only and shall not be accessible to commercial tenants.

L. Munger commented that while he understands this limitation when the location is adjacent to residential he wonders if it should apply when the building is not located near residential, or if managing that this is limited to residents only is an area that Zoning should insert themselves into. Staff commented that this amendment is only relative to buildings that exceed the height limitation, not those in keeping which could have a rooftop bar or commercial use.

J. Snyder asked if this amendment having a provision for additional review based on location would create more flexibility to permit possible use without opening it all the way up.

Staff reviewed the proposed lighting and noise restrictions and stated that the existing lighting ordinances would also apply relative to type of lighting, placement, etc.

K. Jones asked for confirmation that the ordinances would protect any adjacent neighbors from light pollution. Staff stated that the existing lighting ordinances would address that.

T. Finlay asked if any setback distance would be addressed relative to lighting use and placement. Staff responded that this is also already addressed in the existing ordinances.

Staff commented that the wording for Urban Open Space has not yet been drafted but staff is working on that and will have it prepared for the January public hearing.

J. Sny expressed concern about a potential mixed-use development using this urban open space to reduce the amenities accessible to town homes because they are located within the required distance but may not actually have access to it as they are not residents of the building it is located above. Staff responded that if the townhome does not have access to the urban open space then it would not be counted for that location regardless of the distance, the resident must have access to it for it to count.

B. Skelly recommended a percentage cap on this counting towards Urban Open Space to prohibit strictly incorporating roof top space to subvert traditional Urban Open Space.

Staff reviewed the proposed definition of rooftop amenity space and commented on the additional wording that will be included in the version presented in January to identify open, covered or enclosed rooftop amenities.

J. Henson asked if the definition needs to include what is defined for Open Space. Staff agreed that it will need to include that, and the conversation and discussion is helpful to finalize the draft of the amendment.

M. Jones asked if the definition will only apply to rooftop amenities that exceed the allowed building height. Staff responded that the definition is intended to be for all rooftop amenities and will need to be improved so as not to seem to limit commercial uses for allowed building heights.

M. Jones asked if there has been any consideration to encourage or incentivize this use to reduce impervious area. Staff commented that we do not currently have that included but it could be considered.

J. Henson commented that the builder is incentivized because there will be less storm water requirement. Staff concurred and stated that the vast majority of current urban open spaces are not impervious as they are typically grass and trees.

M. Jones asked if a stormwater detention system can be placed on a roof. Staff commented that the water quality standards have flexibility for innovation included so if someone wanted to add a rooftop garden there may be an option to give them some credit and Staff will review that with the Stormwater Engineers.

Staff reviewed the amendments to allow the use in specific building types and then concluded with stating that they will return with this item for consideration of recommendation at the January 6, 2022 meeting.

E. Adjourn

L. Munger made a Motion to Adjourn. K. Jones seconded the motion. The motion passed unanimously (8-0).